



# Multisectoral Response and Capacity (MRC) Assessment: Kenya

Preventing and Combating Online Child Sexual Exploitation and Abuse

**FINAL REPORT**  
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MULTISECTORAL RESPONSE AND  
CAPACITY (MRC) ASSESSMENT: KENYA  
Preventing and Combating Online Child  
Sexual Exploitation and Abuse.

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National Capacity Building Program

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# ACRONYMS USED IN THE ASSESSMENT:

**AU:** African Union

**CAK:** Communications Authority of Kenya

**COP:** Child Online Protection

**CSEA:** Child Sexual Exploitation and Abuse

**DCI:** Directorate of Criminal Investigations

**DCI-AHTCPU:** Directorate of Criminal Investigations- Anti-Human Trafficking and Child Protection Unit

**DCS:** Directorate of Children Services

**GBV:** Gender Based Violence

**ICACCOPS:** Internet Crimes Against Children, Child Online Protection System

**ICMEC:** International Centre for Missing and Exploited Children

**ICSE:** International Child Sexual Exploitation

**ICT:** Information and Communication Technology

**IJM:** International Justice Mission

**ILO:** International Labor Organization

**ITU:** International Telecommunication Union

**IWF:** Internet Watch Foundation

**INTERPOL:** International Police

**KAACR:** Kenya Alliance for Advancement of

**Children Rights**

**KBC:** Kenya Broadcasting Cooperation

**Ke-CIRT:** Kenya-Computer Incident Response Team

**MCK:** Media Council of Kenya

**MNR:** Model National Response

**MRC:** Multisectoral Response and Capacity

**NCAJ:** National Council on the Administration of Justice

**NCCS:** National Council for Children Services

**NCMEC:** National Center for Missing and Exploited Children

**NGO:** Non- Governmental Organization

**NLAS:** National Legal Aid Service

**NPA:** National Plan of Action

**OCSEA:** Online Child Sexual Exploitation and Abuse

**ODPP:** Office of the Director of Public Prosecution

**OSINT :** Open Source Intelligence (page 20)

**SGBV:** Sexual Gender Based Violence

**SOA:** Sexual Offences Act

## ABOUT ICMEC



The International Centre for Missing and Exploited Children (ICMEC) is a NonGovernmental Organization that fights against child sex exploitation and the disappearance of children around the world. It has its headquarters in Alexandria, Virginia, United States and has representation in Australia, Brazil, Colombia, El Salvador, Guatemala, Honduras, India, Kenya, the Philippines, Singapore, and the United Kingdom. Since its founding, ICMEC has worked alongside governments, law enforcement, industry, and civil society organizations to create institutional and legislative frameworks and public policies to protect children around the world from abuse and sexual exploitation.

The work performed by ICMEC in more than 120 countries has encouraged, among other actions, the creation of global coalitions to implement policies in order to eradicate sexual exploitation and the production of "Child Sexual Abuse and Exploitation Material" (CSE/AM). These actions have been accompanied by entities like the United Nations, Interpol, the Organization of American States, and other multilateral organizations.

Para ICMEC un niño desaparecido, abusado o explotado, es demasiado, por ello, pone a disposición de los países su experiencia y capacidades para contrarrestar desde diferentes ámbitos la tragedia que puede vivir un niño, una familia, la comunidad y en general la sociedad a consecuencia de este flagelo que puede terminar en acciones criminales.

## INTRODUCTION

Between September and March 2023, ICMEC carried out the "Multisectoral Response and Capacity (MRC) Assessment for the Prevention and Handling of Cases of Abuse and Sexual Exploitation of Children Online" in Kenya designed to identify the weaknesses and strengths of the State in addressing and combating this scourge.

The methodology, based on the Model National Response (MNR) was created by the WeProtect Global Alliance. It included the development of specific tools to identify the entities from which the necessary information would be required to achieve the established objectives.

This report contains the results obtained with these tools. The main weaknesses detected in each of the 20 capacities contemplated by the WeProtect Model are also described, as well as the corresponding conclusions and recommendations<sup>1</sup>.



# Preventing and tackling child sexual exploitation and abuse

## A Model National Response



	CAPABILITIES	OUTCOMES
<b>POLICY, LEGISLATION AND GOVERNANCE</b>		
<b>1 Leadership</b> Accountable, cross-sector national body with a clear mandate and resources to protect children from sexual exploitation and abuse online, and willingness to engage in international collaboration	<b>2 Legislation</b> Comprehensive and effective legal framework to prosecute offenders and protect children from all forms of sexual exploitation and abuse in line with international human rights standards Legal provision to protect children engaged in consensual sharing of sexual content from criminalisation where appropriate.	 <b>Highest level national commitment to child sexual abuse prevention and response</b> Comprehensive understanding of child sexual abuse within the highest levels of government and law enforcement. Willingness to work with, and coordinate the efforts of, multiple stakeholders to ensure the enhanced protection of victims and an enhanced response to child sexual abuse offending.
<b>CRIMINAL JUSTICE</b>		
<b>3 Dedicated law enforcement</b> Human and technical capabilities to investigate child sexual abuse online and offline, including cross-border cases Trauma-informed training for law enforcement Coordination with victim support services	<b>5 Offender management process</b> Multi-agency system to identify, manage and rehabilitate sex-offenders, and statutory tools (rehabilitation and education programmes, community supervision)	 <b>Effective and successful child sexual abuse investigations, convictions and offender management</b> Law Enforcement and judiciary have the knowledge, skills, systems and tools required to enable them to perform victim-focused investigations and secure positive judicial outcomes. Child sexual abuse offenders are managed and reoffending prevented.
<b>4 Judiciary and prosecutors</b> Specialist training on child sexual exploitation and abuse and technology-enabled offending Child-friendly and victim-centred protocols	<b>6 Access to image database</b> National database with access to the Interpol's ICSE database for international collaboration, supported by alignment with terminology for CSAM categorisation	
<b>VICTIM SUPPORT AND EMPOWERMENT</b>		
<b>7 End-to-end support</b> Planned, integrated and multi-stakeholder support for victims and survivors Services are inclusive and sensitive to age, gender, sexuality, disability and ethnicity. Psychological support across dedicated law enforcement, frontline workers accessing image databases, child protection workforce, and hotlines	<b>9 Compensation, remedies and complaints arrangements</b> Provision of measures to allow children and victims accessible support in compensation, legal remedies and complaints procedures	 <b>Appropriate support services for children and young people</b> Children and young people have access to services that support them through the investigation and prosecution of crimes against them. They have access to shelter; specialised medical and psychological services; and rehabilitation, repatriation and resocialisation services.
<b>8 Child protection workforce</b> Skilled, specialist statutory workforce trained, coordinated and available to provide trauma-informed support to protect and support children at risk of sexual abuse and exploitation online Guidelines for frontline professionals on emerging and complex issues such as child "self-generated" sexual material	<b>10 Child helpline</b> Accessible to all children, nationwide, toll-free, available 24/7, voice and text based, offering confidential support and counselling with appropriate referral mechanisms. Robust data protection systems Counsellors with specific training in online harms	
<b>SOCIETY AND CULTURE</b>		
<b>11 Child sexual exploitation and abuse hotline</b> Dedicated portals/hotlines for the public to report suspected child sexual exploitation and abuse online Cooperation with law enforcement and the technology industry	<b>13 Child participation</b> Children and young people encouraged and enabled to give ideas and influence policy and practice relating to child sexual exploitation and abuse Child protection, children's rights frameworks, and trauma-informed practice utilised when engaging children	 <b>Child sexual abuse prevented</b> Children and young people are informed and empowered to protect themselves from child sexual abuse. Parents, carers, teachers and childcare professionals are better prepared to keep children safe from child sexual abuse, including addressing taboos surrounding sexual abuse.
<b>12 Education programmes</b> National education programme (including age-appropriate, accessible and inclusive content) to raise awareness of all forms of child sexual exploitation and abuse – empowering children, young people, parents, guardians, caregivers and practitioners with relevant information Systematic training for professionals in education, social care and health	<b>14 Offender prevention and support systems</b> Support to prevent people with a sexual interest in children from abusing or accessing child sexual abuse material Support for convicted offenders as part of rehabilitation response Specialised support for children displaying harmful sexual behaviour	
<b>15 Informed and ethical media reporting</b> Evidence-based and sensitive reporting that respects victims' and survivors' rights and dignity		
<b>INDUSTRY</b>		
<b>16 Takedown procedures and reporting</b> Local removal and blocking of child sexual abuse material online Procedures for timely removal of child sexual abuse material when a company confirms its presence Statutory protections for industry to report child sexual abuse, including content transmission to law enforcement or a designated agency Global and cross-sector collaboration	<b>17 Innovative solution development</b> Technological solutions to prevent and address child sexual exploitation and abuse online	 <b>Industry engaged in developing solutions to prevent and tackle child sexual abuse</b> The public can proactively report child sexual abuse offences. Industry has the power and willingness to block and remove child sexual abuse material online and proactively address local child sexual abuse issues.
<b>RESEARCH AND DATA</b>		
<b>19 Research and data</b> Data, research and analysis on the threat of and response to child sexual exploitation and abuse online Robust administrative data systems (e.g. police, courts, social services) to monitor service delivery, access and effectiveness and provide regular insights for decision-makers	<b>20 Universally agreed terminology</b> Information and policies communicated clearly and in alignment with international standards	 <b>Awareness raised among the public, professionals and policy makers</b> Potential future offenders are deterred. Child sexual abuse offending and reoffending is reduced.
<b>ENABLERS</b>		
Cross sector, multidisciplinary collaboration	Willingness to prosecute, functioning justice system and rule of law	Supportive reporting environment
Aware and supportive public and professionals, working with and for children	Sufficient financial and human resources	National legal and policy frameworks in accordance with the UNCRC and other international and regional standards
		Data and evidence on child sexual abuse

# WHAT IS THE MRC ASSESSMENT?

The problem of Child Sexual Exploitation and Abuse (CSEA) in the world represents a challenge for many countries that have institutional weaknesses to prevent, investigate, and care for child victims of this scourge. For this reason, in 2020, ICMEC's National Capacity Building Department created the "Multisectoral Response and Capacity Assessment" based on the capabilities of WeProtect's Model National Response (MNR) to identify these weaknesses and the corresponding recommendations to overcome them.

This model is multisectoral in nature, since combating this problem must be based on comprehensive and complementary care from all institutions involved in the protection of children.

## OBJECTIVES

### General

- Prepare a reference framework for the construction of a strategic plan that allows ICMEC, the government of Kenya, and other actors to carry out the construction of a National Response to combat Sexual abuse and exploitation online.

### Specifics

- Identify weaknesses of the National Response for prevention, investigation, and assistance to victims of child sexual abuse and exploitation in Kenya.
- Identify the priorities for actions to fill the identified gaps.

## PARTICIPANTS

<b>Policy and Governance</b>	<ul style="list-style-type: none"> <li>• Ministry of health</li> <li>• National Council for Children Services (NCCS)</li> </ul>
<b>Criminal Justice</b>	<ul style="list-style-type: none"> <li>• National Council on the Administration of Justice (Children's Committee)</li> <li>• The Directorate of Criminal Investigations, Anti-Human Trafficking and Child Protection Unit (DCI_AHTCPU)</li> <li>• Office of the Director of Public Prosecution (ODPP)</li> <li>• Probation and After Care Service</li> </ul>
<b>Victim support and empowerment</b>	<ul style="list-style-type: none"> <li>• Kenya Alliance for Advancement of Children Rights (KAACR)</li> <li>• Watoto Watch Network</li> <li>• Childfund Kenya</li> <li>• Childline Kenya</li> </ul>
<b>Society</b>	<ul style="list-style-type: none"> <li>• LifeSkills Promoters</li> <li>• African Institute for Children Studies (AICS)</li> </ul>
<b>Industry</b>	<ul style="list-style-type: none"> <li>• Communications Authority of Kenya (CAK)</li> </ul>
<b>Research and Data</b>	<ul style="list-style-type: none"> <li>• Kenya News Agency</li> <li>• Mtoto News</li> </ul>

## METHODOLOGY

The methodology to carry out the MRC Assessment included the mapping of entities related to the protection of children against CSEA, as well as a series of instruments to collect information on the 20 capacities established in the MRC Assessment.

The process included:

- Surveys to identify and evaluate the capacities of the entities according to their responsibilities. These were carried out directly with representatives of each institution.
- Specific requests for information to entities through video calls and emails
- Subsequently, the information collected was complemented with the resources available in open sources and analyzed based on the MNR.

# RESULTS



## POLICY AND GOVERNANCE

### DESCRIPTION OF SECTOR BASED ON THE MNR

#### Highest level national commitment to child sexual abuse prevention and response

Comprehensive understanding of child sexual abuse within the highest levels of government and law enforcement. Willingness to work with, and coordinate the efforts of, multiple stakeholders to ensure the enhanced protection of victims and an enhanced response to child sexual abuse offending.

## CAPACITY 1: LEADERSHIP

*Each country should have an accountable, cross-sector national body with a clear mandate and resources to protect children from sexual exploitation and abuse online, and willingness to engage in international collaboration.*

### RELEVANT ASPECTS:

- The National Council for Children Services (NCCS), established under the Children's Act 2001 amended to the Children's Act of 2022 Section 41 (1), is the policy-making body responsible for the supervision, planning, and coordination of child welfare activities in the country. The Council plays an advisory and policy creation role on children's matters, including online child sexual exploitation.
- The NCCS collaborates with state departments, and state and non-state agencies to monitor and evaluate the efficiency and effectiveness of all social programs established in the interests of children. It also develops policies and codes of conduct regulating good practice relating to child protection and child welfare.
- The Directorate of Children's Services (DCS) was established in recognition of the constitutional provision Article 53 which provides for the right to citizenship for every child and his/her best interest. It therefore focuses on implementation of policies as well as

safeguarding the interests of all Kenyan children including their digital rights.

- The DCS responds to cases of child abuse, neglect, and exploitation and intervenes on behalf of any child who is in need of care and protection and is in danger of imminent injury or harm, where possible by securing the removal of such child to a place of safety.
- On the other hand, the Communications Authority of Kenya (CAK) is the regulatory body for the communications sector in the country established under the Kenya Information and Communications Act (KICA) 2013 (amendment). It is mandated with licensing and regulation of postal, information and communication services in the country including regulating the content shared on mainstream media with the aim of child protection.
- The CAK acknowledges that children are vulnerable consumers of Information and Communication Technology (ICT) products and services. In view of this, the Authority has in place a Child Online Protection Program that addresses various issues with a view to creating a safer internet experience for children in Kenya.

## CAPACITY 2: LEGISLATION

*Each country should have a comprehensive and effective legal framework to prosecute offenders and protect children from all forms of sexual exploitation and abuse in line with international human rights standards; and a legal provision to protect children engaged in consensual sharing of sexual content from criminalization where appropriate.*

### RELEVANT ASPECTS:

- Kenya has a broad regulatory framework for the comprehensive protection of children from CSEA. At the national level, there are the following regulations related to CSEA and the investigation of cybercrimes.

#### 1. THE DATA PROTECTION ACT OF 2019<sup>2</sup>

provides for the process of requesting, utilizing, and storing personal data, including that of children.

#### **Section 27. Exercise of rights of data subjects**

A right conferred on a data subject may be exercised—

- (a)where the data subject is a minor, by a person who has parental authority or by a guardian;
- (b)where the data subject has a mental or other disability, by a person duly authorized to act as their guardian or administrator; or
- (c)in any other case, by a person duly authorized by the data subject.

#### **Section 33. Processing of personal data relating to a child**

(1) Every data controller or data processor shall not process personal data relating to a child unless—

- (a) consent is given by the child's parent or guardian; and
- (b) the processing is in such a manner that protects and advances the rights and best interests of the child.

(2) A data controller or data processor shall incorporate appropriate mechanisms for age verification and consent in order to process personal data of a child.

(3) Mechanisms contemplated under sub-section (2) shall be determined on the basis of—

- (a) available technology;
- (b) volume of personal data processed;
- (c) proportion of such personal data likely to be that of a child;
- (d) possibility of harm to a child arising out of processing of personal data; and
- (e) such other factors as may be specified by the Data Commissioner.

(4) A data controller or data processor that exclusively provides counselling or child protection services to a child.

#### 2. THE CHILDREN ACT, 2022<sup>3</sup>

This is the primary statute in Kenya that safeguards the rights and interests of children and it provides as follows with regards to protection of children from sexual abuse: Section 2 of the Act defines what amounts to child abuse.

"child abuse" includes—

- (e)the exposure of a child to emotionally traumatic and age-inappropriate content, information and photos of any kind;
- (f)engaging a child in child sex tourism and child trafficking;
- (h)the use or exposure of a child in, electronic or online, platforms for purposes of prostitution, pornography or any other unlawful sexual practice;
- (i)the use of a child's images for purposes of pornography or sexual gratification;
- (j)dissemination to a child of any material, information, education or health services that promotes, induces, condones, or normalizes sexual activity or behavior among children or with children; or
- (k)any other similar acts calculated to cause physical, emotional, economic or psychological injury to the child;

Section 16(4) of the Act provides that a child has the right to access age-appropriate information that affirms human dignity in human relationships and promotes the avoidance of sexual risk.

16 (4) Every child has the right to—

- a)access to age-appropriate information on

2 <http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%202024%20of%202019>

3 [http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%202029%20of%202022#part\\_VIII](http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%202029%20of%202022#part_VIII)

health promotion and the prevention and treatment of ill-health and disease, mental health, and reproductive health.

- (e) access to age-appropriate information that affirms human dignity in human relationships and promotes sexual risk avoidance.

Further, section 22 of the Act provides for protection from abuse through use of information technology systems.

...any person who, through any electronic system, network, or other communication technology—

- (a) proposes or solicits to meet a child for the purpose of engaging in sexual activities contrary to the provisions of the Sexual Offences Act (No. 3 of 2006);
- (b) transmits or causes to be transmitted any obscene material, or otherwise makes such material accessible to children; or
- (c) in any other way, subjects a child to online abuse, harassment, or exploitation, whether through social networks, playing online games or by use of mobile phones or other electronic devices, commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding ten years or to a fine not exceeding two million shillings, or to both.

### **3. THE SEXUAL OFFENCES ACT (SOA) CRIMINALIZES AND PUNISHES ALL SEXUAL OFFENCES IN KENYA.<sup>4</sup>**

Section 12, 15 and 16 of the SOA focuses on online sexual exploitation through manufacturing, possession, and distribution of child pornography.

### **12. Promotion of sexual offences with a child**

A person including a juristic person<sup>5</sup> who—

- (a) manufactures or distributes any article that promotes or is intended to promote a sexual offence with a child; or
- (b) who supplies or displays to a child any article which is intended to be used in

the performance of a sexual act with the intention of encouraging or enabling that child to perform such sexual act, is guilty of an offence and is liable upon conviction to imprisonment for a term of not less than five years and where the accused person is a juristic person to a fine of not less than five hundred thousand shillings.

### **14. Child sex tourism**

A person including a juristic person who—

- (a) makes or organizes any travel arrangements for or on behalf of any other person, whether that other person is resident within or outside the borders of Kenya, with the intention of facilitating the commission of any sexual offence against a child, irrespective of whether that offence is committed; or
- (b) prints or publishes, in any manner, any information that is intended to promote or facilitate conduct that would constitute a sexual offence against a child;
- (c) introduces, organizes, or facilitates contact with another person under the auspices of promoting tourism, in any manner, in order to promote conduct that would constitute a sexual offence against a child, is guilty of an offence of promoting child sex tourism and is liable upon conviction to imprisonment for a term of not less than ten years and where the accused person is a juristic person to a fine of not less than two million shillings.

### **16. Child pornography**

(1) A person, including a juristic person, who knowingly—

- (a) possesses an indecent photograph of a child;
- (b) displays, shows, exposes or exhibits obscene images, words or sounds by means of print, audio-visual or any other media to a child with intention of encouraging or enabling a child to engage in a sexual act;

<sup>4</sup> <http://www.kenyalaw.org/lex/actview.xql?actid=No.%203%20of%202006>

<sup>5</sup> The term "juristic person" includes a firm, corporation, union, association, or other organization capable of suing and being sued in a court of law.)

(c)sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, or for purposes of sale, hire, distribution, public exhibition or circulation, makes, produces or has in his or her possession an indecent photograph of a child;

(d)imports, exports or conveys any obscene object for any of the purposes specified in subsection (1), or knowingly or having reason to believe that such object will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation;

(e)takes part in or receives profits from any business in the course of which he or she knows or has reason to believe that obscene objects are, for any of the purposes specifically in this section, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited or in any manner put into circulation;

(f)advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence under this section, or that any such obscene object can be produced from or through any person; or

(g)offers or attempts to do any act which is an offence under this section, commits an offence and is liable upon conviction to imprisonment for a term of not less than six years or to a fine of not less than five hundred thousand shillings or to both and upon subsequent conviction, to imprisonment to a term of not less than seven years without the option of a fine.

(2) This section shall not apply to—

(a)publication or possession of an indecent photograph where it is proved that such publication or possession was intended for bona fide scientific research, medical, religious or law enforcement purpose; the indecent representation of a child in a sculpture, engraving, painting or other medium on or in any ancient monument recognised by law;

#### 4. THE COMPUTER MISUSE AND CYBERCRIMES ACT NO. 5 OF 2018<sup>6</sup>

Section 24 criminalizes child pornography. Whereby child pornography is described as data which, whether visual or audio, depicts—

- a.a child engaged in sexually explicit conduct.
- b.a person who appears to be a child engaged in sexually explicit conduct; or
- c.realistic images representing a child engaged in sexually explicit conduct.

One who has committed child pornography—

- (1)A person who, intentionally—
  - (a)publishes child pornography through a computer system;
  - (b) produces child pornography for the purpose of its publication through a computer system;
  - (c)downloads, distributes, transmits, disseminates, circulates, delivers, exhibits, lends for gain, exchanges, barters, sells or offers for sale, lets on hire or offers to let on hire, offers in another way, or make available in any way from a telecommunications apparatus pornography; or
  - (d)possesses child pornography in a computer system or on a computer data storage medium, commits an offence and is liable, on conviction, to a fine not exceeding twenty million or to imprisonment for a term not exceeding twenty-five years, or both.

#### 5. THE FILMS AND STAGE PLAYS ACT OF 2012<sup>7</sup>

Provides for one of the roles of the board as one of giving consumer advice, having due regard to the protection of women and children against sexual exploitation or degradation in cinematograph films and on the internet.

#### **15. Functions of the Board**

- (1) The functions of the Board shall be—
  - (iii) giving consumer advice, having due

6 <http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%205%20of%202018>

7 <http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=CAP.%20222>

regard to the protection of women and children against sexual exploitation or degradation in cinematograph films and on the internet;

## 6. THE NATIONAL ICT POLICY OF 2020<sup>8</sup>

Provides guidelines on Child Online Protection including prevention, detection, identification, reporting, investigation, and removal of child sexual abuse content on the internet platforms.

### 6.43 Child Online Protection

The government will ensure that there are rules, structures, principles, and policies to ensure that children can use the Internet and computers safely. In order to effect this policy the government will:

1. Develop a legislative framework that embraces child online protection comprehensively as a special case of privacy, and security through a practical multilateral, multi-stakeholder approach (Policy, Law, Technical, Education, Awareness); (remove space between lines)
2. Develop local public awareness information and content targeted at various target audiences;
3. Develop innovative “online values” programmes that ensure that the right online values are instilled in Kenyan children from the moment they begin to use technology;
4. Develop a mechanism to equip relevant stakeholders with appropriate information and skills to respond adequately to child online abuse and exploitation;
5. Development of framework of engagement between local and international organisations and law enforcement agencies; and
6. Foster the development of technical tools and services in the market that minimise the risk of exposure of children by-
  - Removal of illegal content from cyberspace such as child sexual abuse materials
  - Investigation of child online crimes
  - Detection and identification of child

victims on online abuse and exploitation

- Prevention of circulation of child sexual abuse materials; and
- Reporting of such content.

7. Better understand the online habits of children and youth and facilitate identification and development of mechanisms to reduce their exposure to risks and vulnerabilities online; understand the context to which a child become vulnerable and how to prevent online protection;

8. Prioritise the equipping of law enforcement agencies and judicial officers to handle Child Online Protection related matters;

9. Establish a database of offenders against children

• At the international level, the country has ratified the following conventions related to CSEA and the investigation of cybercrimes:

1. Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography.
2. The Council of Europe Convention on Cybercrime (Budapest Convention)
3. The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention)
4. The International Labour Organization Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO Convention 182)
5. The African Union Convention on Cyber Security and Personal Data Protection (AU Cyber Convention)

• Kenya is a member of the International Telecommunications Union and is guided by the union guidelines on Child Online Protection (COP)

• Further, Kenya is a member of the WePROTECT initiative by the Global Alliance to End Child Sexual Exploitation Online.

<sup>8</sup> <https://www.ca.go.ke/document/national-ict-policy-guidelines-2020-2/>

## GAPS IDENTIFIED IN THE POLICY AND GOVERNANCE SECTOR

- The policies are also use terminologies such as child pornography, prostitution, and child sex tourism which are not in line with the Luxembourg guidelines.
- Nude photos of children not engaged in sexual acts is not considered child sexual abuse material (Child Pornography as the law still refers to it).

## CRIMINAL JUSTICE SECTOR

### DESCRIPTION OF SECTOR BASED ON THE MNR

Each country should have effective and successful child sexual abuse investigations, convictions, and offender management. Law Enforcement and judiciary should have the knowledge, skills, systems, and tools required to enable them to perform victim-focused investigations and secure positive judicial outcomes. Child sexual abuse offenders should be managed, and reoffending prevented.

## CAPACITY 3: DEDICATED LAW ENFORCEMENT

*Each country should have human and technical capabilities to investigate child sexual abuse online and offline, including cross-border cases Trauma-informed training for law enforcement coordination with victim support services.*

### RELEVANT ASPECTS:

- In Kenya, the Directorate of Criminal Investigation, Anti-Human Trafficking and Child Protection Unit oversees investigations on CSEA both offline and online.
- Applicants to the Unit must have at least a degree/diploma from a recognized university.

The core functions of the Unit include:

- » Carry out investigations on cases of child sexual exploitation and abuse.
- » Undertake investigations on cases of child trafficking.
- » Advise police officers and other stakeholders country-wide on reported child sexual exploitation and abuse.

- » Take over cases of child sexual exploitation and abuse from other police stations country-wide that have been poorly investigated.
- » Coordinate with Interpol office, National and International law enforcement agencies on cases of child sexual exploitation and abuse.
- » Liaise with the Department of Children Services and non-state actors in identifying and rescuing sexually abused children.

- OCSEA cases in Kenya can be reported to either the DCI-AHTCPU, the Communications Authority, Kenya-Cyber Incidents Report Team (Ke-CIRT), the Internet Watch Foundation (IWF) Portal, or the National Centre for Missing and Exploited Children (NCMEC)
- For NCMEC to work with the local law enforcement in Kenya, an MOU was signed that guides their terms of engagement such as the requirement for the DCI to have a child-specialized unit which gave rise to the DCI-AHTCPU.
- The NCMEC prioritization guidelines are used

by the DCI-AHTCPU to identify and select Priority Cases. The cases reported by NCMEC or by Individuals are cross-referenced and unified through the NCMEC case management tools and the INTERPOL ICSE Database.

- The DCI receives from NCMEC an average of 22 actionable cases per day, which totals approximately 7920 cases a year. Only an average of ten per month or fewer come from individuals.
- The DCI-AHTCPU uses Cellebrite, Axiom, and web-based Open Source Intelligence (OSINT) technical tools to carry out investigations on OCSEA cases. The ICACCOPS platform is also used to investigate Peer-to-Peer (P2P) file sharing cases.

## CAPACITY 4: JUDICIARY AND PROSECUTORS

*Specialist training on child sexual exploitation and abuse and technology-enabled offending  
Child-friendly and victim-centred protocols*

### RELEVANT ASPECTS:

- The Children's Division within the office of the Director of Public Prosecutions (ODPP) prosecutes all children cases including those of Online Child Sexual Exploitation and Abuse.
- The judiciary's understanding on the circumstances in which OCSEA cases may arise, the vulnerability of victims, and the methodologies and profiles of offenders online and offline is mostly self-taught. In Kenya, the main training undergone by the judiciary and prosecution was by UNICEF in partnership with the National Council on Administrative Justice (NCAJ). The training was carried one off and there are yet to be others of the same kind.
- Kenya has one court in Shanzu which listens to Sexual and Gender Based Violence (SGBV) cases. Kenya also has only two child-friendly courts: one in Nairobi and the other in Mombasa.
- The country has legal procedures for interviewing child victims in the court systems. However, the procedures are not strictly adhered to due to a lack of resources and capacity in the local courts.
- Some of the child-friendly and victim-centred protocols in the country include:

» The courts hold closed session hearings when a minor is involved. This means that members of the public are not allowed to sit in while the case is being heard. The Children's Act 2022<sup>9</sup> provides explicitly for this under Section 93, (4) and (5):

- (4) No person other than the following may attend any proceedings or be present at any sitting of a Children's Court—
  - a)the judicial officer, members and other officers of the Court;
  - b)a children's officer duly appointed by the Secretary to assist the children's Court in its proceedings;
  - c)parents or guardians of the child involved in the proceedings;
  - d)any person directly or indirectly involved in the matter before the Court, including complainants, witnesses and any professional required to submit any report on a child to whom the proceedings relate;
  - e)a duly accredited journalist or duly registered media professional; or
  - f)such other persons as the Court may authorize to be present.

(5) Nothing in this section shall prevent the Court from holding its sittings in camera to the exclusion of any person mentioned in paragraphs (c), (d) and (e).

» The Children's Act also provides for child-friendly interviews that ensure the child does not have to interact with the abuser during trial. These provisions are highlighted under section 94;

The Court shall direct that such witness be protected by one or more of the following measures—

- a.allowing such witness to give evidence under the protective cover of a witness protection box;
- b.directing that the witness shall give evidence through an intermediary pursuant to Article 50(7) of the Constitution;
- c.directing that the proceedings do not take place in open Court;
- d.prohibiting the publication of the identity of the complainant or of the complainant's family, including

<sup>9</sup> [http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2029%20of%202022#part\\_VIII](http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2029%20of%202022#part_VIII)

publication of any information that may lead to the identification of the complainant or the complainant's family; e.any other measure which the Court deems just and appropriate; or f.any other safeguards provided under the Witness Protection Act, 2006 (No. 16 of 2006) or any other written law.

The courts have come up with other innovative ways such as the use of online meeting platforms like Zoom to hear the case, having the view of children be hidden behind the hearing docks and out of sight, and use of screens.

»Upholding the privacy of the child during the entire court process by not revealing the minor's personal details such as name, age, area of residence, etc. In line with this, the charge sheets only contain the minor's initials such as S.N. instead of the child's full name. These provisions are also found in the Children's Act 2022 section 95 (5);

In relation to any proceedings concerning a child, whether instituted under this Act or under any other written law, a person shall not publish or reveal in any publication or report, including any law report, any of the following matters—

a.a child's name, identity, home or last place of residence or school; b.the particulars of the child's parents or relatives; or c.any photograph, depiction, or caricature of the child.

•So far, the country has handled 7 trafficking for sexual exploitation cases and 18 child prostitution/tourism and pornography cases that have been finalized within the year 2021/2022.

## CAPACITY 5: OFFENDER MANAGEMENT SYSTEM

*Each country should have a multi-agency system to identify, manage and rehabilitate sex-offenders, and statutory tools (rehabilitation and education programmes, community supervision).*

### RELEVANT ASPECTS:

•In 2012, Kenya officially launched the Sexual Offenders Registry<sup>10</sup>, which is maintained by the chief registrar at the judiciary as provided for under section 39(13) of the Sexual Offences Act of Kenya<sup>11</sup>. The registry is accessible to National Government officers at the judicial level. It is still in the process of digitization and therefore not accessible to international institutions or the general public.

The register is for general sex offenders in the country and not specific to child sex offenders. It helps the authorities to keep track of the residence and activities of offenders, including those who have completed their criminal sentences.

•The sexual offences regulations of 2008 states that a sexual offender's period of registration shall lapse only upon the offender's death<sup>12</sup>. The regulations also require the offender to inform the registrar if he:

- (a)ceases to live or reside at the registered address or moves to a different address;
- (b)leaves a job or obtains a new job, or leaves a school or enrolls in a new school;
- (c)leaves the jurisdiction of the High Court.

•The Sexual Offences Act under Section 39 provides for a dangerous sexual offender and among other reasons, Subsection 3 states that anyone who has been convicted of sexual offences against a child is a dangerous sexual offender<sup>13</sup>.

•Such offenders may be released after serving part of their sentence but only on grounds that they receive long-term supervision for the remaining part of their sentence. The long-term supervision as per the law is for a period of no less than five years.

•Subsection 4 of the Act provides the bare minimum that the court must consider before releasing a dangerous sexual offender back into the community. These standards must be proven to be applicable by the probation officer in charge prior to the court's decision. The provisions include:

10 <https://allafrica.com/view/resource/main/main/id/00031462.html#:~:text=The%20judiciary%20has%20launched%20a,have%20completed%20their%20jail%20sentences>

11 <http://www.kenyalaw.org/lex/actview.xql?actid=No.%203%20of%202006>

12 <http://www.kenyalaw.org/lex/sublegview.xql?subleg=No.%203%20of%202006#doc-3>

13 <http://www.kenyalaw.org/lex/actview.xql?actid=No.%203%20of%202006>

- a)the suitability of the offender to undergo a long-term supervision order;
- b)the possible benefits of the imposition of a long-term supervision order on the offender;
- c)a proposed rehabilitative programme for the offender;
- d)information on the family and social background of the offender;
- e)recommendations regarding any conditions to be imposed upon the granting of a long-term supervision order; and
- f)any other matter directed by the court.

- Subsection 5 obligates the court to specify:
  - a)that the offender is required to take part in a rehabilitative programme;
  - b)the nature of the rehabilitative programme to be attended;
  - c)the number of hours per month that the offender is required to undergo rehabilitative supervision; and
  - d)that the offender is required, where applicable, to refrain from using or abusing alcohol or drugs.

- Subsection 6 provides for the conduct of the offender including:
  - (d)refrain from visiting a specified location;
  - (e)refrain from seeking employment of a specified nature; and
  - (f)subject himself or herself to a specified form of monitoring.

- The terms of the court order for the dangerous offenders are reviewed every three years.

- The State Department of Correctional Services, Probation and Aftercare Services derives its mandate from the Probation of Offenders Act Cap 64 and the Community Service Orders Act No. 10 of 1998 Laws of Kenya.

- The Department offers services such as:
  - a)Facilitation in the administration of criminal justice through generation of social inquiry reports to inform decision-making regarding Bail, Sentencing and Penal release.
  - b)Supervision of offenders on probation orders, community service orders, and other penal release licenses
  - c)Re-integration and re-settlement of offenders in the community.
  - d)Provision of services for victim protection and promotion of rights and welfare
  - e)Participation in social crime prevention activities

- The Department works through promotion of harmony and peaceful co-existence between the offender and the victim/community through victim information, reconciliation and participation in crime prevention initiatives, reduction of penal population by supervising non-custodial orders and participation in sentence review, prison decongestion programmes, and resettlement and reintegration of ex-offenders and psychiatric offenders into the community for peaceful co-existence.

## CAPACITY 6: ACCESS TO IMAGE DATABASE

*Every country should have a national database with access to the Interpol's ICSE database for international collaboration, supported by alignment with terminology for CSAM categorization.*

### RELEVANT ASPECTS:

- Kenya has access to the Interpol International Child Sexual Exploitation Database (ICSE) which is used by the DCI-AHTCPU and can be accessed by the prosecution by request on a case-by-case basis made to the DCI-AHTCPU. So far, three victims have been identified and rescued in the country with the information derived from the database.

### GAPS IDENTIFIED IN THE CRIMINAL JUSTICE SECTOR

- The Kenyan police lack specialized programs in their academies on CSEA and child protection. Most training courses are offered randomly by international institutions such as NCMEC, ICMEC, International Justice Mission (IJM) and Interpol. They therefore lack a coordinated curriculum that all officers can learn from as they enter the police service.

- They also lack prevention programs on OCSEA for capacity building for the public.
- The country also lacks a defined budget to help in the creation and maintenance of special units for the investigation of OCSEA.
- The child specialized Unit at the DCI lacks a specialized platform for publication of results of investigations for coordination with other key stakeholders and local authorities.
- The DCI-AHTCPU specialized unit is only situated in 2 out of the 47 counties in Kenya, leaving a very large gap of population without access to its services.
- The Unit lacks specialized psychosocial and welfare support system to help in day-to-day management of stresses that come with its line of work.
- The judiciary and prosecution lack a standardized training on tackling OCSEA cases.
- There is a need to improve the psychosocial support and welfare for the judicial officers as well as provide a more coordinated support system for the victims before, during, and after trial.
- More resources need to be channeled into the creation of child-friendly court structures to prevent the exposure of victims to the aggressor and revictimization.
- There is no unified database that provides for the coordination of cases reported to the prosecution and the law enforcement in the country.
- The country lacks an offender management system that coordinates the management and rehabilitation of child sex offenders to prevent their

recidivism.

- Kenya does not have investigated analysis or research on the profile of child sex offenders whether offline or online.
- Kenya lacks a national image base or a CSEA hash system.





# VICTIM SUPPORT AND EMPOWERMENT

## DESCRIPTION OF SECTOR BASED ON THE MNR

Appropriate support services for children and young people. Children and young people have access to services that support them through the investigation and prosecution of crimes against them. They have access to shelter; specialised medical and psychological services; and rehabilitation, repatriation, and resocialisation services.

### CAPACITY 7: END TO END SUPPORT

*Each country should have a planned, integrated and multi-stakeholder support for victims and survivors. Services are inclusive and sensitive to age, gender, sexuality, disability and ethnicity. Psychological support across dedicated law enforcement, frontline workers accessing image databases, child protection workforce, and hotlines.*

#### RELEVANT ASPECTS:

- In 2019, Kenya launched the Case Management and Referral Guidelines. The guidelines are meant to help the key stakeholders in dealing with child victims from the moment a case is reported to when it is closed. It guides different actors on how to carry out comprehensive case management and referral and defines the role of the government, civil society organizations, the communities, the family, and the child to complement each other.
- The guidelines are focused on assisting children in need of care and protection and how best to link them with the help they need. The guidelines do not apply in isolation and are implemented in line with existing policies on child protection.
- The key role of the guidelines is to enhance accountability and quality of service delivery to the children in need of care and protection providing a standardized and harmonized approach to ensure the well-being of all children in Kenya. It is meant to ensure smooth coordination, flow of resources and application of expertise in ensuring that the child's needs or challenges are addressed holistically, appropriately and on time to restore the child's well-being.

- The Guidelines' stated objectives include:
  - 1.To improve the coordination of services to children
  - 2.To ensure a continuum of care and services
  - 3.To strengthen linkages between the child and service providers
  - 4.To promote adherence to laws protecting children and standards of practice
  - 5.To enhance data management in child protection
  - 6.To enhance the well-being of the child

- The end goal of the case management guidelines is:

1. Enhance optimal use of resources by government and partners in child protection
2. Promote child's active participation and self-determination in matters affecting them
3. Encourage family and community ownership of the child protection process
4. Minimize re-traumatization of children through re-telling of their story
5. Help monitor progress of the case
6. Promote commitment by service providers in their areas of expertise, hence ensuring quality service provision
7. Ensure proper documentation of children's cases
8. Enhance accountability of service providers
9. Ensure timely response and resolution of children's cases

- Under the case management guidelines, a case can be closed when it is determined that:

1. The set goals have been achieved
2. Death of a child
3. Relocation of the family to a new place so that they are untraceable
4. Child and the family are unwilling to continue with the case
5. There are no grounds to go against their wishes (in the best interest of the child)
6. Transfer. If an organization is unable to continue offering services, or if the child has

moved from one region to another before the case is closed, then the case should be transferred to another service provider. It is advisable that both the current and new case worker hold a session to introduce the new service provider to the child and the family.

7. When a child turns 18 years old unless under special circumstances as provided in the law.

- The National Youth Act of 2009 provides for a council that helps children exiting (leaving) alternative care because they have reached the age of 18.

## CAPACITY 8: CHILD PROTECTION WORKFORCE

*Skilled, specialist statutory workforce trained, coordinated and available to provide trauma-informed support to protect and support children at risk of sexual abuse and exploitation online. Guidelines for frontline professionals on emerging and complex issues such as child "self-generated" sexual material*

### RELEVANT ASPECTS:

- The Framework for the National Child Protection System for Kenya 2011 provides for the roles and responsibilities of each level of government and its partners as they jointly undertake activities to safeguard the rights and welfare of children. The policy is what led to the creation of the Case Management and Referral Guidelines as the Framework had not provided for the integrated approach and coordination in depth.

- The Directorate of Children Services (DCS) is responsible for safeguarding the rights and welfare of all children in the country. They are responsible for placement, rescue, assessment of children and child victims as well as remand homes for child offenders. The Directorate is further required to offer psychosocial support to children and their families, to provide aftercare services during case follow-ups and reviews, and to share data with partners.

- The Ministry of Health in Kenya is tasked with the responsibility of providing promotive, preventive, curative, and palliative services to children and their families. As per the case management guidelines, it is responsible for:

- 1)Screening physical (suspicious injuries or abuse) or psychological signs of abuse and reporting them to medical social worker/counsellor, the police, children's officers or call:
  - o Child Helpline 116,
  - o GBV 1195,
  - o Red Cross emergency line 1199
  - o The police hotline 999
- 2)Assessing the medical needs of the child so that emergency medical assistance can be given immediately
- 3)Determining what examination is needed for the collection of evidence
- 4)Administering timely and appropriate child-friendly services
- 5)Preserving forensic evidence and presenting it to police/courts; for example, DNA
- 6)Filling in the medical forms needed for case management – P3 and Post Rape Care (PRC) forms
- 7)Testifying in subsequent legal proceedings
- 8)Liaising with medical and social workers and counsellors to link the child with any other support needed by the child
- 9)Upholding teamwork, ethics, privacy and confidentiality in handling children related cases
- 10)Providing photographic evidence in accordance with child safeguarding standards
- 11)Assigning a medical and social worker to assess the status of the child (develop a treatment plan/care plan)
- 12)Filling in an incidence form and referring the child to DCS for temporary shelter

- There has been lack of coordination among the teams and different child stakeholders, an issue the Case Management and Referral Guidelines of 2019 hopes to cure.

## **CAPACITY 9: COMPENSATION, REMEDIES AND COMPLAINTS ARRANGEMENTS**

*Each country should have a provision of measures to allow children and victims accessible support in compensation, legal remedies and complaints procedures.*

### **RELEVANT ASPECTS:**

- The Victim Protection Act of 2014 provides for the right of a victim to be compensated under section 23. It states that a victim has a right to restitution or compensation from the offender and the enforcement thereof. The section provides for several reasons for compensation, including: personal injury; costs of any medical or psychological treatment; and costs of necessary transportation and accommodation suffered or incurred as a result of an offence.
- The Victim Protection (Trust Fund) is provided for by The Victim Protection Act 2014 in Kenya, and its guidelines for operation are provided under the Victim Protection Trust Fund Regulations of 2020. The fund is meant to complement civil suit orders given during the issuance of a court order for compensation to victims. However, the fund is not yet operational.
- Victims currently rely on court orders on compensation and the ability of the offender to carry them out.
- The Computer and Cybercrimes Act of 2018 provides for compensation through civil suit for a victim of any offence carried out via a computer. Section 45 of the Act provides that<sup>16</sup>:

(45) (1) Where the court convicts a person for any offence under this Part, or for an offence under any other law committed through the use of a computer system, the court may make an order for the payment by that person of a sum to be fixed by the court as compensation to any person for any resultant loss caused by the commission of the offence for which the sentence is passed.

(2) An order of compensation under this section is recoverable as a civil debt.

• The National Legal Aid Service (NLAS) offers free legal advice to child victims and their families assisting them to access legal services that may have otherwise been too expensive for them. There is not, however, a specialized team in the NLAS that handle OCSEA cases.

## **CAPACITY 10: CHILD HELPLINE**

Each country should have accessible support helpline available 24/7 offering in-person, video counselling and interpretation Robust data protection systems Operators with specific training in online harms.

### **RELEVANT ASPECTS:**

- Kenya has a helpline for children hosted by Childline Kenya. It is accessible in the following ways:

Tel: 116 (Free of charge)  
Chat Online : ([www.childlinekenya.co.ke](http://www.childlinekenya.co.ke))  
Facebook page: Childline Kenya  
Email: (116@childlinekenya.co.ke)  
WhatsApp: (0722116116)  
Twitter: (@childlinekenya)

- The physical call centres for the helpline are located in government institutions but the service can also be provided remotely. The Government (Directorate of Children Services) and an NGO (Childline Kenya) co-manage the helpline in a public-private partnership arrangement governed by an MOU.

- Childline Kenya offers support in the form of:
  - Child and family therapy (including counselling)
  - Legal support
  - Referral/linkage to other child protection service providers for additional specialized services including (but not limited to) social inquiry, rescue, temporary safe shelter, medical care, tracing and reintegration.

- The helpline provides free services for persons under the age of 18 years on the number 116. For the other stated access channels, they need access to internet.  
Counseling, legal support and referral is also provided free of charge to the child.

<sup>16</sup> <http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%205%20of%202018>

- The helpline can offer assistance in response to anonymous reports as long as the details provided are adequate to trace the affected child for the support to be provided.
- Childline Kenya operates 24/7 and can make referrals to institutions that provide face-to-face care on a case-by-case basis where necessary.
- The helpline is part of a national child protection network which serves as a key entry point into the child protection system and links with other players in the system to help with the child in need of care and protection. All the counselors are initially considered based on basic counseling qualifications at university level or Diploma (with years of practice/experience). On engagement they also go through on-the-job training on an ongoing basis on all matters related to child protection including CSEA.

• There is no clear or adhered to structure for the effective reparations for OCSEA victims and their families.

• There is lack of a specialized team in the NLAS that are equipped with knowledge on OCSEA.

## GAPS IDENTIFIED IN THE VICTIMS SECTOR

- Although the country has robust laws and regulations on child sexual abuse and violence, the key child work force still lack knowledge, training and capacity to handle child sexual abuse that occurs on the online platform. For example, as of now, the health sector is still not equipped with knowledge and capacity to offer assistance to victims of OCSEA such as specialized medical and psychological services.
- There are no coordinated and mandatory training programs for intervention for the child protection workforce on OCSEA. Most training is offered by NGOs randomly to random groups with whom they have an understanding.
- Lack of inter-agency coordination and goodwill slows down the process of handling children's cases in the country.





## SOCIETAL

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### DESCRIPTION OF SECTOR BASED ON THE MNR

Children and young people are informed and empowered to protect themselves from child sexual abuse. Parents, carers, teachers and childcare professionals are better prepared to keep children safe from child sexual abuse, including addressing taboos surrounding sexual abuse.

#### CAPACITY 11: CSEA HOTLINE

*Each country should have a dedicated portals/hotlines for the public to report suspected child sexual exploitation and abuse online. Cooperation with law enforcement and the technology industry.*

##### RELEVANT ASPECTS:

- Kenya, under the Directorate of Criminal Investigations (DCI), has a toll-free hotline for reporting all forms of crimes including online child sexual abuse. The DCI-AHTCPU receives the reports and coordinates with key stakeholders to investigate and remove the abuse material as well as the child from harm.
  - » DCI Toll-Free Hotline 0800722203
  - » Email: [info@dcicpu.co.ke](mailto:info@dcicpu.co.ke)
- There are several campaigns and platforms which provide an opportunity to the general public and key child stakeholders to be made aware of the existence of the hotline in the country and the fact that they can use it to report OCSEA cases. The most common platform is through the trainings offered by the Communications Authority in Child Online Protection.
- The DCI-AHTCPU team has undergone several trainings to equip them with the technical knowledge of handling cases reported through the DCI hotline and other avenues by NCMEC, IJM, IWF and ICMEC.

#### CAPACITY 12: EDUCATION PROGRAM

*Each country should have a national education programmes (including age-appropriate, accessible, and inclusive content) to raise awareness of all forms of child sexual exploitation and abuse – empowering children, young people, parents.*

##### RELEVANT ASPECTS:

- The Kenya ICT policy of 2020 provides guidance on the importance of awareness creation on online child sexual exploitation. (Refer to capacity 2 under legislations.)
- Kenya has been a member of the International Telecommunication Union (ITU) since 1982 and therefore its Child Online Protection (COP) guidelines play a key role in the conduct of telecoms in the country. The COP guidelines take a holistic approach to promoting child online safety, developing strategies that span five key areas: Legal Measures; Technical and Procedural Measures; Organizational Structures; Capacity Building and International Cooperation.
- The COP Initiative has identified three principal age groupings of young Internet users that broadly correspond with the key stages of development: 5-7 years of age, 8-12 years of age, and 13 years and above.
  - It emphasizes on the importance of children following the SMART Rules when online:
  - » **S**= Set your limits [use privacy settings to protect online profile, Think twice before you publish or share anything online, Always double check information from reliable

- sources, never accept harassment or bullying by other people];
- » **M** = Meeting online friends offline [always take someone reliable, such as a parent or other trusted adult, with you when meeting an online friend in real life, and remember that your online friend might turn out to be a different kind of person than you thought];
- » **A** = Accepting invitations/friendships [You may get requests by strangers who want to be your online 'friend' and see your profile, but it is not wise to accept them. There is nothing wrong with declining invitations you are not sure about];
- » **R** = React [Ignore bad behavior and leave unpleasant conversations or sites with inappropriate content and block anyone approaching you using rude, intruding or threatening emails or comments. No one has the right to request you to engage in sexual activities or transmit sexual images of yourself];
- » **T** = Tell someone about your concerns [If you have any concerns or problems while online, you need to tell someone you can trust. You can report harmful or inappropriate content or activities on websites to the host of the site, and you can report illegal content to an Internet Hotline or to the police.]

- Awareness creation in the country is done mainly by non-governmental organizations. However, the Communications Authority (CA) of Kenya has developed a Child Online Protection and Safety Programme. The programme has over 17 initiatives that are geared towards creating an ecosystem that enables a safer internet experience for children in Kenya. This programme has several initiatives that focus on educating and empowering consumers on the risks and vulnerabilities on the internet and productive use of the internet.

- The Authority has developed and executed two major campaigns on child online protection and safety.
- » Phase I of the programme saw the launch of a campaign dubbed "Be The COP" in 2015. The campaign targeted parents, guardians, and teachers with a view to increase their level of awareness of the dangers that exist online and to provide them with information on how they can encourage responsible

internet usage. The campaign also sought to trigger the development of an initiative in Child Online Protection in Kenya. The campaign messages were communicated to the target audience through the major media platforms (print and electronic), publication (brochures and books), social media, and through the CA website.

» The second phase of the campaign focused on execution of initiatives that have a long term impact, are sustainable, and have a direct impact to children. As part of this phase a campaign dubbed "Huwezi Tucheza Tuko Cyber Smart" (You cannot fool us, we are Cyber Smart) launched in September 2022. The launch was presided over by Her Excellency, Margaret Kenyatta, First Lady of the Republic of Kenya. The main aim of the Phase II campaign was to disseminate information and materials that resonate well with children and youth, with a view to ultimately making them advocates for the responsible use of the internet. The campaign was designed and executed in full recognition that internet and social media platforms have become increasingly important in the lives of the youth and young people seeing that they use social media for recreation and communication. The Authority also undertakes consumer outreach activities to create awareness on online risks and vulnerabilities.

- The education campaigns carried out in the country have mainly targeted caregivers such as parents, teachers, and other child protection workforce.

## CAPACITY 13: CHILD PARTICIPATION

*Each country should have children and young people encouraged and enabled to give ideas and influence policy and practice relating to child sexual exploitation and abuse Child protection, children's rights frameworks, and trauma informed practice utilised when engaging children.*

### RELEVANT ASPECTS:

- Kenya has a children's parliament which gives them an opportunity to voice their challenges and issues. The Children's Assembly came to being in 2011, bringing together student

representatives from all the 47 counties to elect their national leaders. Each county also has its leadership.

- The Assembly has been involved in several processes since its inception including in providing feedback during the formation of the National Plan of Action to Tackle OCSEA in Kenya 2022-2026.
- In August 2019, the DCS, in partnership with UNICEF, organized a forum for children to gather their opinions in preparation for the Global Disrupting Harm Study that was later carried out in the country.
- Mtoto News, a local NGO, has been recognized for its efforts and work in actively engaging children and promoting child participation in the Online Safety conversation. In March 2022, they organized a training dubbed "Sauti Zetu" (Our Voices) which brought together children between 6 and 17 years old to learn about responsible digital citizenship, using social media to champion for various causes, and how to protect themselves from online abuse and exploitation. Added to this, they have brought together stakeholders for several webinar series to discuss the theory and practice of child participation in Africa.
- Watoto Watch Network is another local NGO that has actively included children's voices in the national policy dialog over the past few years. They convened participation of children in the development Computer Misuse and Cybercrimes Act of Kenya, convened participation of children in Communications Authority industry guidelines, and also participation of children in the development of their OCSEA training resources.

They have also trained children who are ambassadors in schools on all matters regarding child online protection.

## CAPACITY 14: OFFENDER SUPPORT SYSTEM

*Each country should have a support to prevent people with a sexual interest in children from abusing or accessing child sexual abuse material. Support for convicted offenders as part of rehabilitation response. Specialised support for children displaying harmful sexual behaviour.*

## RELEVANT ASPECTS:

- In Kenya, the State Department for Correctional Services provides probation and aftercare services to offenders. The services include assessment, supervision, reintegration, and rehabilitation. Assessment is done to determine the risks and needs of the offender and further determines the supervision, rehabilitation, and resettlement process. These procedures are generally carried out for all offenders and not just child sexual offenders. (Refer to Capacity 5 on Offender Management System)

## CAPACITY 15: INFORMED AND ETHICAL MEDIA REPORTING

*Each country should have evidence-based and sensitive reporting that respects victims' and survivors' rights and dignity .*

## RELEVANT ASPECTS:

- The Media Council of Kenya (MCK) Act of 2013<sup>17</sup> under the second schedule section 19 provides for ethical methods on the publication of news related to crimes against children. It stipulates that:

- » children shall not be identified in cases concerning sexual offenses, whether as victims, witnesses, or defendants,
- » journalists shall not normally interview or photograph children on subjects involving their welfare in the absence or without consent of a parent or other adult who is responsible for the child.
- » even then, their faces are blurred as a protection measure.
- » their names are also withheld.

- Section 20 of the Kenya Information and Communication (Broadcasting) Regulation 2009<sup>18</sup>, provides for the protection of children and requires broadcasting licensees to:

- » ensure that due care is exercised in order to avoid content that may disturb or be harmful to children, that has offensive language, explicit sexual or violent material, music with sexually explicit lyrics or lyrics which depict violence;
- » not broadcast programmes with the content specified in paragraph (a) during the watershed period<sup>19</sup>;

<sup>17</sup> <https://mediacouncil.or.ke/sites/default/files/regulations/Media%20Council%20Act%20-%20Act%20No.%2046%20of%202013.pdf>

<sup>18</sup> <https://www.ca.go.ke/wp-content/uploads/2018/02/Broadcasting-Regulations-2009-1.pdf>

<sup>19</sup> Watershed period refers to the time between 5am and 10pm, in which broadcasters are not meant to air programs with adult rated content. (Kenya Information and Communications Act (KICA) 2013)

»request for permission to conduct an interview with a minor from the minor's parents or guardian before conducting an interview with a minor.

- Section 4.3 of the Communication Authority's Programming Code<sup>20</sup> is a set of guidelines that details rules on coverage involving children and requires broadcasters to adhere to the following:

»Section 4.3.1: Particular care should be taken to avoid causing any distress or alarm to children involved in programmes. Under no circumstances may children be put at physical or moral risk, for example, in factual programmes concerning criminal activity.

»Section 4.3.2. 1: The right to privacy of the children must be respected. Since undue publicity or wrong labeling can cause harm to them, children who are victims of abuse or conflict with the law shall not be identified, directly or indirectly. Any information that might cause them to be identified shall not be aired.

»Section 4.3.2.2: Surprise and unplanned ("ambush") interviews of children are not allowed.

»Section 4.3.2.3: Child victims, child suspects, child accused of a crime, child arrested or detained on suspicion of wrong-doing, and a child undergoing trial shall be protected from further suffering emotional distress or trauma; they shall be interviewed only upon consent of their parent or legal guardian, unless the parent or the guardian is the accused.

»Section 4.3.2.4: Children should not be required, coerced, or bribed to recall and narrate traumatic experiences, demonstrate horrific acts, or describe them in graphic details. Programmes and materials involving children must comply with all pertinent laws, rules and regulations of this country

- The Media in Kenya is bound by the laws of the land including the Constitution of Kenya 2010 which provides for the rights of children and the Children's Act 2022, hence the media is expected to respect and protect the dignity of children in accordance with their inherent human rights.

## GAPS IDENTIFIED IN THE SOCIETAL SECTOR

- There is lack of research and documentation on children's voices on Online Child Sexual Exploitation and Abuse despite the fact that children are enabled to contribute to the dialog on OCSEA in the country. The content also being shared with the public is mainly targeting adults and there is not much targeting children and empowering safe conduct online.
- The trainings offered in OCSEA are random and lack standardization on areas that must be handled during the trainings. Each offering institution comes up with its own course and curriculum that may lead to some important aspects being omitted.
- There is a lack of a specialized hotline specifically meant to receive OCSEA cases in the country.
- The country lacks specific guidelines to support child sexual offenders to prevent reoffending.
- There is no standardized model or research that shows individuals who are likely to sexually offend children or identify those showing sexual interests in children and prevent them from acting on their interests.
- There is little to no campaigns carried out to educate and warn off child sexual offenders.
- Probation officers are not trained or well-equipped to provide adequate and effective services to online child sex offenders, such as rehabilitation and support for behavior changes.
- The media lack forums which bring together public and private media to discuss Online Child Sexual Exploitation and Abuse content and media best practices.

20 <https://ca.go.ke/wp-content/uploads/2019/03/Programming-Code-for-broadcasting-Services-in-Kenya-March-2019.pdf>



## INDUSTRY

### DESCRIPTION OF SECTOR BASED ON THE MNR

The public can proactively report child sexual abuse offences. Industry has the power and willingness to block and remove child sexual abuse material online and proactively address local child sexual abuse issues.

#### CAPACITY 16: TAKE DOWN PROCEDURES

*Each country should have Local removal and blocking of child sexual abuse material online Procedures for timely removal of child sexual abuse material when a company confirms its presence Statutory protections for industry to report child sexual abuse, including content transmission to law enforcement or a designated agency Global and cross-sector collaboration.*

#### RELEVANT ASPECTS:

- The Kenya Computer Incidents Response Team (Ke-CIRT) hosted at the communications authority works closely with the ICT sector to remove and block Online Child Sexual Abuse Material for local companies.
- Kenya is currently in the process of developing industry guidelines to provide safeguards for children's access to and use of ICTs in the country. The Industry Guidelines for Child Online Protection and Safety in Kenya 2022 is being developed by the Communications Authority as the mandated body under the Kenya Information and Communications (consumer protection) regulations 2010.
- The said guidelines, once approved, will play a critical role in ensuring that ISPs block and take down child sexual abuse material on their online platforms.
- There are no legal procedures or obligations that require Internet Service Providers (ISPs) to block CSAM content from their platforms as they are being removed from international companies' servers. However, local ISPs have partnered with child protection organizations to prevent OCSEA and promote online safety for children. For example, Safaricom works closely with the Internet Watch Foundation to take down illegal sites.

#### CAPACITY 17: INNOVATIVE SOLUTIONS AND DEVELOPMENT

*Each country should have technological solutions to prevent and address child sexual exploitation and abuse online.*

#### RELEVANT ASPECTS:

- The Communications Authority of Kenya has taken the lead on development of innovative solutions by leveraging gamification as a preventive mechanism that educates and empowers consumers and specifically children on how to stay safe on the Internet. The Authority's game on Child Online Protection and Safety dubbed "Cyber Soljas" is available on the CA website (<https://www.ca.go.ke/play-cyber-soljas/>).
  - » In addition, the Authority has developed information on how to have a safer internet experience and this is published on a microsite (<https://cop.ke-cirt.go.ke/#>). The micro-site is aimed at creating awareness for the different child demographics and caregivers.

#### CAPACITY 18: RESPONSIBLE BUSINESS CONDUCT

*Each country should have child protection and safeguarding policies, due diligence, and remediation that address child sexual exploitation and abuse online.*

#### RELEVANT ASPECTS:

- Kenya has several companies, both local and international, providing internet services. The local mobile service providers include Safaricom, Airtel and Telcom.

- Most of the local and international companies have provisions touching on online safety for children. This will again be enhanced once the industry guidelines for

## GAPS IDENTIFIED IN THE INDUSTRY SECTOR

- As at now, local blocking of content is not possible in Kenya especially when the content is being shared on international platforms.
- There are no clear guidelines on takedown procedures making the processes long, bureaucratic, and sometimes even impossible.
- There is a lack of follow-up procedures and coordination for mandated bodies to ensure that all companies providing interactive services have child online protection measures which are actually implemented.





## RESEARCH AND DATA

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### DESCRIPTION OF SECTOR BASED ON THE MNR

Potential future offenders are deterred. Child sexual abuse offending and reoffending is reduced.

#### **CAPACITY 19: RESEARCH AND DATA**

*Each country should have data, research and analysis on the threat of and response to child sexual exploitation and abuse online robust administrative data systems (e.g., police, courts, social services) to monitor service delivery, access and effectiveness and provide regular insights for decision-makers.*

#### **RELEVANT ASPECTS:**

- The National Plan of Action (NPA) to tackle Online Child Sexual Exploitation and Abuse in Kenya 2022-2026 is the first comprehensive document developed in the country focusing on the situation of OCSEA and how best to handle it. The document heavily relies on the WeProtect Model National Response to guide its activities in the stated period. It focuses on five levels, namely:
  - i. Laws, policies, leadership, and coordination
  - ii. Prevention
  - iii. Capacity strengthening
  - iv. Response and support services
  - v. Monitoring and Evaluating progress
- The NPA also provides for indicators which will enable the government and key stakeholders to assess the progress being made in tackling OCSEA in the country.

#### **CAPACITY 20: UNIVERSALLY AGREED TERMINOLOGIES**

*Each country should have information and policies communicated clearly and in alignment with international standards.*

#### **RELEVANT ASPECTS:**

- Kenya does not have any provisions mandating it to follow the Luxembourg guidelines on terminologies on Online Child Sexual Abuse and Exploitation.

#### **GAPS IDENTIFIED IN THE INDUSTRY SECTOR**

- The local laws and policies use terminologies such as child pornography, prostitution, and child sex tourism which are not in line with the Luxembourg guidelines.
- Adequate research and documentation has not been carried out to highlight the children's perspective on OCSEA handling, offender behavior, and prevention of OCSEA offences in the country.



# RECOMMENDATIONS



## POLICY AND GOVERNANCE

### Short Term

- Get coordinated participation for global initiatives to address CSEA, like those raised by WeProtect and ICMEC, which will further strengthen international cooperation and will allow the exchange of good practices.

### Medium Term

- Work with local legislators to align terminologies such as child pornography and child sex tourism as used in most of the local legislations such as the Sexual Offences Act, Computer Misuse and Cybercrimes Act, and the Penal Code with the Luxembourg Guidelines so as to give the crimes the weight and attention they deserve. Also add to the list other types of CSAM not recognized in the law examples of CSAM such as nude photos and videos of children not engaged in sexual activities.
- Invest in the capacity building of agencies both individually and collectively to educate on their roles and facilitate effective interagency coordination in the handling of their responsibilities.

### Long Term

- Work on ensuring the child protection system is devolved and working effectively in each county for better and rapid case handling and response. This includes equipping all the child protection offices with informed and trained child officers.



## CRIMINAL JUSTICE SECTOR

### Short Term

- Categorize the digitized sex offenders' registry to have a specific entry for child sex offenders to help in tracking of offenders and also behavior monitoring of offenders.
- Work with local institutions to carry out research on offender behavior and factors that predispose one to become a child sex offender and how to prevent recidivism.
- Provide psychosocial support in terms of self-care, how to identify burn-out, where to get assistance for actors in the criminal justice sector, and prioritize equipping each agency with a psychosocial support officer or office.

## Medium Term

- Develop a training curriculum for the different agencies in the justice sector on OCSEA, i.e., for the police, prosecutors, and judges to understand the role of protection services and coordination within the sector amongst itself and with other agencies. The training will also cover victim handling to prevent revictimization and retraumatization.
- Create an interagency case management system to assist in coordination of OCSEA cases among different key agencies in the justice sector and to know the different stages a case is at when being handled.

## Long Term

- Address the issue of limited technical, human, and financial resources in the criminal justice sector. The country needs to financially invest a lot more in the creation of child-friendly court systems, child-friendly interview rooms, and more courts handling children's cases in each county.
- Align the national budget to meet the need to equip specialized units within the police countrywide to deal with OCSEA cases.



# VICTIM SUPPORT AND EMPOWERMENT

## Short Term

- Review and implement the provisions of the Framework for the National Child Protection System for Kenya 2011 to ensure each agency is playing its role in safeguarding the welfare of the children.
- Work on implementing the provisions of the Case Management and Referral Guidelines 2019 for practical guiding procedure for end-to-end support which stipulates the procedure from the moment victims are introduced into the system to the moment they are reintegrated back into the society and the role of each stakeholder who will handle them through the process.

## Medium Term

- Review the existing guideline to include victims of OCSEA, how long they are held and served within the state accompaniment program as well as reparation structures and guidelines for victims of CSEA and their families.
- Equip the officers at the National Legal Aid Services with OCSEA specific training to enable them to best advise victims and their families on their legal rights and options.
- Develop a mandatory training program for intervention for the child protection workforce on OCSEA.

## Long Term

- Offer long-term support and assistance in terms of ready counselling and social-economic support to victims and their families even after they leave the state accompaniment period. This will address the issue of long-term trauma and mental illnesses that may result from being offended against.



## SOCIETAL

### Short Term

- Come up with clear guidelines and minimum standards of what training on OCSEA entails. This will play a key role in ensuring only qualified individuals and organizations train and follow an approved guideline that covers the necessary aspects of OCSEA.
- Increase child participation in discussions around OCSEA to ensure that stakeholders are aware of the best interests of the children as they come up with content targeting them.

### Medium Term

- Raise awareness around the issue of OCSEA to warn of sexual offenders and potential offenders by highlighting how offence occurs and consequences an offender will face once apprehended.
- Implement strategies to provide psychosocial support to aggressors or people at risk of being aggressors or their families.
- Provide more sensitization to the media, create a journalistic course that handles child rights in media reporting and also establish a platform that enables media outlets to discuss reporting best practices, especially around OCSEA.

### Long Term

- Set up a country hotline such as INHOPE specifically for reporting OCSEA cases to assist in data collection on areas with higher cases of offending, targeted groups, and offender behavior.
- Invest in research to better understand the factors that cause an increase in "self-generated" sexual material by children, the motivations of aggression in CSEA, and the effectiveness of deterrence and self-help programs for aggressors.



## INDUSTRY

### Short Term

- Align local industry operation procedures to curb the issue of working in silos and do away with the lengthy bureaucratic procedures that make it difficult to hold different actors accountable or even take down CSAM from their platforms.
- The Ministry of ICT along with the local regulator should come up with strict takedown procedures that mandate both local and international industries operating in the country to follow due procedure to remove CSAM from their sites.
- Apply more vigilance in follow-up of business conduct to ensure responsible operation, and speedy blocking and takedown of CSAM content.

### Medium Term

- Develop technological solutions that allow CSAM to be prevented, identified, or investigated. Defining mechanisms to share and scale these solutions to the relevant actors as part of this development can foster collaboration between the parties involved and strengthen the national industry for the development of this type of solution.



## RESEARCH AND DATA

### Short Term

- Implement the National Plan of Action on Tackling OCSEA in Kenya to guide the process of data collection and implementation of provided solutions.
- Work with academia to come up with researched data on trends of online offending and its evolution periodically.

### Medium Term

- Work on amending the local laws on child protection to capture the correct terminologies as provided for in the Luxembourg guidelines.

# CONCLUSION

In the recent years, Kenya has taken proactive steps to raise awareness, and to build capacity on investigation and reporting of Online Child Sexual Exploitation and Abuse.

In an effort to stay in sync with the technology trends globally, the country has:

A. Invested in policy changes to provide for online and technology-facilitated crimes against children, inclusion and recognition of Online Abuse as a form of abuse against children in the Children's Act of 2022, and the Computer and Cybercrimes Act Of 2019. This shows the commitment of the country from the highest level of government to eradicate and protect children from all forms of violence including online and offline sexual abuse.

B. Created the National Plan of Action to tackle Online Child Sexual Exploitation and Abuse in Kenya 2022-2026 which shows the commitment of the country to take intentional steps to protect children from online sexual exploitation. The Plan of Action acknowledges the existing steps and gaps in the safety of children while online and provides a framework to tackle each in a span on four years.

The plan highlights five key outcomes in the Monitoring and Evaluation framework which include<sup>21</sup>:

- » By 2025, policy and legislation, leadership and coordination at all levels have improved to protect children against OCSEA and are responsive to the needs of children in the context.
- » Children, parents/caregivers, teachers, community leaders and other duty bearers' knowledge and skills towards the adoption of protective online

measures and behaviours is enhanced.

- » Technical, institutional, and human resources capacities are strengthened across key sectors (government, civil society, and industry) at national and county levels to prevent, identify and respond to OCSEA and systems are in place to support this.

- » OCSEA cases are reported, prosecuted and quality support and services are provided to victims and witnesses.
- » An available, expanded, and improved evidence base on OCSEA is in place to inform policies, strategies, and programmes; track progress; and document lessons learned.

C. Embraced partnerships with local and international partners to aid in capacity building and training of key child stakeholders in the country.

D. Invested in modern technologies that assist in investigations of online crimes against children through equipping of the DCI-AHTCPU unit with needed technologies and constantly working with local and international partners to stay abreast with the new technological advancements.

<sup>21</sup> <https://www.socialprotection.go.ke/wp-content/uploads/2022/06/National-Plan-of-Action-to-Tackle-Online-Child-Sexual-Exploitation-and-Abuse-in-Kenya-2022-2026.pdf>



## FINAL REPORT

June 2023

**Multisectoral Response and Capacity (MRC) Assessment: Kenya**  
Preventing and Combating Online Child Sexual Exploitation and Abuse