THE DARK SIDE OF THE INTERNET FOR CHILDREN

ONLINE CHILD SEXUAL EXPLOITATION IN KENYA - A RAPID ASSESSMENT REPORT

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terre des hommes
stops child exploitation

TABLE OF CONTENTS

Executive summary 3

About Terre des Hommes Netherlands 5

1. Introduction 6

1.1 Terminology and definitions 8

1.2 Drivers of CSEC and OCSE in Kenya 11

1.3 Consequences of CSEC and OCSE for children 14

2. About the study 16

2.1 Study objectives 16

2.2 Methodology and approach 16

3. Context analysis: The internet and children in Kenya 19

3.1 The rise of the Internet in Kenya 19

3.2 Children's digital culture and perception of online risks 20

3.3 Parenting norms and attitudes in relation to ICT 20

4. National legal and policy frameworks and institutions 21

4.1 Existing laws regarding CSEC 21

4.2 Policies and regulations for online spaces including cybercafes 22

4.3 Government institutions and their capacity to respond to OCSE 22

5. Findings on the occurrence of online child sexual exploitation in Kenya 25

5.1 Findings on key forms of OCSE 25

5.2 Findings reported by selected key sources 28

6. Availability and capacity of service providers to support victims of OCSE 29

7. Conclusions and recommendations 31

EXECUTIVE SUMMARY

A decade of steady urbanisation, the spread of Internet infrastructure such as mobile broadband, and the growing availability of low-cost smartphones and tablets, have contributed to a remarkable rise in Internet and Information and Communication Technologies usage in East Africa, especially in Kenya. Unfortunately, this digitally advanced environment represents a double-edged sword. **Increased mobile phone penetration and internet access have given rise to a set of conditions that have made children more vulnerable to Online Child Sexual Exploitation (OCSE).** Online child sexual exploitation is the broad phenomenon of the use of the Internet to exploit children sexually. According to the FBI, **there are an estimated 750,000 individuals looking to connect with children across the globe for sexual purposes online at any moment.** This has also given rise to a specific phenomenon known as live Online Child Sexual Exploitation. This form of OCSE is conducted via the internet where adults offer payment or other forms of rewards to view, and in many cases, direct live-stream video footage of children performing sexual acts in front of a webcam or cellphone camera.

As technology advances, mobile phone penetration rises, and handsets become more and more affordable, there is a strong need to investigate and better understand the state of online child sexual exploitation in East Africa. Terre des Hommes Netherlands has conducted this preliminary study to examine if there is evidence of OCSE in Kenya. This report is a first step in better understanding the subject and ultimately addressing online child sexual exploitation in the region; Kenya being a regional hub was picked as the maiden country. **This study has established that there is strong evidence that OCSE is occurring in Kenya through various forms. The research also confirms that there are circumstances which favour the growth and expansion of OCSE,** such as the absence of a clear and enforceable regulatory framework governing cybercafe operators.

Based on this study and its global expertise in uncovering (live) OCSE, Terre des Hommes Netherlands calls for a holistic approach combating OCSE. The organisation is prepared and well-positioned to work with the Government of Kenya, local civil society organisations, the private sector, communities, and children themselves before the phenomenon affects more and more children in Kenya. This report includes key recommendations which provide an entry point into, among other things, how current law enforcement mechanisms and institutions in Kenya might be strengthened to prevent and respond to OCSE in future. **Now is the time for government, civil society organisations and other stakeholders to work proactively and collectively against OCSE, so that their actions can be preventative rather than attempts at a response after the phenomenon has widely spread.**

ACRONYMS

CA	Communications Authority of Kenya
CCU	Cyber Crime Unit
CIRT	Computer Incident Response Team
CRADLE	Child Rights Advisory Documentation and Legal Centre
CSO	Civil Society Organisation
CSEC	Commercial Sexual Exploitation of Children
ICT	Information and Communication Technologies
ISP	Internet Service Providers
NCSC	National Cyber Security Centre
NGO	Non-Governmental Organisation
OCSE	Online Child Sexual Exploitation
TdH-NL	Terre des Hommes Netherlands
UNICEF	United Nations Children's Fund
UNCRC	United Nations Convention on the Rights of the Child
WFCL	Worst Forms of Child Labour

ABOUT TERRE DES HOMMES NETHERLANDS

Terre des Hommes Netherlands (TdH-NL) prevents child exploitation, removes children from exploitative situations and ensures these children can develop in a safe environment. Its work to fight child exploitation centers on four themes: the Worst Forms of Child Labour; (Commercial) Sexual Exploitation of Children; Child Trafficking and Migration; and Child Abuse/Child Sexual and Reproductive Health and Rights. Working in the region over the last 45 years, TdH-NL has developed extensive experience and an expansive network in East Africa. Since beginning with single projects in Kenya and Uganda in 1968, TdH-NL expanded into Ethiopia in 1978 and Tanzania in 1994, ultimately establishing its regional office for East Africa in Nairobi in 1984. Over the years, TdH-NL has partnered and intensively collaborated with over 100 civil society organisations in the region towards realising its commitment to end child exploitation.

TdH-NL believes that commercial sexual exploitation of children should be prohibited immediately and eliminated altogether. Combating commercial sexual exploitation of children is in line with the Sustainable Development Goals, specifically with targets 5.2, 5.3, 8.7 and 16.2.

To end sexual exploitation of children, both the supply and demand sides need to be addressed. Therefore, TdH-NL addresses both (potential) victims and perpetrators, and the systems in which the crime is taking place. Following alarming signals from project partners working in the Philippines in 2011, the organisation embarked on a journey to understand and fight this new form of sexual exploitation of children. Using the fictional character Sweetie, TdH-NL unmasked over 1,000 offenders of live OCSE with children in just two months and put live OCSE on the worldwide map. The 'Sweetie' research, carried out at the end of 2013, showed the extent and nature of live OCSE worldwide. It also proved that a proactive approach to fight the phenomenon works. The research has had many positive effects in the Philippines. Children were rescued from Internet dens and provided support by TdH-NL partners. In addition, the research was instrumental in advocating with the United Nations to place the subject high on its agenda. While this is a significant achievement in shining a spotlight on this under-addressed child rights issue, the fact remains that millions of potential perpetrators are still undetected and active online.

Building on this research, TdH-NL made further progress to eradicate live OCSE through its 'Sweetie 2.0: Stop Webcam Child Sex' campaign. In joint action with national and international specialists, TdH-NL has been working on the development of an innovative software system that can be implemented worldwide to combat webcam sex with children. The system is aimed at identifying and deterring millions of potential offenders and will be entirely aligned with national and international frameworks for investigation and prosecution.

1. INTRODUCTION

A decade of steady urbanisation, the spread of Internet infrastructure such as mobile broadband, and the growing availability of low-cost smartphones and tablets, have contributed to a remarkable rise in Internet and Information and Communication Technologies (ICTs) usage in East Africa, especially Kenya. Kenya has invested heavily in its ICT infrastructure and systems in the past 10 years, and Kenyans are reaping the benefits of this. The Communications Authority of Kenya reports that mobile penetration in Kenya's 44 million large population stands at around 88 per cent.[1] This is complemented by continued growth in mobile usage due to mobile data services.

Children in Kenya are uniquely positioned to benefit from such digital advances. Their natural curiosity and interest in new technologies also means that children and young people often lead the way in the uptake of ICT progress ahead of adults, with youth being the most connected age group worldwide (71 per cent).[2] Digital technology brings many opportunities for learning and education, access to information as well as for the inclusion of children with disabilities and the empowerment of children by offering a platform to voice their opinions.[3]

Unfortunately, this digitally advanced environment represents a double-edged sword. The United Nations Special Representative on Violence against Children observed that though ICT offers children enormous benefits and opportunities, it can also be associated with serious risks of harm and violence, including Online Child Sexual Exploitation (OCSE).[4] Online risks are typically

1. Communications Authority of Kenya (2015). *First Quarter Sector Statistics Report for the Financial Year 2015/2016 (July-September 2016).*
2. UNICEF (2017). *The State of the World's Children 2017: Children in a Digital World.*
3. UNICEF (2017). *The State of the World's Children 2017: Children in a Digital World.*
4. Human Rights Council (2016). *Annual report of the Special Representative of the Secretary General on Violence against Children to the Human Rights Council,* Doc A/HRC/31/20, 5 January 2016.

organised in three categories; (1) content, where the child is a receiver of unwelcome or inappropriate messages, (2) contact, where the child participates in risky communications, and (3) conduct, where the child's behaviour contributes to risky content or contact.[5]

Internet and ICTs have caused the creation of entirely new forms of Commercial Sexual Exploitation of Children.

Internet and ICTs both facilitate existing forms of Commercial Sexual Exploitation of Children (CSEC) and have caused the creation of entirely new forms. ICT has increased the pool of potential victims of CSEC considerably and enhanced access to children by sex offenders.[6] The internet provides a space for child sex offenders to exchange information but also to distribute and store child sexual abuse materials (through file sharing, websites, live streaming, cloud technology, etc.).[7] Platforms and channels such as chat rooms, dating websites, mobile phones with Internet access and peer-to-peer networks allow adults to more easily contact and solicit boys and girls, especially those most vulnerable, such as children not well supervised by guardians or who are particularly defenceless due to feelings of low self esteem and inadequacy. A new form of CSEC created through the use of digital technologies is for example the live streaming of child sexual abuse via webcam or smartphone cameras in exchange for money or other forms of compensation. Technological advances offer perpetrators anonymity or false identities for financial transactions or accessing child abuse materials.[8]

The scale of incidents that young people face by engaging in improper online interactions is slowly becoming apparent.[9] A study conducted in Cameroon, The Gambia, Kenya, Togo and Uganda showed that 54% of children had seen someone of their age in pornographic materials online and about 10% of children had been approached by online contacts to share sexualised images.[10]

The illegal nature and complexities of any form of sexual exploitation of children (and related forms of sexual abuse) means that it is often hidden, disguised and misunderstood, and it remains difficult to research and establish accurate data on the numbers of victims in any context. Recent studies in Kenya, Tanzania and Uganda confirm that CSEC itself is a growing, regional issue. In Kenya, seven per cent of females aged 18 to 24 who experienced sexual violence as children had received money for sex.[11] Likewise, in Tanzania, at least four per cent of girls had received money or goods in exchange for sex.[12] In Uganda, the number of victims of CSEC had increased from 12,000 in 2004 to an estimated 18,000 in 2011.[13]

5. Livingstone, S., Mascheroni, G., and Staksrud, E. (2015). Developing a Framework for Researching Children's Online Risks and Opportunities in Europe.
6. ECPAT International (2014). *The commercial sexual exploitation of children in South Asia.*
7. ECPAT International (2016). *Offenders on the Move: Global study on sexual exploitation of children in travel and tourism.*
8. Terre des Hommes Netherlands (2016). Children of the Webcam.
9. ECPAT International (2014). *The commercial sexual exploitation of children in South Asia.*
10. ECPAT International (2013). *Understanding African Children's use of ICT; A youth-lead survey to prevent sexual exploitation online.*
11. UNICEF (2012). *Violence Against Children in Kenya: Findings from a 2010 National Survey.*
12. UNICEF (2011). *Violence Against Children in Tanzania: Findings from a National Survey 2009.*
13. Uganda Youth Development Link (2011). *Commercial Sexual Exploitation of Children in Uganda: A critical review of efforts to address CSEC 2005 – 2011.*

Increasing levels of CSEC, including of boys and very young children, can be seen mainly in cities, in areas of high tourism, along transportation routes and near mining and fishing sites.
The online world has created a new location for CSEC to take place, offering a sense of impunity for those looking to sexually exploit children.

There is a strong need to investigate and better understand the current state of OCSE within the context of CSEC across East Africa. With potential drivers such a poverty, easy access to internet and technology (especially by children), and a widespread use of English language all present to a considerable degree, TdH-NL chose Kenya as the starting point for its research into the occurrence of OCSE in the East African region.

The online world has created a new location for Commercial Sexual Exploitation of Children to take place.

Online forms of sexual exploitation offer significant challenges for law enforcement agencies in detecting and prosecuting offenders.[14] The Internet can facilitate criminal collaboration and communication online and yet government authorities and law enforcement agencies in many parts of the world remain ill-equipped, lacking the human and financial resources, technical capacity and appropriate technological tools to investigate digital crime. Cultural variations and differences in legal systems can also compound effective prevention strategies and investigations.[15] Therefore, this study also explores preventative and responsive measures that are currently being implemented in regards to online safety and OCSE in Kenya.

1.1 TERMINOLOGY AND DEFINITIONS

Commercial sexual exploitation of children

TdH-NL defines commercial sexual exploitation of children as the "sexual abuse of a child, involving a transaction in cash or in kind to the child or a third person." It consists of criminal practices that demean, degrade and threaten the physical and psychosocial development, wellbeing and dignity of children, who are defined by the UN Convention on the Rights of the Child 1990 as any person under the age of 18 years. This can be for payment in the form of money but also in exchange for other forms of compensation, such as clothing or food, or the promise thereof to the child, or to one or more third parties. The significance of defining in-kind transactions (protection, a place to sleep, promotion) as commercial in nature should not be underestimated, not only because they are very common, but also because there is a tendency to view such transactions as entailing 'consent' [16] on the part of a child, which may result in children being held responsible for their sexual abuse and subsequently blamed.

14. Terre des Hommes Netherlands (2012). *Full Screen on View. An Exploratory Study on the Background and Psychosocial Consequences of WCST in the Philippines.*
15. United Nation Office on Drugs and Crime (2015). *Study on the Effects of New Information Technologies on the Abuse and Exploitation of Children.*
16. It is not possible for children to consent to their own abuse or exploitation. National laws set down an age of consent to any form of sexual activity. Even if a child has reached the formal age of consent to sexual activities, a child's ability to give consent could be influenced by many factors including threats, grooming, level of understanding, disability and the use of substances. Additionally, any child under-18 cannot consent to being trafficked for the purposes of exploitation according to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.

Different forms of commercial sexual exploitation of children include child prostitution[17], child pornography[18], and child trafficking for sexual purposes. Most forms of CSEC are interrelated and can therefore not be addressed in isolation. Children are often victims or at risk of becoming victims of several forms of CSEC or other forms of abuse or exploitation consequently or simultaneously. For example, the same child who is trafficked for sexual purposes, can be a victim of child prostitution, exploitation through travel and tourism, online exploitation, child pornography and other forms of sexual exploitation and abuse.

Commercial sexual exploitation is a violation of article 34 of the UN Convention on the Rights of the Child, ratified by all member states of the United Nations except the United States of America.

Online child sexual exploitation

Online Child Sexual Exploitation is manifested in a variety of forms meaning that there is a corresponding range of terms and definitions. To avoid confusion and inconsistency in discussions regarding OCSE, this report relies on the Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, adopted by the Interagency Working Group on Sexual Exploitation of Children. According to the Guidelines, OCSE refers to *'all acts of a sexually exploitative nature carried out against a child that have, at some stage, a connection to the online environment. It includes any use of ICT that results in sexual exploitation or causes a child to be sexually exploited or that results in or causes images or other material documenting such sexual exploitation to be produced, bought, sold, possessed, distributed, or transmitted. This notion can thus encompass (but is not limited to):*

- *Sexual exploitation that is carried out while the victim is online (such as enticing, manipulating, and/or threatening a child into performing sexual acts in front of a webcam);*
- *Identifying and/or grooming potential child victims online with a view to exploiting them sexually (irrespective of whether the acts that follow are then carried out online or offline);*
- *The distribution, dissemination, importing, exporting, offering, selling, possession of, or knowingly obtaining access to child sexual exploitation materials online (even if the sexual abuse that is depicted in the material was carried out offline).'*[19]

Live online child sexual exploitation

Live online child sexual exploitation (live OCSE) refers to a particular set of OCSE practices. Specifically, it involves live performances by children of sexual acts in front of a webcam or cell phone camera, which is instantaneously transmitted to viewers who can watch and engage while the abuse is occurring. Viewers offer payment or other forms of reward such as clothes and food in exchange. Live OCSE can also be understood as *'live streaming of child sexual abuse'* [20] and is believed to be on the rise in many parts of the world.

17. 'Child prostitution' is the legal term used in the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, article 2b to define 'the use of a child in sexual activities for remuneration or any other form of consideration'.
18. 'Child pornography' is the legal term used in the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, article 2c to define 'any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes'.
19. Interagency Working Group on Sexual Exploitation of Children (2016). *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse.*
20. Interagency Working Group on Sexual Exploitation of Children (2016). *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, p. 47-48.*

The trend is attributed to the perception that it easily generates income for facilitators, and the difficulty in detecting both the facilitator and the viewer.[21] TdH-NL has pioneered awareness raising of this global phenomenon through its 'Sweetie: Stop Webcam Child Sex' initiative. Though often still referred to as an 'emerging phenomenon' it is important to note that the Global Virtual Taskforce stated that '*live streaming of child sexual abuse is no longer an emerging trend but an established reality*'.[22]

Globally, there are an estimated 750,000 individuals looking to connect with children for sexual purposes online at any moment according to the FBI.[23] During TdH-NL's 'Sweetie' study in 2013 on the prevalence of online child sexual exploitation, a total of 20,172 people from 71 countries solicited the researchers, whom the individuals believed to be children, for paid webcam sex performances. A total of 20,172 crimes in a sample of 19 chat rooms likely reflects a small fraction of the crimes occurring daily worldwide, when the FBI estimates that there are 40,000 online chat rooms in which predators lurk. Moreover, live OCSE takes place on social networking sites, such as Twitter and Facebook, as well as adult webcam sites and online dating sites, in addition to chat rooms.[24]

Grooming

Grooming is the practice of *'solicitation of children for sexual purposes'*.[25] As the area of OCSE is relatively new, most of the available literature explores the process of grooming for exploitation within the physical, offline world, and does not explore the specific dynamics of grooming online.

Sexual grooming is understood as the process by which an offender prepares a child for sexual abuse or exploitation, and involves the organisation and utilisation of various opportunities aimed at gaining the trust of a child. This process may be subtle and often involves recurring acts, characterised by the building of trusting relationships and eventual abuse of trust with the child. The practice of grooming children online for subsequent sexual exploitation has been identified in several countries in Southeast Asia, including Cambodia, the Philippines[26], Thailand and Vietnam[27]. Online grooming for sexual purposes can for example be aimed at forcing a child into live OCSE or meeting offline.

Sexting

Sexting has been defined as *'the creating, sharing and forwarding of sexually suggestive nude or nearly nude images through mobile phones and/or the internet'*.[28] Sexting is not a form of OCSE by definition, but is closely linked to OCSE as the self-generated sexually explicit content can be used for exploitation purposes. The practice is *'remarkably varied in terms of context, meaning, and intention'*.[29]

21. Terre des Hommes Netherlands (2016). *Children of the Webcam.*
22. Virtual Global Taskforce (2015). *Virtual Global Taskforce Child Sexual Exploitation Environmental Scan 2015.*
23. Federal Bureau of Investigation (2011). *Child predators: The online threat continues to grow.*
24. Terre des Hommes Netherlands (2013). *Webcam Child Sex Tourism. Becoming Sweetie: a novel approach to the global rise of Webcam Child Sex Tourism.*
25. Interagency Working Group on Sexual Exploitation of Children (2016). *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse.*
26. ECPAT International (2011). Global Monitoring Status of Action against Commercial Sexual Exploitation of Children: Philippines.
27. UNICEF Vietnam and the Department of Social Evil Prevention (2011). An analysis of the commercial sexual exploitation of children in selected provinces and cities of Vietnam.
28. Ringrose, J. et al. (2012). A Qualitative Study of Children, Young People and 'Sexting'. Prepared for the NSPCC.
29. Cooper, K. et al.(2015). Adolescents and Self-Taken Sexual Images: A Review of the Literature.

1.2 DRIVERS OF CSEC AND OCSE IN KENYA

A complex combination of intersecting factors influence the vulnerability of children to become victims of commercial sexual exploitation. Cultural norms and traditional gender roles mixed with modern technologies and globalisation create circumstances in which the demand for child sexual abuse can be answered. The rapidly evolving factors and forces influencing children to be commercially sexually exploited include:

Economic drivers

Poverty and economic inequality contribute significantly to children's vulnerability to commercial sexual exploitation. Nationally, 42 per cent of the Kenyan population lives below the poverty line.[30] Further, inequality is on the rise, with the gap between the rich and the poor being one of the highest in Africa.[31] In such circumstances, families may willingly encourage their children to work in areas where there are better chances of a good job, while others do not object to their children engaging in practices such as online child sexual exploitation, as it provides income for the family.

Families living in poverty are also easily targeted by agents who may promise marriage, education or employment opportunities to children. Once a child or family becomes financially dependent on the sexual exploitation, it becomes very difficult to end this cycle with no other economic opportunities present.[32]

Intersecting factors influence the vulnerability of children to become victims of commercial sexual exploitation.

The prospect of better livelihood opportunities drives deprived families both from Kenya as well as from neighbouring countries to urban areas, tourist locations and areas with growing industries. Children can voluntarily move to these hotspots accompanied or unaccompanied by their family or can be lured into cities and towns by brokers, relatives and friends. Once children arrive, a lack of child protection networks and the inability to fulfill basic needs forces children into CSEC and other worst forms of child labour. A recent study shows that 45 per cent of CSEC victims in the Kenyan coastal regions had migrated from upcountry to engage in commercial sex work.[33] It is estimated that in the coastal town of Mtwapa alone, between 10,000 and 20,000 children are trafficked annually for the purpose of sex tourism.[34]

30. UNICEF (2017). Kenya at a Glance. Retrieved from https://www.unicef.org/kenya/overview_4616.html.
31. Beegle, K., Christiaensen, L., Dabalen, A., and Gaddis, I. (2016). Poverty in a Rising Africa.
32. UNICEF (2001). *Profiting from abuse.*
33. IDLO (2010). *Kenya Country report: Strengthening the legal protection framework for girls in India, Bangladesh, Kenya and Liberia.*
34. Richard Muko Ochanda (2009), Human Trafficking and Commercial Sexual Exploitation of Women and Children in East Africa - Analysis of Projects and Activities incorporating a Directory of Actors assisting Victims and Survivors.

Social drivers

Children that do not have a protective and supportive home environment are much more susceptible to CSEC than their peers from supportive families. Child abuse, particularly sexual abuse, places both boys and girls at larger risk of commercial sexual exploitation[35] with eighty per cent of exploited children previously experiencing physical, emotional or sexual abuse.[36] Victims of abuse often experience low self-esteem and feelings of shame and guilt which makes involvement in CSEC seem less degrading, or even deserved. For some of these children, CSEC may be a means of obtaining attention and 'love'.[37] Due to broken families, abuse or the loss of one or both parents, children are forced or may prefer to live on the street or in (informal) institutional care. Runaway and homeless youth both on the street and in shelters are at especially high risk of CSEC as they are left with very few options for survival apart from involvement in illegal activities.[38][39][40]

Additionally, cultural norms and traditional gender roles can create circumstances in which the demand for children for sexual purposes can be met. A tolerance of negative cultural practices (such as child marriage and harmful rites of passage), systematic discrimination against women and girls and their subordinate status in society,[41][42] and negative community attitudes towards children (considering children as assets rather than rights-bearing individuals), make children more susceptible to sexual exploitation.[43] Unaware of their rights, children in general and girls in particular are less likely to recognise abuse or exploitation and thus unable to develop strategies to protect themselves.

It is commonly believed that girls are more at risk of becoming victims of commercial sexual exploitation than boys but this does not mean that boys do not become victims of CSEC. For a number of reasons including lack of comprehensive research and programming provided for boys, low disclosure rates, social and cultural beliefs that deny and or hide the reality of the problem, assumptions related to masculinity and the subsequent shame due to the stigma attached, sexual exploitation of boys is less understood and acknowledged, more hidden, socially invisible and therefore likely to be underestimated.[44][45]

Inadequate Action from State and the Private Sector

Children are entitled to protection under the United Nations Convention on the Rights of the Child (UNCRC). The widespread and yet unacceptable presence of CSEC is therefore

35. Reid, J.A., and Piquero, A.R. (2014). Age-graded risks for commercial sexual exploitation of male and female youth, Journal of Interpersonal violence. Vol 29(9) p. 1747-1777.
36. UNICEF (1999-2003). *Fifth Country Program for Children (CPC 1/) Mid-Term Review: Children in Need of Special Protection.* Manila, Philippines.
37. Ward, M., Jini, L., and Roby, J.D. (2004). Commercial Sexual Exploitation of Children in the Philippines, *Asia Pacific Journal of Social Work and Development,14:2,* 19-31
38. Reid, J.A., and Piquero, A.R. (2014). Age-graded risks for commercial sexual exploitation of male and female youth, *Journal of Interpersonal violence. Vol 29(9)* p. 1747-1777.
39. Coy, M. (2009). 'Moved around like bags of rubbish nobody wants': How multiple placement moves can make young women vulnerable to sexual exploitation. *Child Abuse Review, 18,* 254–266.
40. Ireland, K. (1993). Sexual exploitation of children and international travel and tourism. *Child Abuse Review, 2,* 263–270.
41. ECPAT International (2013). *Global Monitoring; Status of action against commercial sexual exploitation of children: Tanzania.*
42. ECPAT International (2014). *The commercial sexual exploitation of children in Africa: Developments, progress, challenges and recommended strategies.*
43. UNICEF (2016). *Family Assets: Understanding and Addressing Child Marriage in Turkana.*
44. Hilton, A., Kong, S., Nong, S., Oung, S., Sok, C., Seoung, S., ... Meng, D. (2008). *I Thought It Could Never Happen to Boys.*
45. ECPAT International (2016). *Offenders on the Move: Global study on sexual exploitation of children in travel and tourism.*

also a failure of national legal systems in protecting children and prosecuting perpetrators. Although Kenya has ratified relevant international instruments and enacted domestic statutes and policies that recognise CSEC as a crime, various challenges impede their implementation. These challenges include a lack of allocation of adequate resources to enforce laws and policies, a lack of understanding of CSEC, and a reluctance of law enforcement agencies in dealing with the perpetrators of such crimes due to bribes from perpetrators, among other reasons. In some locations communities also adopt alternative coping strategies to address CSEC instead of using the law e.g. solving cases through elders using cultural laws.[46]

The private sector is not always aware of its role in enabling, preventing and responding to CSEC and may ignore its responsibility in protecting children. Certain industries, such as those attracting vast numbers of migrant workers (mining, construction), and the tourism and travel industry, are known to cause the demand for paid sex, including CSEC, to grow.[47] In recent years, multiple major development projects have been initiated in Kenya, often realised through significant foreign investments, such as the Sh1.2 trillion Standard Gauge Railway line in Nairobi and the Sh130 billion 700 megawatts Liquefied Natural Gas factory at the coast, causing an influx of national and international migrant workers.[48] In these locations, informal businessmen such as bar and club owners, as well as those renting out private accommodation, either actively offer girls and boys to its customers or turn a blind eye, which is possible due to weak laws and enforcement.[49]

Drivers related to OCSE

OCSE itself and its drivers are under-researched areas of CSEC, both globally and in Kenya specifically. UNICEF's State of the World's Children Report 2017 shows that children's vulnerability online is closely linked to how vulnerable they are offline.[50] Therefore, children from marginalised groups, as well as children living in poverty, children with disabilities, and children suffering mental health problems are several of the groups that are particularly at risk of OCSE. A lack of awareness of CSEC and OCSE of parents, communities, and children themselves also contributes to this vulnerability.[51]

Information from other countries such as the Philippines[52], indicates that the conditions that have given rise to OCSE in other countries are also present in Kenya. That is, in addition to the above factors, a good grasp of the English language even among poor communities, easy access to Internet and technology (especially by children), the popularity of online social networks and messaging applications such as Facebook (6.2 million users in in 2016, 12.8% penetration rate[53]) and WhatsApp (10 million users in 2016[54]), and well-established money transfer systems (M-PESA, airtel money, Western Union).[55]

46. ANPPCAN (2015). *Global study on sexual exploitation of children in travel and tourism. Country-specific report Kenya*
47. ECPAT International (2016). *Offenders on the Move: Global study on sexual exploitation of children in travel and tourism.*
48. ANPPCAN (2015). *Global study on sexual exploitation of children in travel and tourism. Country-specific report Kenya.*
49. ANPPCAN (2015). *Global study on sexual exploitation of children in travel and tourism. Country-specific report Kenya.*
50. UNICEF (2017). *The State of the World's Children 2017: Children in a Digital World.*
51. Burton, P. (2017). *Risks and Harms for Children in the Digital Age,* Background paper prepared for: UNICEF (2017). *The State of the World's Children 2017: Children in a Digital World.*
52. Terre des Hommes Netherlands (2016). Children of the Webcam.
53. BAKE (2016). State of the Internet in Kenya 2016.
54. BAKE (2016). State of the Internet in Kenya 2016.
55. ECPAT International (2017). *Online Child Sexual Exploitation: An Analysis of Emerging and Selected Issues.*

The trend of live OCSE is attributed to the perception that it easily generates income, and the difficulty in detecting both the facilitator and the viewer. Research from other regions indicates that live OCSE is either facilitated by the child, the child's family, or run by adults in cybersex dens, operated by somewhat organised 'gangs', foreign and local pimps, neighbours, relatives, and even parents.[56] A recent study from TdH-NL' partner FORGE in the Philippines among 300 children who had been sexually abused online found that exploitation behind the webcam was considered a 'step up' from sexual exploitation on the street. Although it can be difficult to relate to the decisions of parents and communities to expose their children to sexual abuse and exploitation, it is worth noting that parents who were involved in live OCSE (some of whom are groomed by perpetrators to introduce them to cybersex) felt that it did not pose harm to their children as there is no direct physical contact between the perpetrator and the victim.[57]

While Kenya has invested heavily in developing, implementing and expanding its digital environment, such progress does not seem to have been matched by increased social awareness or targeted child protection measures that effectively address and mitigate the risks that children face from the growing and widespread Internet use and mobile technology. That is, while most children in Kenya's urban areas may be spending a significant amount of time after school on computers, browsing websites and surfing the Internet at home or in cybercafes, parents, teachers and other adults such as cybercafe operators remain ill-equipped to provide guidance, support and appropriate supervision to ensure children's safety online. This may be a result of the fact that they themselves have limited understanding regarding the potential risks that children face when they engage in seemingly harmless online activity.[58]

1.3 CONSEQUENCES OF CSEC AND OCSE FOR CHILDREN

The repercussions of commercial sexual exploitation for children are serious and long-lasting, causing significant emotional and physical harm, often underestimated and misunderstood by parents, guardians and service providers. Child victims of CSEC suffer from the consequences generally related to sexual abuse, as well as additional effects related to the exploitative nature of their experience. Physical damage will occur both through the systematic sexual abuse as well as the severe physical violence and torture often experienced during the exploitation.[59] The intense physical and psychological abuse that victims suffer leaves deep scars on their psychological well-being, demonstrated by depression and anxiety disorders, Post-Traumatic Stress Disorder, often resulting in relationship difficulties, substance misuse, self-harming, self-destructive and aggressive

The repercussions of commercial sexual exploitation for children are often underestimated by parents, guardians and service providers.

56. McGuire, M., and Dowling, S. (2013). Cyber crime: A review of the evidence. Chapter 3: Cyber-enabled crimes – sexual offending against children. *Home Office Research Report 75.*
57. Terre des Hommes Netherlands (2016). Children of the Webcam.
58. Office of the UN Special Representative of the Secretary-General on Violence against Children (2014). *Releasing children's potential and minimizing risks, ICT, the Internet and Violence against Children.*
59. Silverman, J. G., Decker, M. R., Gupta, J., Maheshwari, A., and Patel, V. (2006). HIV prevalence and predictors among rescued sex-trafficked women and girls in Mumbai, India. *Journal of Acquired Immune Deficiency Syndromes, 43,* 588–593.

behaviour.[60] Children with such problems rarely receive the understanding and support required and as a result are judged harshly and face punishment – leading to further isolation. Returning to one's family or community is also challenging due to intense guilt, shame and loss of family reputation – often resulting in further social stigmatisation, marginalisation and limited prospects for employment and income.[61]

Since OCSE is considered a relatively new area within the field of CSEC and child protection more broadly, few studies have been conducted and little understanding exists of its impact. In 2013, TdH-NL conducted one of the first studies on OCSE, which examined the psychological impact on survivors.[62] It showed that even though child victims of OCSE seemed to gain some pride from having a foreign "friend", their underlying feelings about their involvement, especially in forms of live OCSE such as webcam sex shows, were clearly negative. Children who participated in the study expressed feelings of being dirty, ashamed and embarrassed. Additionally, they felt afraid of being caught and arrested and worried that their pictures would be visible on the Internet forever.

They also showed symptoms of sexualised behaviour, as well as self-destructive behaviour. Further, they seemed to have developed a distorted view of their own sexuality and sexuality in general, adopting the idea that sexuality and money are intertwined. It is widely accepted that children involved in OCSE at a young age are susceptible to abuse later in life. No significant differences were found between victims of the different types of CSEC. This is no surprise as victims often engage in several forms of abuse and exploitation during the same period.

All of the problems described require long term support from sensitive and well trained professionals to resolve within family, community and institutional settings. However the lack of appropriate services in many settings may exacerbate the difficulties that many children and young people experience. Therefore, even when OCSE comes to an end, if at all, the damage to the victim's mental, physical, emotional and sexual well being is likely to persist into adulthood and remain with them for life.[63]

The damage to the victim's well being is likely to persist into adulthood and remain with them for life.

60. Tsutsumi, A., Izutsu, T., Poudyal, A. K., Kato, S., and Marui, E. (2008). Mental health of female survivors of human trafficking in Nepal. *Social Science & Medicine, 66,* 1841–1847.
61. Tsutsumi, A., Izutsu, T., Poudyal, A. K., Kato, S., and Marui, E. (2008). Mental health of female survivors of human trafficking in Nepal. Social Science & Medicine, 66, 1841–1847.
62. Terre des Hommes Netherlands (2013). Webcam Child Sex Tourism. Becoming Sweetie: a novel approach to the global rise of Webcam Child Sex Tourism.
63. Terre des Hommes Netherlands (2013). *Webcam Child Sex Tourism. Becoming Sweetie: a novel approach to the global rise of Webcam Child Sex Tourism.*

2. ABOUT THE STUDY

2.1 STUDY OBJECTIVES

The purpose of this study was to conduct a rapid assessment of the available information on the nature, magnitude and dimensions of OCSE within the context of CSEC in Kenya. The study also sought to establish the existing frameworks for the prevention and response to OCSE in Kenya, and to provide a concrete set of recommendations for systems strengthening.

The specific objectives of this study were to:

- Gather preliminary information on the prevalence of OCSE in Kenya;
- Analyse the growth of ICT in the country, and its implications for OCSE;
- Examine the legislative and policy framework that would address OCSE;
- Determine the services that are currently available to prevent and respond to OCSE, if any, and explore the capacity of service providers to support child victims (both girls and boys) of OCSE.

2.2 METHODOLOGY AND APPROACH

Data collection methods

The main data collection methods were secondary research, comprising a desk review of materials regarding CSEC and OCSE in Kenya (for example, published studies, policies and reports), and primary research, comprising primary data collection through interviews. The snowball method was used for both individuals and organisations (whereby first respondents were then asked to recommend others for interviews, and so on) in combination with semi-structured interviews, specifically designed for a group of respondents. This semi-structured format allowed the researcher to collect data on the topic while also enabling the respondent to share additional information at their discretion.

Location

Based on the understanding that OCSE is enabled and fuelled by a combination of high levels of poverty, a widespread use of English language among citizens, easy access to internet and technology (especially by children), well-established money transfer systems, and an apparent absence of perceived conflict between OCSE and social norms, the study was conducted in two areas in Kenya that reflect these factors and where CSEC cases have already been (widely) identified.

Primary data collection was conducted in both Nairobi and the coastal towns of Mombasa, Kilifi and Kwale, as these cities are considered urban hubs, with accessible cybercafes, and high-speed Internet. Nairobi is one of the most prominent cities in Africa, both politically and financially, and is home to many international companies and organisations. The Globalization and World Cities Study Group and Network defines Nairobi as a prominent social centre well served with high speed Internet connectivity.

Mombasa, Kilifi and Kwale enjoy similar high speed Internet connectivity as Nairobi and have the added feature of being coastal getaways, conditions under which OCSE within the context of child sex tourism might flourish (both in terms of supply and demand). They are well-known tourist destinations that attract both national, regional and international tourists, some of whom could potentially be child sex tourists. A study done by TdH-NL in 2013 focusing on the counties of Mombasa, Kilifi and Kwale found that 37.6% of the child respondents had engaged in commercial sex.[64] More recent research by TdH-NL, which focused on Kwale, found that 40.8% of child respondents had engaged in CSEC.[65]

Study sample

The study sample was comprised as follows:

- 8 girls and boys (aged between 11 and 17) living in Nairobi and Mombasa
- 12 cybercafe operators
- 15 local and international NGOs working on child rights issues directly with children and communities
- 2 officials from government law enforcement agencies, namely the Cyber Crime Unit and the Anti-Child Exploitation Unit
- 2 officials from the Communications Authority of Kenya, the national regulator of Internet usage
- 2 individuals from a sample of ICT organisations operating in Kenya (Google Kenya and the Global Peace Foundation)
- 1 social welfare representative from the Ministry of Gender, Children and Social Development, Government of Kenya

The respondents were drawn from four geographical locations in Nairobi, being the Central Business District, Kibera, Buruburu and Umoja, and four locations in three coastal towns of Kenya as follows: Central Business District in Mombasa, Mtwapa and Malindi in Kilifi, and Diani-Ukunda in Kwale.

64. Terre des Hommes Netherlands (2013). *Context analysis and Baseline Survey on Child Exploitation in The Coast Region of Kenya.*
65. Terre des Hommes Netherlands (2015). *Commercial Sexual Exploitation of Children (CSEC) in Kwale County.*

Ethical considerations

Given the sensitive nature of the research subject, care was taken to ensure no (potential) harm was done during the study. Informed written consent was sought from all respondents, who were prepared in advance on the nature of questioning including the degree of sensitivity of the subject. Ultimate confidentiality was observed in regards to the individuals sampled for purposes of data collection, especially regarding the case studies. No information provided was shared with any other person for any purpose other than to prepare this research report.

Study limitations

Issues of sexual exploitation are sensitive in nature, so primary data collection involved a number of challenges. First, it was observed that many respondents were unwilling to discuss matters to do with sex and sexuality openly and honestly. Additionally, the issue of OCSE was new to most people, including stakeholders involved in child protection such as the staff of child rights organisations. This made it challenging to gather information on the prevalence of OCSE and its drivers.

Further, the study faced challenges with regard to finding information on the trends of OCSE cases reported to the Communications Authority of Kenya. This was mainly because at the time of the study, the Communications Authority was still in the process of analysing its data of all reported cyber crime cases and separating them by type hence information on number and forms of OCSE cases reported was not readily available.

Thirdly, given that it was intended to be only a preliminary assessment of the state of OSCE in Kenya, the study comprised an extremely small sample size. It did not include parents, teachers or other caregivers of children, nor did it consult community stakeholders (religious or village leaders), nor a wide range of civil society organisations involved in child protection. It only included those civil society organisations most visible nationwide, namely CRADLE (Child Rights Advisory, Documentation and Legal Centre), Childline and Watoto Watch due to their role in either online child safety or general child protection.

Lastly, due to the lack of online child protection frameworks in Kenya it was difficult to find cases where the perpetrators have been arrested and prosecuted. This illustrates the general scarcity of secondary data available on this subject.

The issue of OCSE was new to most people, including stakeholders involved in child protection.

3. CONTEXT ANALYSIS: THE INTERNET AND CHILDREN IN KENYA

3.1 THE RISE OF THE INTERNET IN KENYA

The history of the Internet in Kenya can be traced back to 1994 when the African Regional Center for Computing was set up to offer full Internet connectivity in the country through the support of the U.S. National Science Foundation. The liberalisation of the sector also resulted in the creation of a National Task Force on Electronic Commerce in May 1999 with a mandate for providing an enabling environment for electronic trade in the country. As a result, awareness of the potential of the Internet increased with many stakeholders indicating their interest in utilising Internet in their business. By 2000, it was estimated that the number of Internet users was around 30,000-50,000 with a total of 34 Internet Service Providers (ISPs).[66]

Two decades of significant Kenyan investment in ICT such as mobile broadband, fibre-optic cable connections to households, and power-supply expansion have led to Nairobi earning a reputation as the technology hub of the region. Indeed, there is a growing wave of innovation as entrepreneurs, start-ups and large corporations alike launch new web-based ventures in the country. Coupled with the rapid spread of low-cost smartphones and tablets, and fast Internet growth, mobile phone penetration is higher than ever before. The Communications Authority of Kenya reports that mobile penetration in Kenya's 44 million population stands at around 88 per cent. Additionally, according to Facebook data, there are 6.1 million Kenyans active on Facebook, and around 10 million WhatsApp users in Kenya.[67] These notable platforms offer people new ways to connect and communicate instantaneously, and have become important channels for person-to-person conversations in this emerging digital environment.

66. Ochara, N.M., Belle, J. van, and Brown, I. (2008). Internet Diffusion in Kenya and Its Determinants: A Longitudinal Analysis. *Communications of the Association for Information Systems,* 23, 123-150.
67. BAKE (2016). *State of the Internet in Kenya 2016.*

These technological advances have also enabled the digitisation of formerly 'real-time' services such as m-commerce, m-banking and even many government processes. This has led to, among other things, a re-invigoration of the demand for cybercafes, which previously lagged due to the rapid spread of affordable smartphones and tablets, especially in cities like Nairobi and Mombasa. Cybercafes offer a cheap, accessible and effectively anonymous outlet for Kenyans to access the Internet for government services but also for illegal activities such as OCSE, especially live OCSE.

3.2 CHILDREN'S DIGITAL CULTURE AND PERCEPTION OF ONLINE RISKS

A 2013 study by UNICEF on the use and impact of digital and social media among adolescents in Kenya found that children and young people have a preference for accessing the Internet via mobile phones rather than personal computers. This was partly because laptops, personal computers and tablets at home with Internet access remain less common and available to children than mobile phones with internet access. For children who did not own personal phones, sharing between siblings or one parent was common. This study established that sharing was more common among 12-14 year olds, and almost all 15-17 year olds sampled owned their own phones. Access to the Internet via mobile phone was dependent on the availability of phone credit. For most children and young people who participated in the study, parents bought them credit/data bundles while some saved their pocket money for credit. Cybercafes were also used to access Internet especially when mobile phone screens were too small for particular activities, such as video games.[68]

The study showed that:

- 24% of the 152 children interviewed accessed Internet several times a day
- 25% once a day
- 42% two to three times a week
- 9% two to three times a month

It also established that young people perceived the risks and safety issues surrounding their digital and social media use in a mostly abstract, theoretical way rather than a highly likely or real threat.

3.3 PARENTING NORMS AND ATTITUDES IN RELATION TO ICT

According to the above-mentioned UNICEF study, while children were interested in learning from their parents, they did not believe their parents possessed the necessary information or skills to inform them about ICT. Learning on digital matters, for example the general use of specific websites and applications, was often passed on from siblings and peers. Many children accessed Internet on mobile phones and cybercafes outside their homes, and were often unsupervised by their parents.[69]

The study also noted the substantial gap between young people's digital media skills and behaviour, and the parents' own digital know-how. Additionally, there was a gap in the parents' awareness of how digitally engaged their children were.[70] There was very little exchange between parents and children on issues of digital safety and how some online behaviour could be risky. Globally, when experiencing risks online, children are more likely to seek support from peers.[71]

68. UNICEF (2013). *A (Private) Public Space - Examining the use and impact of digital and social media among adolescents in Kenya.*
69. UNICEF (2013). *A (Private) Public Space - Examining the use and impact of digital and social media among adolescents in Kenya.*
70. This knowledge gap between young people and older members of their families is even greater for those living in poorer urban neighbourhoods or rural areas. Some exceptions exist in more urban and affluent areas, where parents may be digitally literate and have their own social media profiles.
71. UNICEF (2017). The State of the World's Children 2017: Children in a Digital World.

4. NATIONAL LEGAL AND POLICY FRAMEWORKS AND INSTITUTIONS

4.1 EXISTING LAWS REGARDING CSEC

Kenya has ratified key international instruments regarding the rights of children and has incorporated these international standards within domestic laws.[72] There are a range of laws that aim to create and maintain an enabling environment for child protection. Here, the most relevant to CSEC and OCSE will be covered. It is important to note however that there is currently no law in place that defines and penalises various forms of OCSE.

Notably, the *Constitution of Kenya 2010* includes a comprehensive Bill of Rights, including the right of every child to be protected from all forms of exploitation and any work that is likely to be hazardous or adverse to the child's welfare. Further, section 15 of the *Children's Act 2001* provides that "A child shall be protected from sexual exploitation and use in prostitution, inducement or coercion to engage in any sexual activity, and exposure to obscene materials." This is complemented by the *Sexual Offences Act 2006,* which provides for the prevention and protection of all persons from sexual violence and exploitation.

Also highly relevant is the *Employment Act 2007* (the Act), whose part VI is dedicated to the protection of children. In fact, section 53 provides that "no person shall employ a child in any activity which constitutes worst form of child labour". The definition in the Act of the "worst form of child labour" includes the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances, and work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of the child. Pornography is not defined in the Act.

72. Kenya ratified the UN CRC in 1990, the African Charter on the Rights and Welfare of the Child (ACRWC) in 2000, the International Labour Organization (ILO) Convention No. 182 (Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour) in 2001; and the Optional Protocol on the Involvement of Children in Armed Conflict on 28 January 2002. It has not yet ratified the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, or the Third Optional Protocol to the CRC which was adopted by the UN General Assembly in 2011 and allows for a complaints procedure for children.

Lastly, the recently gazetted *Computer and Cybercrimes Bill 2017* explicitly addresses child pornography, cyberstalking and cyberbullying. Although this bill has not been passed into law yet, the definition of 'child pornography' is stated to include audio visual data which depicts a child or a person who appears as a child engaged in sexually explicit conduct, and realistic images representing a child engaged in sexual explicit conduct but this is non-conclusive, and may cause ambiguity in the interpretation of the offence.[73]

4.2 POLICIES AND REGULATIONS FOR ONLINE SPACES INCLUDING CYBERCAFES

In 2016, the Kenyan government launched the review of its ICT policy that was developed in March 2006. This was necessitated by the many changes that have taken place in the ICT sector over the last decade. The 2016 ICT draft policy provides substantial detail on plans that will enable greater development of infrastructure and other conditions necessary to enhance growth in the communications sector. However, it is largely silent on emerging child rights issues and social media trends, especially regarding the dangers that children may face with greater access to online services. Even when it talks about women and youth, it does this in relation to enhancing their access and participation in the sector but does not explicitly address any issues related to the violations of their rights.

In regard to specific regulations for Internet Service Providers (ISPs), the 2010 consumer regulations targeting ISPs requires them not to expose children to harmful content. However, it does not explicitly clarify what is meant by harmful content or provide explicit guidance on how this must be implemented.

There are also no regulations or enforceable guidelines that govern the operations and consumers' usage of services in cybercafes. Notably, while CA manages the registration and issuing of licences for cybercafes, it does not regulate the kind of services offered in those same cybercafes. This gap in the regulatory framework presents a challenge in fighting OCSE, including live OCSE, conducted within the confines of cybercafes.

4.3 GOVERNMENT INSTITUTIONS AND THEIR CAPACITY TO RESPOND TO OCSE

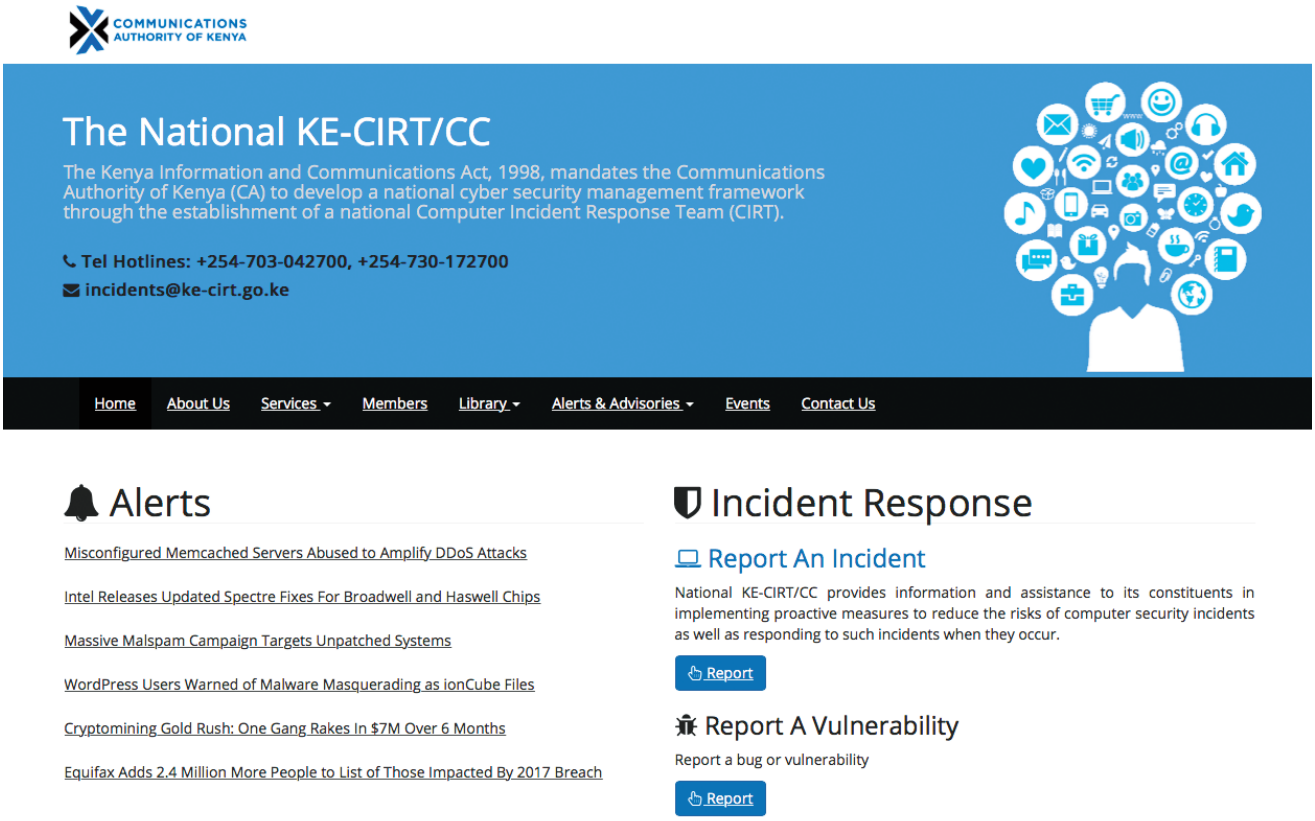
The Communications Authority of Kenya (hereafter CA or the Authority) is the regulatory authority for the communications sector in Kenya. Established in 1999 by the *Information and Communications Act 1998,* CA is responsible for facilitating the development of the ICT sector. As the national ICT regulator, CA is mandated to protect consumers of ICT services including children.

73. Centre for Intellectual Property and Information Technology Law (2016). *A Review of Computer and Cybercrimes Bill, 2016.* Retrieved from http://blog.cipit.org/2017/02/03/a-review-of-the-computer-and-cyber-crimes-bill-2016/.

Though the capacity of CA to fulfil this mandate of protecting children as consumers of ICT services has been hampered by various issues, (including the absence of regulations for cybercafes as mentioned above), the Authority has taken some positive steps in fulfilling this mandate. The Authority launched the "Be the COP" campaign in 2015, which sought to sensitise parents, guardians and teachers on the various types of crimes that children are exposed to in an online environment.[74] T he campaign was drawn from international guidelines published by the International Telecommunications Union, and in its first phase involved campaigns across all media platforms. The second phase will involve following up on the progress of the campaign in primary and secondary schools across the country, through outreach activities with schools, ICT clubs, and public lectures. CA plans to launch this second phase in 2018.

Further, the Authority established the National Computer Incident Response Team (CIRT), a national cyber security management framework, which is also referred to as the National Kenya Computer Incident Response Team Coordination Center (National KE-CIRT/CC). It aims to provide information and assistance in implementing proactive measures to reduce and respond to 'computer security incidents'.

Figure 1: Website of the CIRT: a reporting mechanism of CA which can be used for OCSE[75]



74. Communications Authority of Kenya (2015). *CA launches campaign to secure children in cyber space.* Retrieved from http://ca.go.ke/index.php/what-we-do/94-news/345-ca-launches-campaign-to-secure-children-in-cyber-space.
75. Image retrieved from http://www.ke-cirt.go.ke/.

The Authority works very closely with the Cyber Crime Unit (CCU), which is under the Directorate of Criminal Investigations, to fulfil its mandate in responding to cybercrimes including OCSE. The CCU is the technical law enforcement unit in Kenya, tasked with investigating and gathering evidence for the prosecution of perpetrators of OCSE. The CCU currently has 21 officers, and though the officers are well trained on cybercrime issues, it is understood that none of these officers are specifically assigned to investigate OCSE cases.

The CCU officers also face various challenges in arresting and prosecuting perpetrators of OCSE. Firstly, identifying perpetrators that use cybercafes to engage in OCSE is a challenge due to the above-mentioned lack of regulations that govern cybercafes. The perpetrators are strategic in that they may use buildings that house many cybercafes and target cybercafes that have a lot of computer units and high traffic of customers. To address this challenge, the head of the CCU stated that he has advised CA to develop regulations for cybercafes that require them to register their customers and to keep records of which customer accesses which computer and at what time. Further, all OCSE cases investigated by the CCU thus far in Kenya have been referred to them via international agencies, such as Interpol, rather than the general public. That is, Interpol collaborates with the CCU by alerting them to OCSE incidents in Kenya, which the CCU follows up with further investigations. Once the CCU gathers evidence, it refers this to the Kenyan Police Force for arrest and prosecution within the Kenyan legal system. OCSE is an emerging area of criminal jurisprudence and this presents a challenge to police officers, investigators, prosecutors and judges who currently have limited technical knowledge of these issues. Nevertheless, despite the abovementioned challenges, the CCU has thus far successfully investigated two cases, one of which was prosecuted in Kenya and another that was prosecuted in the United States.

CA plans to:

- Establish a database on reported cybercrime cases affecting children;
- Commission national research on OCSE, which once completed will provide a more reliable and full picture of OCSE in Kenya; and
- Develop a training curriculum that can be used to train stakeholders on online safety of children and related risks.
- Develop a National Child Online Framework Strategy
- Launch Phase II of Child Online Safety Protection Campaign in 2018

> “There is no way to find out who the perpetrator is, and hence, no way to further investigate the issue.... The Cybercrimes Units due to this loophole has been lobbying the Communications Authority to put in regulations for cybercafés where customers will be required to record their IDs and when and how long they access a computer so that in case during that time they commit a crime, the Cybercrimes Units will be able to follow up and arrest the perpetrator. Currently, there are no such regulations governing cybercafes.”

Director of Cyber Crime Unit, Department of Criminal Investigations, Kenya

5. FINDINGS ON THE OCCURRENCE OF ONLINE CHILD SEXUAL EXPLOITATION IN KENYA

The following section provides details on key findings from the study, both from secondary research collected through desk reviews as well as data given by respondents and gathered through primary research. It includes information on the key forms of OCSE identified by respondents, as well as specific findings from key groups of respondents.

5.1 FINDINGS ON KEY FORMS OF OCSE

Sexting

Respondents from CSOs shared that children are involved in sexting to the extent that some children consider it normal. Sexting happens between children and their social media friends as well as with strangers met on the various social media platforms. Sexting is prevalent in all geographical locations in Kenya, but one CSO shared that from their experience, in Malindi and Kwale, the texts involve still erotic images of themselves whereas in Nairobi, children send both still erotic images and recorded erotic videos. While the practice of sexting may appear incidental, it allows for consideration of OCSE within a larger context. That is, when children become used to these types of sexualised communications, they might become less aware of and/or desensitised to the risks of OCSE and thus more vulnerable when being approached online by offenders of OCSE.

Online grooming

From the key informant interviews, this study established that there is online grooming of children as a precursor to offline sexual exploitation in Kenya. This is often done through social media, public chat rooms and dating websites. Children meet perpetrators by befriending strangers online and having interactions which they perceive as 'online dates' which in some instances lead to actual face-to-face meetings, culminating in sexual abuse. All the children interviewed in this study reported that they had received requests via social media to share more intimate photos of themselves, and to organise face-to-face meetings (though allegedly none had met their online 'friends' offline).

Online grooming in Kenya involves individuals but in some instances, it also involves organised groups that utilise social media platforms to groom children. CRADLE reported that 'diva clubs', an emerging trend involving girls in secondary schools, draw their membership through invitation from current students, former students (alumni) and associate adults. The members communicate mostly online using social media platforms like WhatsApp, Facebook Messenger, Snapchat, Instagram and mostly share stories and photos of socialising, including sexual experiences. They reported an example of a school in Nairobi that has a diva club where the members were supplied sex toys by an adult in order to help recruit and entice other girls and introduce them to the club. The clubs facilitate contact with club alumni who are already out of school and selected adult associate members. Additionally, CRADLE also reported that a criminal gang called Gaza, that operates in the Eastlands area in Nairobi, engages its members (young men) to befriend girls and young women (that is, both under and over 18 years), under the guise of friendship and entices them to send nude photos of themselves. These are then used by the gang to coerce and blackmail the girls into sexual relationships with its members or into performing in commercial strip clubs.

Live online child sexual exploitation

None of the children who participated in this study had themselves engaged in live-streaming of sexual acts, but stated they were aware of friends who had. Other study participants reported that while they were not aware of any specific live OCSE cases, they believed strongly that it takes place in Kenya. Their belief was based on the fact that internet connections have become more affordable and have expanded to people's homes, where these violations could easily go undetected.

A key informant from a CSO shared knowledge of a live OCSE incident that was brought to her attention by a participant during a child protection community awareness-creation session in Kwale county. A young man under 18 reported that a cybercafe in Kwale town was streaming live shows of children (all boys) performing sexual acts via a webcam to a remote audience. This cybercafe was conducting this in a private room and the boys were participating in return for payment. At the time the matter was reported to her, the informant was not able to establish the perpetrators behind the operation or the means of payment used by the remote audience to pay for the live shows.

Another respondent drawn from a local CSO, Rehema (name changed), recounted the story of how when she was 15 years old, she discovered that her aunt was using a webcam for live online sex acts when communicating with a boyfriend. Over time, Rehema's aunt recruited other women who would bring young girls for live OCSE to prospective overseas 'clients'. Rehema would assist with typing, translating and using the computers; in exchange, her aunt gave her gifts and even money. The women brought their daughters over and over again until eventually the girls met the people with whom they had been communicating. At the other end, it was the responsibility of Rehema's aunt's overseas boyfriend to bring new 'clients'. This continued for some time until Rehema's aunt eventually moved overseas to live with her boyfriend, although Rehema suspects that OCSE still

> “Whereas girls used to be the ones most exploited, currently young boys are becoming increasingly involved. In Mtwapa, currently young boys are the hot stuff.”
>
> Rehema (name changed), a 23 year-old community child protection volunteer based in Mombasa

takes place in the private house which her aunt owned and is now managed as a private villa. In addition to the experiences at her aunt's house, Rehema also shared her knowledge about cybercafes, especially in Malindi and Mtwapa, which provide private rooms to their customers. These private rooms are removed from the main cybercafe area and entry is regulated by a fee.

These real-life accounts are further amplified by the story uncovered by the Kenya Television Network on 11 April 2017, which reported on a case of live OCSE – live streaming of sex involving girls and young women, which was captured via a webcam in a home located in a middle class area in Nairobi[76]. Although the participants directly performing the sex acts were found to be over 18 years old, the story also uncovered the involvement of two children, aged 9 and 3 years old, mimicking 'suggestive' dance moves. It was reported that when the children were involved, the online audience, comprising foreigners from the United States, Germany and France among other countries, paid more money for the show. This story established that live OCSE, in particular, live streaming of sex acts involving young women and girls, is already happening in Kenya, and that it is more lucrative for perpetrators when children are involved.

Distribution of child sexual abuse materials online

The Cyber Crime Unit (CCU) respondents in the study reported that there had been two incidents of distribution of child sexual abuse materials (also known as child pornography) using online platforms, where perpetrators were arrested and prosecuted for distributing child sexual abuse materials produced in Kenya for an overseas audience. Both perpetrators were based in Kenya, though one incident involved an American who was prosecuted in Kenya, and another involved a Kenyan who was extradited to and prosecuted in the United States. In the first case[77], American Terry K. was arrested after Interpol tipped off the Kenyan Police Force about an internet user in the country who was making and distributing child sexual abuse material for overseas users. He was charged with one count of circulating obscene publications depicting images of a child, in contravention of Section 16 of the *Sexual Offences Act 2006*. The CCU was unable to find evidence to confirm if and how the perpetrator was receiving payment for the distribution of child pornography.

76. KTN News Kenya (2017, April 11). Digital brothel: Lesbianism for entertainment surrounds young girls in urban households. Retrieved from https://youtu.be/lVJvU9Zz_J0. From the story, some of the older girls appeared to be victims of trafficking as they had been transported from other parts of Kenya with a promise of decent jobs. Additionally, they were threatened every time they expressed the intention to leave and lastly, they were not allowed to leave the house.
77. Agoya, V. (2014, December 4). Nairobi Court Jails American Paedophile for 50 Years. Daily Nation. Retrieved from http://www.nation.co.ke/counties/nairobi/paedophile-Terry-Ray-Krieger-jailed/1954174-2542442-ra0hw8z/index.html.

In the second case[78], Kenyan Brian M. was charged with producing child pornography and posting it on online sites that hosted homemade child pornography. The site was a private, members-only online bulletin board that was created and operated to promote paedophilia, and encouraged the sexual exploitation of very young children in an environment designed to avoid law enforcement detection. The CCU confirmed that Brian M. was getting payment via visa card and his consumers were mainly individuals from Germany, United Kingdom and the United States. No evidence was found of local demand for his services, although this does not mean there is a general lack of demand in Kenya for such child pornography.

5.2 FINDINGS REPORTED BY SELECTED KEY SOURCES

Children

Children interviewed during this study stated that they spend around 1-2 hours on social media and other online chat fora daily. They prefer to use these fora because the communication is instantaneous, rapid, cheap and convenient. The children were aware of the potential risk of OCSE and all agreed it was not safe to chat with strangers online. Over half the respondents also shared that they had chatted with strangers on social media but only a small number had done so in a cybercafe. Half of the children had experienced what they considered 'online dating' though none had physically met their online date. Lastly, all children interviewed reported having received sexual comments to posts on social media, and all had received requests to share more intimate photos and organise face-to-face meetings.

Cybercafe operators

The cybercafe operators interviewed reported that many children aged 12 to 17 years use their cybercafes for an average of one hour for each session. They noted that there was a high demand for public chat rooms, social media, video chatting, and other file sharing software, including downloading music. The operators also reported that children from middle- and upper-class neighbourhoods come to the cybercafes with their own laptops, tablets and smartphones to utilise the fast Wi-Fi services.

Some operators noted that some cybercafes provide enclosed cubicles and private back rooms where their customers can chat in private. Some operators also provide assistance in identifying the best public chat rooms and dating sites, to facilitate 'hook ups' with (online) friends. Operators shared that access to these private back rooms is not restricted and anyone, even children, can enter as long as they can pay.

> "My cybercafe is open to all sites and there are none which are blocked."
>
> Cybercafe attendant, Nairobi, Kenya

All the operators interviewed were aware that children are at risk of OCSE. They stated that they display prohibition notices against pornographic and other harmful sites to regulate children's access. Nevertheless, most operators interviewed admitted that children have accessed (or made attempts to access) pornographic sites or dating services and that they have come across children carrying out chats of a sexual nature. The operators also noted the absence of a national policy framework on cybercafes and their operators, and the limited supervision and monitoring from internet service providers about how their services are being used in cybercafes.

> "You don't have to walk on the beach to get a *mzungu* (foreigner) anymore, just go to a cybercafe and get one, and afterwards you can continue on your smartphone and even get paid just to show [your] nude body and videos."
>
> Male survey respondent from the coastal area of Mtwapa.

78. Department of Justice (2015, April 9). Kenyan pleads guilty to Dreamboard child sex exploitation site case. Retrieved from https://www.justice.gov/usao-wdla/pr/kenyan-pleads-guilty-charge-dreamboard-child-sex-exploitation-site-case.

6. AVAILABILITY AND CAPACITY OF SERVICE PROVIDERS TO SUPPORT VICTIMS OF OCSE

There are very few programmes by local civil society organisations (CSOs) in Kenya focusing on OCSE as a thematic child protection concern. This lack of OCSE programmes may be due to very limited technical knowledge of the occurrence and impact of OCSE in Kenya. In one organisation, only 25% of the staff involved in creating awareness had been sensitised on the issue whereas in another, none of the community outreach staff had been sensitised. A few of the local CSOs have integrated prevention of OCSE into their child protection awareness creation programmes. That is, they focus more on prevention rather than providing direct support services to victims. Any direct support services available to victims of OCSE are offered as part of more general children protection programmes rather than specialised OCSE initiatives. This study identified the following major local CSOs programmes/interventions around OCSE.

Watoto Watch Network

Watoto Watch Network (the Network) is the only identified local CSO with a programme specialised in promoting the online safety of children. The Network does this through the following strategies:

- Creating awareness among children in primary and secondary schools on the positive and negative impacts of the internet and how to stay safe while online;
- Advising and equipping parents with information on how to protect their children from online risks; and
- Training stakeholders, for example, teachers, children's officers, CSO staff and police on the online safety of children.

The lack of OCSE programmes may be due to very limited technical knowledge of the occurrence and impact of OCSE in Kenya

Childline Kenya

Childline Kenya works in partnership with the Government of Kenya to offer a nationwide helpline service dedicated to children. By simply dialling '116', children and the general public can access a 24 hour, toll free service to which they can report any incident involving children, including OCSE. Childline Kenya also aims to create awareness of child protection issues in general, including OCSE.

CRADLE

CRADLE is a child protection agency in Kenya that offers a wide range of support services to victims of child rights' violations. These include access to justice, including legal aid, psycho-social support, rescue and reintegration. CRADLE does not currently have a specific programme on OCSE[79] but has integrated OCSE interventions in other programmes. Notable examples include the promotion of online safety of children through awareness creation sessions targeting children and young people in Turkana, Malindi and Nairobi, and advocacy related to laws and policies that protect children from OCSE and other forms of child abuse and exploitation.

> "Currently, if staff received a case of [child] online abuse, they have basic information but not to the level of knowledge like in other child protection concerns. They lack experience in this [OCSE]."

NGO worker, Nairobi, Kenya

A recent example of how CRADLE tackles CSEC and OCSE, in this case grooming, is from the Turkana area, where a 13 year-old girl in primary school was bought a mobile phone by a local man known to the girl. The man over time engaged the girl in sharing sexually explicit texts and even photos. After some time, the man convinced the girl to meet and attempted to rape her. The girl managed to escape, and upon questioning revealed the development of the relationship with the man. The case was reported to the relevant authorities with the help of CRADLE, and the offender was arrested, and the child was supported through counselling by the CRADLE staff.

79. In the past, CRADLE had a specific online safety programme (CISSA -child online safety and security awareness) that ended in 2012. The CISSA programme focused on strengthening of the legal framework regarding online protection of children and awareness on online safety.

7. CONCLUSIONS AND RECOMMENDATIONS

In conclusion, this rapid assessment/ preliminary study established through primary research that there is strong evidence that OCSE is occurring in Kenya in various forms, including live OCSE (children performing sexual acts streamed live via webcams and other devices for remote online audiences). Further, secondary research confirms that there are circumstances which favour the growth and expansion of OCSE, such as the absence of a clear and enforceable regulatory framework governing cybercafe operators. Whilst there is certainly evidence of OCSE in Kenya, there is a need for much more systematic, in-depth research in order to understand the full nature, magnitude and dimensions of the problem. Given the hidden nature of this form of CSEC, future research will need to involve innovative approaches, such as Terre des Hommes Netherlands' 'Sweetie' initiative. Such research will be crucial in developing a targeted and at-scale response to the growing emergence of OCSE in Kenya, advocating with government and other key stakeholders to take urgent action, and increasing awareness of this issue throughout society.

Given the high prevalence of OCSE in South East Asia, and similarly conducive conditions in Kenya, it is only a matter of time until OCSE becomes a potent and widespread threat to children. Based on its global expertise in uncovering (live) OCSE and this study, Terre des Hommes Netherlands calls for a holistic approach combating OCSE. The organisation is prepared and well-positioned to work with the Government of Kenya, local civil society organisations, the private sector, communities, and children themselves before the phenomenon affects more and more children in Kenya. Now is the time for government, civil society organisations, the private sector, and other stakeholders to work proactively and collectively against OCSE, so that their actions can be preventative rather than attempts to reactively respond. The following set of recommendations provides some concrete ways in which to progress this.

1. Recommendation: *Review and identify gaps in existing legislation and regulations, and work with appropriate government ministries to ensure that OCSE is mainstreamed into Kenyan law*

Despite there being a comprehensive legal framework for child protection, existing laws should be strengthened to expressly criminalise OCSE, including live OCSE. The advantages of having a standardised and mainstreamed conceptualisation of OCSE within a Kenyan domestic legal context would allow government authorities, such as the Kenyan Police Force, the Cyber Crimes Unit, prosecutors, and members of judiciary, to effectively investigate, accurately charge, and successfully prosecute criminal acts of OCSE. The *Computer and Cybercrime Bill 2017* is the most progress to date on addressing the current gap in existing legislation regarding OCSE. However, attention must also be paid to other laws so that, cumulatively, they provide a protective environment in which children can engage in positive online activity without the threat of OCSE. The review and possible amendment of existing laws provides a significant opportunity to ensure that OCSE is adequately and meaningfully addressed in Kenyan domestic legislation, thereby paving the way and setting an example for other countries in the region to follow. Combined international efforts are vital to tackle OCSE, due to the the global nature of the phenomenon.

Moreover, CA has not yet developed regulations that govern the operations of cybercafes. The Authority manages the registration and issuing of licenses for cybercafes in order to track growth and numbers, but does not presently regulate (inspect, monitor, audit, and so on) the kind of services offered in those cybercafes. All the operators interviewed during this study were aware that children are at risk of being sexually exploited online and hence said they display prohibition notices against pornographic and other harmful sites to regulate children's access, which clearly is a weak prevention measure. Therefore, to limit the potential of OCSE crimes committed in cybercafes, in particular live OCSE occurring in private rooms within cybercafes, the Government of Kenya through CA must take steps to better regulate the operations of cybercafes in the country. This means that cybercafes should not only register with CA (presumably, local branches of CA) and obtain an official business license, but should also sign a Code of Conduct for Cybercafes. Representatives from the Authority could then conduct follow-up inspections and monitoring visits to ensure that cybercafes are complying with the regulations.

2. Recommendation: *Strengthen the technical capacity of key stakeholders, including government authorities, and child rights CSOs, to better prevent and respond to OCSE*

The level of knowledge on OCSE, both within government authorities and among local CSOs, remains low and there is clearly an opportunity to build knowledge in this area. While members of the CCU have presumably received specialised training in the area of cybercrime in order to become experts in this field, the *Computer and Cybercrimes Bill 2017* presents an opportunity for 'refresher' trainings, particularly from a child-sensitive perspective and focusing on OCSE. As seen from the abovementioned evidence, the CCU works with Interpol in investigating and apprehending perpetrators of OCSE, and must therefore have the best technical capacity in order to investigate, report, refer and prosecute cases. Moreover, the recent Computer and Cybercrimes Bill 2017 also provides an entry point to provide similar child-sensitive training, focusing on OCSE, to prosecutors and magistrates so that they can build their technical capacity to effectively adjudicate on cases of OCSE. It is also important to strengthen the technical capacity of child rights and child protection CSOs involved in awareness raising and provision of services for children and families. This should

include but not be limited to those specifically focussing on OCSE, since the vulnerabilities of children offline and online are closely linked.

3. Recommendation: *Strengthen existing public referral mechanisms for CSOs and other stakeholders to monitor and report incidents of OCSE*

As noted above, there is little to no reporting of OCSE cases to law enforcement agencies such as the CCU by the public through formal mechanisms. This can be attributed to the lack of awareness and knowledge by children and their parents/caregivers on OCSE. However, it can also be attributed to very limited public awareness of existing national reporting legal mechanisms, such as the national Kenyan Computer Incident Response Team (KE-CIRT). Additionally, while there are some referral mechanisms among local CSOs, such as Childline Kenya which runs a 24-hour helpline on behalf of the Government of Kenya, these remain underutilised. Greater public awareness of these monitoring, reporting and referral mechanisms would ensure the existing systems to realise their full potential, and thus more effective prevention of and response to OCSE cases, and would enable government actors to be less reliant on external actors such as Interpol to bring any cases to their attention. The *Computer and Cybercrimes Bill 2017* could provide a timely and relevant opportunity for awareness-raising campaigns about the mechanisms that could serve as a first port of call for the public to report incidents of OCSE.

4. Recommendation: *Partner with the private sector to develop and implement industry-led commitments to combating OCSE*

Kenya is widely considered an ICT hub for the region, with a range of technology companies choosing to site their operations in the country. There is an opportunity to leverage this visibility and ensure that the online safety of children is mainstreamed into private sector operations and practices, particularly those of Internet Service Providers. Actions could include calling upon internet service providers, mobile phone companies, and other relevant private sector actors to develop and implement commitments to block/remove child pornography websites and child sexual abuse images. Such commitments could take the form of a pledge, Statement of Action or Code of Conduct, committing companies to fight OCSE, and setting out how they will make a significant contribution to efforts to tackle OCSE.

5. Recommendation: *Prepare and implement training programmes and information campaigns to increase awareness of online/digital safety aimed at children, young people, parents, teachers and the public at large*

Key line ministries at the Government of Kenya, such as the Ministry of Education, Science and Technology, and the Ministry of Information, Communications and Technology, together with the Communications Authority could lead the effort to design, develop and implement national digital safety programmes. Such programmes should be aimed at stimulating communication on this topic between children and caregivers, and ensuring that children's digital activities are safe and in their best interests, while raising awareness on how to manage risks such as OCSE. There is a wide range of non-governmental organisations, both national and international, who have worked with schools to put together content and support the rollout of similar programmes in countries across the world. Particular attention should be paid to target the most vulnerable groups and to ensure meaningful participation in the design and implementation of the programmes by those most familiar with growing up in a digital world: children and young people themselves.

NOW IS THE TIME FOR GOVERNMENT, CIVIL SOCIETY ORGANISATIONS, THE PRIVATE SECTOR, AND OTHER STAKEHOLDERS TO WORK PROACTIVELY AND COLLECTIVELY AGAINST OCSE, SO THAT THEIR ACTIONS CAN BE PREVENTATIVE RATHER THAN ATTEMPTS TO RE-ACTIVELY RESPOND.

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