

# LAW ENFORCEMENT and LEGAL FRAMEWORK

## (EAST AFRICAN REGION)



**Presentation by:**

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# BACKGROUND

- 2007 - ANPPCAN held an international conference on child sexual abuse
- Issues deliberated included,
  - nature and extent of the vice,
  - research,
  - knowledge building, and
  - adoption of best practices

- Law and policy frameworks – strong intervention
- Key issues included:
  - Specialized structures for child protection such as children’s courts, children’s protection units, children’s parliaments and committees
  - Formulation and implementation of national policies and plans of actions
  - National registers on perpetrators and child abuse

- ANPPCAN has also regional studies on
  - Child trafficking in the Eastern Africa funded by Oak foundation
  - Violence against children in Kenya, Ethiopia, Somalia and Eritrea courtesy of SC-Finland
- All the studies indicate weak laws and implementation of laws and policies
- Similarities in legal frameworks across Eastern Africa

## •Poor ratification of international instruments

<b>International Instrument</b>	<b>Ethiopia</b>	<b>Kenya</b>	<b>Tanzania</b>	<b>Uganda</b>
UN Convention against Transnational Organized Crime (2000)	Signature	None	Signature	Signature check
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000)	None	None	Signature	Signature
Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000)	None	Signature	None	Ratified
The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949)	Ratified	None	None	None
Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women (1999)	None	None	None	None

# EXISTING LAWS & POLICIES (KENYA)

- Children's Act 2001
- Sexual Offences Act 2006
- The Penal Code
- The Children Adoption (Regulations) 2005
- Draft children's Policy
- Draft OVC Policy have been developed.

- Policy Framework for Education, Training & Research
- Draft Policy on Drug and substance abuse
- Child labour policy
- Persons with disabilities act
- Policy on Early Child Hood Development
- Trafficking in Persons Bill

# Milestones in Policy and Legal Reinforcement (Kenya)

- Criminal Law Amendment Act 2003:
  - Harmonized punishment for rape and defilement to life imprisonment
  - Recognizes that boys can be defiled as well
  - It pushed sexual consent threshold to 16 years
  - Amended the Evidence Act on admissibility of minor's evidence

- The Sexual Offences Bill enacted into an Act of Parliament in 2006
  - It sets minimum sentences as opposed to maximum
  - Harsh penalties both fine and imprisonment
  - Limits discretion by the magistrates
  - It harmonizes laws on sexual abuse
  - Rules on sexual offences Act are ready for gazetment

- Children's Act:

- Defines a child in need of care and protection to include one who has been sexually abused or is likely to be exposed to sexual abuse and exploitation, including prostitution.

- Extends the definition of children in need of care and protection to children exposed to pornography (Section 114)

- A child shall be protected from sexual exploitation and use in prostitution, inducement, coercion to engage in any sexual activity and exposure to obscene materials.” (sec15)
- The Children Act requires children to be protected from any exposure to obscene materials (sec 14)
- Provision of legal aid to victims (Probono Lawyers) eg. , FIDA, CRADLE, CLAN, LSK
- Enactment of witness protection Act

- Penal Code
  - Makes it an offence to live off earnings of prostitution or to solicit.
  - Outlaws dealings in obscene matters.
  - It prohibits the trade in distribution, public exhibition, production, possession, or assisting in the circulation of one or more obscene objects tending to corrupt public morals.
- Films and Stage Plays Act empowers the Film Licensing Board to segregate any particular cinematograph film as being unsuitable for children

# KEY ISSUES

- **Poor Implementation**

<b>Year</b>	<b>Cases</b>	<b>C C</b>	<b>CT</b>	<b>Conviction s</b>	<b>Acquittals</b>	<b>Pending</b>
<b>2006</b>	<b>2753</b>	<b>75</b>	<b>6</b>	<b>3</b>	<b>1</b>	<b>2</b>
<b>2007</b>	<b>1476</b>	<b>48</b>	<b>9</b>	<b>1</b>	<b>1</b>	<b>7</b>

- Corruption
- Lack of adequate data
- Scanty knowledge of laws and policies amongst people
- **Pending Bills and Legislation** e.g. the Counter Trafficking in Persons Bill

# RECOMMENDATIONS

- Sensitising people on the existing laws and policies on child sexual abuse. This will ease the implementation of existing laws
- Preventive measures to address child pornography especially through ISP
- Investing in programmes on recovery and reintegration of victims of sexual abuse and exploitation

- Lobbying for both ratification and domestication of international instruments
- Workable national policies and national plans of action
- Specialized structures for child protection such as children's courts, children's protection units, children's parliaments and committees
- Mandatory reporting and developing national registers on perpetrators and child abuse

- Interventions at community level should always include:
  - identification,
  - interrogation and
  - challenging of cultural mis-conceptions and practices that perpetuate child sexual abuse

# Thank You!

