

Sexual Exploitation of Children in Africa

Legal Frameworks and Law Enforcement

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Sexual Exploitation – Some Observations

- The promotion of the rights of the child and the protection from all forms of sexual exploitation are central to the protection and wellbeing of children.
- Tackling the problem of sexual exploitation is, however, not only a policy commitment but also a legal obligation.
- The absence of legal instruments consistent with international and regional conventions and the extent to which they are observed in practice is an important area of concern in Africa.

Sexual Exploitation – Some Observations

- The findings show that the African Governments have shown considerable commitment to address the sexual exploitation of children.
- However, despite the elaboration of important international, regional and national legal instruments, children in Africa still lack the power and support structures that enable them to effectively defend themselves against sexual exploitation.
- The review of national legal frameworks on CSEC found many African countries had laws to protect children from forms of abuse and exploitation, such as sexual abuse, exploitation and trafficking. Some protective measures were found in constitutions, others within child-specific legislation and others within the criminal law. Nonetheless, these legal instruments were insufficient in protecting children against sexual abuse due to a complex patchwork of laws on children, lack of an overarching definition of a child, poor implementation including lack of treatment and rehabilitation for survivors, inadequate access to child friendly procedures at police stations and courts and ineffective sanctions for perpetrators. Moreover, most countries have no specific laws that prohibit child trafficking, child pornography and child prostitution.

Sexual Exploitation includes:

- Child sexual abuse – physical & psychological
- Child pornography
- Child prostitution
- Child trafficking
- Child sexual tourism
- Early marriage

Sexual Exploitation – Legal Frameworks and Law Enforcement

- Data on the extent of child exploitation can only be estimates.
- According to the United Nations (UN), the number of children trafficked annually internally and externally in Africa is around 1.2 million.
- A clear understanding of the nature of the problem across Africa is needed in order to tackle the issue and, based on a real understanding of the size of the problem, monitor the progress towards eradicating child sexual exploitation.

The State of Law on the Commercial Sexual Exploitation of Children in Africa

- African governments have made a number of commitments to protect the rights of children from sexual exploitation.
- At the international level, there has been a growing recognition and emphasis amongst governments of the importance of children's rights and the call for more effective implementation of international legal instruments on children.

International Instruments

- The United Nations Convention on the Rights of the Child (UNCRC) (1989)
- The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000)
- The Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (2000)
- The International Labour Organization Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999)
- The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts (2000)

Regional Instruments

- The African Charter on the Rights and Welfare of the Child (ACRWC) (1999)
- The Declaration of the Arab-African Forum against Sexual Exploitation of Children (2001)

Other commitments and declarations have been adopted by regional bodies such as Economic Commission for West African States (ECOWAS), Economic Community for Central African States (ECCAS), Middle East and North Africa (MENA), and the Southern Africa Development Community (SADAC) in order to facilitate trans-national cooperation against the CSEC. These include:

- Lome Appeal on Trafficking in Children, 1999
- Abidjan Appeal on Trafficking in Children, 2000
- ECOWAS Declaration and Plan of Action against Trafficking in Persons, 2001
- The Southern African Regional Network against Trafficking and Abuse of Children (SANTAC), 2002
- The Southern African Counter-Trafficking Assistance Programme (SACTAP)
- Libreville Declaration and Appeal to Harmonize National Legislation on Trafficking in Children in French- Speaking countries in West and Central Africa, 2003
- Cairo Declaration Regional Consultation for the Middle East and North Africa (MENA) on the UN Study on Violence against Children, 2005
- Multilateral Agreements between members of ECOWAS and the Economic ECCAS in order to Strengthen Cooperation on Anti-Trafficking Measures, 2006

Selected Legal Frameworks

In general, a number of countries studied have utilised several approaches in their law reform initiatives:

- (i) Enacting consolidated children's acts (South Africa);
- (ii) Amending the criminal law and revising the penal code (Ethiopia);
- (iii) Enacting legislation which prohibits specific offences (Nigeria)
- (iv) A hybrid Approach (Kenya)

Challenges in existing national laws

- Legislation gaps
- Marriage as a defence
- Reasonable belief the child victim was old enough to consent
- Discrimination on the basis of gender
- Ambiguous definitions on prostitution, trafficking and pornography
- Inconsistencies between the minimum age at which a child can consent to marriage and age at which a child can consent to sexual relations

Challenges in implementing protective laws

- Lenient sentences and impunity for perpetrators
- Implementation challenges – lack of child friendly procedures
- Lack of medical & other services for child victims
- Birth registration

Legal protection centres, law enforcement & best practices

The protection of children relies on a multitude of mechanisms. Two interrelated mechanisms are:

- (a) The establishment of child protection units,
- (b) The establishment of children's legal protection centres who provide legal assistance to both child victims & to children in conflict with the law

Recommendations

It must be emphasized that the legal environment often reflects the political environment, and unless a state and its society give priority to the protection of children, the laws will not protect them.

- Governments must amend and/or enact new legislation explicitly defining and prohibiting child prostitution, child pornography and child trafficking in accordance with the Optional and Trafficking Protocols;
- Governments must harmonise customary and religious laws and practices with national laws and international standards to ensure that children's rights are fully protected;
- Governments need to acknowledge that the sexual exploitation of children is a serious child rights violation and must devote sufficient resources to develop and implement plans of actions to eliminate all forms of exploitation and abuse against children;
- Governments need to develop and establish a system of rehabilitation and reintegration of children who escape sexual exploitation. This task should not be left to NGOs and child protection units. Such a system should entail the creation of child-friendly channels for children to report abuse and seek help, establish a referral system, define the minimum standards of care for institutionalized children, and systematically train staff assisting child victims

Annexes

Status of 26 countries

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Thank you