



ONLINE CHILD SEXUAL EXPLOITATION IN ETHIOPIA SOCIO- LEGAL AND INSTITUTIONAL OPPORTUNITIES AND CHALLENGES

By: Hermela Desta (ID 7506/13)

Advisor: Anchinesh Shiferaw(PhD)

**Addis Ababa University
College of Law and Governance Studies
Center for Human Right Studies**

Addis Ababa University, Ethiopia

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Online Child Sexual Exploitation in Ethiopia Socio-Legal and Institutional Opportunities and Challenges

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By: Hermela Desta (ID 7506/13)

Advisor: Anchinesh Shiferaw (PhD)

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Declaration

I hereby declare that the thesis on “**Online Child Sexual Exploitation in Ethiopia Socio-Legal and Institutional Opportunities and Challenges**” is my own work and the reference used duly cited and acknowledged.

Approval Sheet

Candidate

Name _____

Signature _____

Date _____

Advisor

Name _____

Signature _____

Date _____

Approved by the Board of Examiners

Examiner 1

Name _____

Signature _____

Date _____

Examiner 2

Name _____

Signature _____

Date _____

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Abstract

Online child sexual abuse and exploitation, is a new challenge that is affecting children around the world significantly. It is a transnational crime so every child around the world could become the victims including children in Ethiopia. This violence affects children's social life and productivity not to mention its long lasting impact on their mental health. Online child sexual abuse and exploitation is a serious issue that requires a multifaceted approach which includes legislative, cooperation among institution and social awareness. The study identify the opportunities and challenges for addressing the for addressing online child sexual exploitation and abuse at a legal, institutional, and societal level. In Ethiopia the criminal code and the computer crime proclamation are the major legislations that are used to address online child sexual exploitation. Even though this documents try to address the issue they are not sufficient they lack clarity, do not address all types of online child sexual abuse and exploitation and the sentences for the crime are inadequate. so the study specifically highlights the need to amend the Computer Crime Proclamation since it fails to address this grave problem Further, the study recommends the need for collaboration among institutions and allocation funds for police officer and other child rights and protection professionals to receive appropriate education and fulfill the proper equipment for the investigation of the crime. Lastly, the research shades light on the biggest problem that exists in the society that is lack of awareness it recommends the need for empowering communities through education and awareness campaigns since this can contribute to a safer online environment for children.

Acronyms

ACRWC- African Charter on the Right and Welfare of the child

AU- African Union

BOWSA- Bureaus of Women and Social Affairs

CSAM - Child sexual abuse martial

CSEA- Child sexual abuse and exploitation

ICSE- International Child Sexual Exploitation database

ICT - Information and communications technology, or technologies

INTERPOL- International Criminal Police Organization

MOWSA - Ministry of Women and Social Affairs

NCB - National Central Bureau

NCMEC- National Center for Missing and Exploited Children

OCSEA - Online child sexual exploitation and abuse

OPSC – Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

TWG - Technical Working Group

UDHR- Universal declaration of human right

UNCRC- United Nation Convention on the Right of the Child

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Chapter One

1.1. Introduction

Children are particularly vulnerable. Children could be vulnerable for two reasons: situational vulnerability, which is based on societal practices and norms, and inherited vulnerability, which is caused by physical limitations and a lack of knowledge and experience.¹ Because of this, they become dependent on an adult, which makes it possible for their rights to be violated easily.

Sexual violence is one of the crimes committed against children. It can happen in every community and among all social groups, and it can affect boys and girls equally, irrespective of their family history or other circumstances. This is one of the violations committed against children.² Additionally, children can commit sexual violence on other children,³ this could be due to multiple reasons including previous abuse, impulse control problem, substance abuse, and sexualized environment.⁴

Any sexual act or attempt to engage in sexual activity with a person without that person's permission or compelling the victims to engage in sexual conduct together or forcing a person to witness sexual activity constitutes sexual violence.⁵

The perpetrator may abuse a person sexually by using a variety of techniques, such as physical force, compulsion, intimidation, or psychological pressure, along with making false promises. Moreover, sexual violence can occur in a different settings and situations, including home, school, and public areas like parks, it may occur during peace or during wartime.⁶

¹Schweiger,G. Ethics poverty and children's vulnerability. Ethics and social welfare (2019).Accessed from <https://doi.org/10.1080/17496535.2019.1593480>

²Lorraine Radford, Debbie Allnock and Patricia Hynes, Preventing and Responding to Child Sexual Abuse and Exploitation: Evidence review, (2015)

³Janelle C Brown, child on child sexual abuse: An investigation of behavioral and emotional sequelaeUniversity of Pennsylvania, (2004).

⁴ What causes a sexual behavior problem? National center on the sexual behavior of youth, Accessed from www.ncsby.org. Retrieved 2023-02-15.

⁵McDougall, Gay, J. (1998). Contemporary forms of slavery: systematic rape, sexual slavery and slavery-like practices during armed conflict. Final report submitted by Ms. Jay J. McDougall, Special Rapporteur, E/CN.4/Sub.2/1998/13, WHO, Guidelines for medico-legal care for victims of sexual violence, 2003

⁶WHO, Guidelines for medico-legal care for victims of sexual violence, 2003

Studies have indicated that in the world, 1 in 5 girls and 1 in 13 boys have experienced offline sexual exploitation or abuse before turning 18. But there is a difference in the rate between nations.⁷

The violence that a great number of children experience in environments like schools, communities, or families is also occurring via digital technologies as children's online engagement rises globally. Production, distribution, and possession of child pornography, online grooming, sexting, sexual extortion of children (sextortion), online prostitution, CSEAM including virtual child pornography, and live streaming of sexual abuse are some of the different ways that OCSEA can manifest.⁸

As offline sexual exploitation and abuse, OCSEA has vast effects on child victims; children who are the victims of such crime may experience long-lasting harm to their physical, mental, and sexual development, these types of traumatic experiences for children can even be considered torture and other cruel, inhumane, or degrading treatment.⁹ That is why the international community and countries try to put legal frameworks to protect children.

Ethiopia as a nation has provided legal framework to protect children from OCSEA, the criminal code and the computer crime proclamation are the most important legal instruments that are used to address OCSEA, to implement the laws there are institution frameworks which include law enforcement bodies, The research tries to identify the gaps in this laws and institution.

⁷United Nations Children's Fund (2020) Action to end child sexual abuse and exploitation: A review of the evidence, UNICEF, New York, page16

⁸What works to prevent online violence against children? Executive Summary Geneva: World Health Organization; 2022, Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse. Adopted by the Interagency Working Group in Luxembourg, 28 January 2016

⁹ UN Human Right Office Of The Commission, Global Emergency Of Child Exploitation And Abuse Needs Global Action: UN Experts Accessed From <https://www.ohchr.org/en/statements/2022/11/global-emergency-child-exploitation-and-abuse-needs-global-action-un-experts>

1.2. Statement of the Problem

The advancement of digital technology has helped children in their learning and exploration.¹⁰ The development in the digital technology, however, has created a risk to children's safety and well-being because it increased the threats that many children currently face offline. It has also provided perpetrators with more opportunities and easy access to abuse children, the significant increase in child victims of OCSEA throughout the world demonstrates this.¹¹

There is no accurate data on the actual number of victims, but “Interpol’s Child Sexual Exploitation database (ICE) holds more than 4.3 million images and videos and has helped identify more than 32,000 victims worldwide.”¹²

Particularly in Ethiopia data’s indicate that there is an increase in the usage of the internet, out of total population of 119.3 million people, 29.83 million use the internet, and 6.35 million use social media.¹³ But there is a scarcity of disaggregated national data on children’s internet access in Ethiopia, a research conducted by collaboration between the United Nations Children’s Fund (UNICEF), ECPAT International and INTERPOL took a survey from 5,938 households and findings were that one out of every four children between the ages of 12 and 17 uses the internet, here there is a difference between urban and rural area.¹⁴ Children has gotten access to the internet from Wi-Fi which is accessible in public areas including hotels, malls universities, homes and internet cafés, children who live in urban areas are the one who get more access to the internet .¹⁵

A study conducted by UNICEF taking a sample of 1000 households indicates that in 2021, “out of 25% use the internet using children, 10% of children between the age 12 and 17 have experienced some kind of OCSEA, this involves using coercion, money or presents to lure

¹⁰Children and Technology: Positive and Negative Effects (2023),<https://www.globaltrademag.com/children-and-technology-positive-and-negative-effects/>

¹¹ United Nations Children’s Fund (2021) Ending online child sexual exploitation and abuse: Lessons learned and promising practices in low- and middle-income countries, UNICEF, New York

¹²International Child Sexual Exploitation database Accessed from <https://www.interpol.int/en/Crimes/Crimes-against-children/International-Child-Sexual-Exploitation-database>

¹³Digital 2022: Ethiopia, <https://datareportal.com/reports/digital-2022-ethiopia>

¹⁴ ECPAT, INTERPOL, and UNICEF. (2022). Disrupting Harm in Ethiopia: Evidence on online child sexual exploitation and abuse. Global Partnership to End Violence against Children

¹⁵.Id.

children to engage in sexual activity, distributing their sexual photographs without their consent, or blackmailing them into doing sexual activities.¹⁶ When compared to the overall population, this amounts to an estimated 300,000 children who experienced these injuries in a single year.¹⁷ But there were no OCSEA cases recorded by the Ethiopian law enforcement agencies between 2017 and 2019.”¹⁸

Furthermore, according to the NCMEC cyber tipline report, 11,146 CSEAM contents were uploaded, viewed, and shared in Ethiopia in 2022, but this data does not reflect the exact number, which may be impacted by the usage of proxies and anonymizers¹⁹

OCSEA has a devastating and long-lasting effect on children, since different kind of abuse might happen on a single child, for instance, a child may be abused in the process of production then when the material is being distributed and redistributed the child will suffer another trauma and this may take a long time to heal.²⁰

Therefore, the issue is worth investigating because of the following reasons: first there has not been a sufficient study that explores all the legal, institutional and social gaps on the topic in Ethiopia. So the study will critically evaluate whether the existing legal, social and institutional framework actually assist victims in receiving justice. Second, the study tries to examine the what this challenges and opportunities has contributed in combating OCSEA and finally the study looks at the available opportunities and how they may be used to address the challenges. Therefore, the research tried to figure out the challenges and opportunities in Addis Ababa in order to provide possible recommendations for the safety of children.

¹⁶ Id

¹⁷ Id, p.8

¹⁸ UNODC, Study on the Effects of New Information Technologies on the Abuse and Exploitation of Children, United Nations Office at Vienna

¹⁹ National center for missing and exploited children, 2022 CyberTipline Reports by Country, Accessed from <https://www.missingkids.org/content/dam/missingkids/pdfs/2022-reports-by-country.pdf>

²⁰ United Nations Children’s Fund (2021) Ending online child sexual exploitation and abuse: Lessons learned and promising practices in low- and middle-income countries, UNICEF, New York

1.3. Objective of the Study

1.3.1. General Objective

- To identify the socio- legal and institutional opportunities and challenges in addressing OCSEA.

1.3.2. Specific Objective

- a. To assess the existing legal and institutional challenges to address OCSEA
- b. To assess how jurisdictional issues are addressed in prosecuting OCSEA cases
- c. To examine the impact of Ethiopian socio economic cultural way of life on addressing the issue of OCSEA
- d. To assess the responses available to victims of OCSEA

1.4. Research Question

- a. What are the existing legal and institutional gaps to address OCSEA in Ethiopia?
- b. What means are used to address jurisdictional issues?
- c. What are the influences of Ethiopia's socio-economic and cultural way of life on tackling the OCSEA?
- d. What are the responses available for victims of OCSEA?

1.5. Significance of the Study

This research looks into the socio-legal and institutional challenges and opportunities that need to be addressed in order to tackle OCSEA, which is today a prevalent type of violation that poses danger on children living across the globe. As a result those responsible organizations, including policy makers, can use this research to establish ways for victims to seek redress by improving the challenges taking in to consideration the research's findings. In this respect, the immediate beneficiaries of this research are survivors of OCSEA as a result of improved legal and institutional frameworks that are proper to their needs.

Further, the paper could be used as a well-developed literature on the normative content of OCSEA. This paper provides an opportunity for other researchers who are interested in this field to utilize the findings of the study as a foundation for their future research endeavors.

1.6. Scope of the Study

The purpose of this research was to investigate the socio legal and institutional challenges and opportunities to address the OCSEA at the federal level specifically in Addis Ababa.

1.7. Limitation of the Study

This study has encountered three significant limitations. Firstly, there is a lack of extensive literature materials on this particular subject in Ethiopia, making it challenging for the researcher to access relevant research materials. Secondly, due to limited budgetary resources, the researcher faced financial constraints while conducting the study. Lastly, finding experts who possess knowledge in this specific area within various organizations proved to be difficult, as there is a limited pool of experts available for consultation.

1.8. Research Methodology and design

The research attempted to identify the challenges and opportunities in addressing OCSEA by gathering data from the institutions in charge. So, qualitative descriptive research methodology was used to conduct the research. This is because qualitative research approaches are the most effective way to gain insight into problems,²¹ and descriptive research tries to answer “what” questions since the main focus is on description rather than exploring the relation between variables.²² Therefore, the methodology is proper to deeply investigate and describe social, legal and institutional challenges and opportunities in addressing OCSEA.

²¹Mohajan, Haradhan, Qualitative Research Methodology in Social Sciences and Related Subjects 2018 p.1

²²M.L. Dantzker, Susan T. Quinn, Ronald D. Hunter, Research Methods for Criminology and Criminal Justice fourth edition, Kumar,R: “ Research Methodology: A Step-By-Step Guide for Beginners third edition.

1.9. Method of Data Collection

Qualitative research methodology was employed, so the most common data collection methods for qualitative research are used, document review and in-depth interview.²³To collect data the researcher has used in-depth interviews and both primary and secondary sources.

A. Primary Source

1. key informants

An in-depth interview with key informants was used to collect data on the existing legal and institutional challenges and opportunities in addressing OCSEA. the data's include reported cases of OCSEA, existing laws and polices related to OCSEA and existing reporting mechanisms Interviews are the most effective way to get background knowledge or an institutional viewpoint, as well as to grasp personal perspectives.²⁴ In-depth interviews were also conducted with key informants from the organizations responsible for addressing the issue (Federal police, INSA and Ministry of Justice, Public Prosecutor, MOWSA, INTERPOL NCB, NGOs). Purposive sampling was used in the research to choose key informant participants, which is based on their relation to the subject matter.

Accordingly, interviews were conducted with 13 key informants including three experts from law enforcement organs i.e. Federal Police from Cybercrime Unit, Federal Police from Ethiopian Federal Police Commission Crime Investigation Bureau Forensic Investigation Directorate, and Addis Ababa police, four public prosecutors at federal high courts, two experts of INSA senior policy frame work consultancy experts, two participants from UNODC program managers, one participant from UNICEF and one expert from Interpol).

²³ Natasha Mack, Cynthia Woodson, K AthleenM,Macqeen, GrageGust,Emaily Namely, Qualitative Resarch , A Data Collector's Filed Guidline, Glenn A. Bowen, Document Analysis as a Qualitative Research Method

²⁴David Barrett, Alison Twycross, Data collection in qualitative research,Evidence-Based Nursing2018;Accessed From <http://dx.doi.org/10.1136/eb-2018-102939>

2. In-depth interviews

In-depth interviews with 25 children from the age of 12 to 17 and 15 parents were conducted to identify the influences of Ethiopia's socio-economic and cultural way of life on tackling on social and economic impacts. The data's include awareness on OCSEA, reporting To choose the participants, the researcher used purposive selection procedure, which is based on their internet access in their homes.

B. Secondary data

In order to attain the research goals, the research employed secondary sources in addition to primary sources. The study has reviewed several existing literature (both published and unpublished), journals, articles, reports, news, and international regional and national legal instruments on the issue. And also online sites were used to get data's on the subject matter. Consequently, using those data gathering techniques provided the researcher with an overall view of the legal and institutional framework in existence, as well as allowed the researcher to thoroughly investigate the system in place and identify the socio-legal and institutional challenges.

1.9.1. Research Approach

To analyze the socio- legal and institutional challenges in addressing OCSEA in Ethiopia, the researcher took thematic analysis technique. This technique is appropriate since it can be used to infer meaning about situations, opinions, or ideologies via the lens of a certain conceptual or theoretical framework, this technique involves evaluating how data patterns depict specific conceptual and theoretical notions, it also enables researchers to describe and clarify participant views using their own descriptions.²⁵ And the researcher intends to highlight the challenges to tackling OCSEA by categorizing them into common teams.

²⁵ Chad R. Lochmiller Indiana,(2021) Conducting Thematic Analysis with Qualitative Data. The Qualitative Report,26(6), University, c

1.10. Ethical Consideration

This study was guided by research ethics rules. Informed consent of the interview participants was obtained before conducting the interviews. Consent from the children was obtained from parents. Moreover, the dignity and rights of every child was respected, the principles of best interests of the child in which special attention to the privacy and confidentiality of the child was given, do no harm principle by which , questions, attitudes or comments that are judgmental and insensitive , that place a child in danger or expose a child to humiliation, or that reactivate the pain of traumatic events was avoided and the principle of non-discrimination was applied so that children will not be discriminated based on their sex, race, disability. These principles and standards were strictly enforced.

Furthermore, the researcher has acknowledged the work of others and has used quotation marks to show the specific phrases taken from others.

1.11. Data Collection Process

The researcher first communicated with the parents and got their consent, after that researcher explained the objective of the interview to the child. And in order to protect the children from potential harm and establish confidence when collecting data through in-depth interviews, particular care was taken by having a social worker present throughout the interview and the place for the interview was selected based on the children's and their parent's choice.

And to interview the key informants, a letter for cooperation was submitted to their respective organizations and after getting the permission from the organizations officials experts

were assigned, after meeting the experts the objective of the research was explained and the researcher has made sure that they agree to take part in the interview.

All interview participants were notified that they may withdraw at any point during the interview, and that the information they offer would be kept secret and published anonymously in the research.

1.12. Definitions of Terms

- **Cyber-crime:** - criminal activity that entails the use of a computer system, computer technology, or the internet.²⁶
- **Digital technology:** - Digital technology refers to electronic tools, devices, and systems that process, transmit and store data in a binary form(meaning that can be understood by machine).²⁷
- **Double Criminality :-** as a condition for jurisdiction and extradition the conduct must be punishable under both states ²⁸
- **Revenge porn :-** Sexually explicit photos or videos of someone either distributed or threatened to be distributed without the person's consent for an improper purpose such as punishing the victim for ending a relationship, coercing the person to continue the relationship, or extorting sex acts from the victim.²⁹
- **Virtual Child Pornography:** - is digitally produced child pornography with digital techniques to seem as though real children were participating in the sexual activity, this is referred as. It includes virtual photographs, comics, drawings, and cartoons. ³⁰

²⁶ Legal dictionary Accessed from <https://legaldictionary.net/>

²⁷ <https://programminginsider.com/what-is-digital-technology/>

²⁸ Dr Christine Venden Wyngaert Double Criminality as request for jurisdiction Accessed from <file:///C:/Users/user/Downloads/DOUBLE%20CRIMINALITY.pdf>

²⁹ Black's Law Dictionary 11th Edition, featured new terms , Accessed from <https://www.legalcurrent.com/blacks-law-dictionary-11th-edition-featured-new-terms/#:~:text=revenge%20porn.%20Sexually%20explicit%20photos%20or%20videos%20of,relationship%2C%20or%20extorting%20sex%20acts%20from%20the%20victim.>

³⁰ ECPAT. Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse. Adopted by the Interagency Working Group in Luxembourg, 28 January 2016 p.41

1.13. Organization of the Research

This research consists of five chapters. Chapter one covers the statement of the problem, objective of the study, research question, significance of the research, scope ,limitations of the research, methodology and method of the research. The second chapter constitute conceptual and theoretical framework of OCSEA .The third chapter looks at international, regional, and national legal and institutional frameworks, the fourth chapter disuses the socio-legal and institutional challenges and opportunities , and conclusions and recommendations are covered under chapter five.

Chapter Two

2.1. Conceptual and Theoretical Framework on OCSEA

2.1.1. What is OCSEA?

Looking back to history children are subjected to different kinds of sexual exploitation. For instance, in Rome, girls as young as 7 years old were married to older man, in Greek boys around the age of 12 used to enter in to a sexual relation with other men but after the invention of camera in 1826 creating CSEM was brought as a new form of child abuse.³¹ At the beginning child pornography was not believed to have a particular role in sexual abuse; it was considered as a minor problem, but since the mid 1990's, there has been change in the nature of child pornography especially in terms of availability and distribution. This has led to a massive media attention and caused societal concern.³²

In 1999, the International Conference on Combating Child Pornography on the Internet was held in Vienna and the working groups agreed to take actions to eliminate child pornography from public areas of the internet, and support law enforcement in its efforts to bring the producers of such material and child abusers to justice.³³

In the past 15 years, due to the rapid rise in access to and involvement with the internet and other digital technologies, children's social and educational environments have undergone a significant shift.³⁴ Smart phone advancements have also reduced children's engagement with their families and the outside world, which has encouraged a "bedroom culture" in which many children's online access has become more private and unsupervised.³⁵

³¹Bryce Garreth Westiake, The past, present, and future of online child sexual exploitation: Summarizing the evolution of production, distribution, and detection, San Jose State University, 2020

³² Max Taylor and Ethel Quayle, Child Pornography An Internet Crime, 2003, yaman Akdeniz, Internet Child Pornography and the Law National and International Responses, (2008)

³³ Vienna Commitment against Child Pornography on the Internet Conclusions and recommendations of the international conference Combating Child Pornography on the Internet" 29 September to 1 October 1999

³⁴ Chris Hollis, Sonia Livingstone, Edund sonuga bark, : The role of digital technology in children and young mental health – a triple-edged sword? (2020) Accessed from <https://doi.org/10.1111/jcpp.13302>

³⁵ Interagency Working Group, Explanatory Report to the Guidelines regarding the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 2019

These developments have its own benefit and risk. They may cause harm to the child's physical, emotional, or mental health. These risks are classified into four; content (when the child engages with and/or is exposed to potentially harmful content), contact (when the child experiences and/or is targeted by potentially harmful contact), conduct (witnesses, participates in and/or is a victim of potentially harmful conduct)and contract (when the child is party to and/or exploited by a potentially harmful contract).³⁶

And when these risks are seen in light of sexual violence, content risk involves a child engaging with or being exposed to pornography, sexualization, contact risk involves a child experiencing sexual harassment, sexual grooming, sextortion, the production and sharing of CSAM, conduct risk involves, a child witnessing or participating in a peer conduct like sexual harassment, sexting ,adverse sexual pressure and finally contract risk involves a child being party to trafficking for the purpose of sexual exploitation and /or to live stream sexual abuse.³⁷

The developments and risks of the digital technology is not the same around the world. Keeping this in mind, studies indicate that, one in three people using the internet are under the age of 18,³⁸this means 33% of children (aged 3-17) throughout the world have access to the internet.³⁹ And according to the report, a from National Center for Missing and Exploited Children in 2022 show that it has received 32 million reports through the cyber tip line this includes child pornography (possession, manufacture, distribution), grooming, child sex trafficking unsolicited obscene material sent to a child, misleading domain name, child sexual molestation, child sex tourism.⁴⁰

OCSEA is one of the crimes that are committed using digital technology. And Crimes committed using digital technology can be divided into two categories: cyber enabled and cyber

³⁶ Stoilova, M., Rahali, M. & Livingstone, S (2023) Classifying and responding to online risk to children: Good practice guide. London: Insafe helplines and the London School of Economics and Political Science (LSE).

³⁷ Id

³⁸ Global kids online comparative report, Global Kids Online project management: Daniel Kardefelt-Winther, UNICEF Office of Research – Innocenti; Sonia Livingstone, London School of Economics and Political Science; MariyaStoilova, London School of Economics and Political Science; Jasmina Byrne, UNICEF New York Headquarters

³⁹United Nation Children's Fund and International Telecommunication Union, "How many children and young people have internet access at home? estimating digital connectivity during the COVID 19 pandemic" UNICEF, New York, 2020

⁴⁰National Center for Missing and exploited children, Cyber tip line(2022), Accessed from <https://www.missingkids.org/cybertiplinedata>

dependent. Cyber enabled crimes are crimes that do not necessarily require the use of digital technology to be committed, but the technology facilitates their commission while cyber dependent crimes are crimes that require the use of digital technology to be committed.⁴¹ OCSEA falls under the category of cyber enabled crimes⁴², since perpetrators are enabled to gain the access to abuse and exploit children with digital technologies.

OCSEA still does not have universally accepted definition. However, the term is used to describe cases of child sexual exploitation and abuse that are made possible in whole or in part by digital technology, specifically the internet.⁴³ Online and offline child sexual abuse may occur concurrently for instance the abuse may take place offline and be disseminated online, or the internet may enable the abuse.⁴⁴

OCSEA carries two concepts. These are sexual abuse and exploitation. Both sexual abuse and sexual exploitation are concepts that overlap. The difference between them lies on outcome the perpetrator sought. The former is a sexual act committed forcefully or by deceiving the victim for the purpose of pleasure⁴⁵ while the latter involves getting some kind of benefit.⁴⁶

2.1.2. The Perpetrators of OCSEA

The Perpetrators could be individuals, legal persons and organized criminal groups. Individuals could abuse children for different reasons for financial gain or their own personal gratification, in terms of sexual offending against children, individuals can be categorized in three: opportunistic child sex offenders, pedophiliacs, traffickers or pimps,⁴⁷ these individuals might target children online to sexually abuse or exploit them.

⁴¹ Ron Alvarez, Cyber Enabled Crime vs. Cyber Dependent Crime, September 2021

⁴²What is Cybercrime? Accessed From <https://www.norfolk.police.uk/advice/cybercrime/1-what-cybercrime>

⁴³ United Nations Children's Fund (2021) Ending online child sexual exploitation and abuse: Lessons learned and promising practices in low- and middle-income countries, UNICEF, New York

⁴⁴ECPAT. Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse. Adopted by the Interagency Working Group in Luxembourg, 28 January 2016 p. 23

⁴⁵ECPAT. Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse. Adopted by the Interagency Working Group in Luxembourg, 28 January 2016

⁴⁶UN Secretariat, "Secretary-General's Bulletin on Special Measures for Protection for Sexual Exploitation and Abuse"

⁴⁷ Richard J. Estes and Neil Alan Weiner the Commercial Sexual Exploitation of Children In the U. S., Canada and Mexico, report, University of Pennsylvania and Gilian Tenbergen, Matthias Wittfoth, Helge Frieling, Jorge Ponseti, Martin Walter, Henrik Walter, Klaus M. Beier, Boris Schiffer, and Tillmann H. C. Kruger *The Neurobiology and Psychology of Pedophilia: Recent Advances and Challenges*, (2015) Accessed from <file:///C:/Users/user/Downloads/fnhum-09-00344.pdf>

Legal persons could be offenders, the CRC committee has stressed that states should make legal persons liable under criminal, civil or administrative law for having committed, attempted to commit, been complicit in or participated in the offence covered by the OPSC.⁴⁸ A recent advertisement campaign by the luxury clothing company Balenciaga that showed children with provocative objects has been released, the advertisement included pictures of two young girls holding teddy bear purses that had sex fetish-related accessories. After receiving multiple criticisms, the company has publicly apologized and is suing the set designers who organized the shoot.⁴⁹ This case is a good example that shows even big companies can use and abuse children and states may not take a swift action against such offences.

And finally organized criminal groups are enabled by the digital technology to easily and cheaply recruit victims for producing CSAM and find consumers.⁵⁰ According to the report of the special rapporteur on the sale of children, child prostitution and child pornography creation and dissemination of CSAM is estimated to generate between \$3 billion to \$20 billion.⁵¹

2.1.3. Types of online child sexual exploitation and abuse

There are different types of OCSEA. One or more of types of abuse and exploitation can be committed against a child.

A. Online grooming/solicitation of children for sexual purposes

It is the use of the internet or other digital means to create a relation with the child with the intention to engage in an online or offline sexual activity with the child.⁵² The perpetrator may use different techniques to create the relationship to gain the child's trust like lying his/her age, sharing secrets common interests.⁵³

⁴⁸CRC Committee, CRC /c/156, para 79

⁴⁹ The Gaurdian, Accessed From <https://www.theguardian.com/fashion/2022/nov/29/balenciaga-apologises-for-ads-featuring-bondage-bears-and-child-abuse-papers>

⁵⁰ UNODC, study on the effects of new technology on the abuse and exploitation of children,2015

⁵¹ Promotion And Protection Of All Human Rights, Civil, Political, Economic, Social And Cultural Rights, Including The Right To Development Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Najat M'jid Maalla(2009) A/HRC/12/23 para 44

⁵²ECPAT. Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse. Adopted by the Interagency Working Group in Luxembourg, 28 January 2016pp.49

⁵³International Centre for Missing & Exploited Children Online Grooming of Children for Sexual Purposes: Model Legislation & Global Review,(2017)

Offline grooming has phases. Which include choosing the victim then establishing friendship and isolating the victim then building trust with the child and his/her families then the perpetrator starts to introduce sexual chats in their conversation finally he works to keep the relationship for the purpose of further abuse or to influence the child not to disclose the abuse.⁵⁴ Even though online grooming has similar phases, the difference here is the victim is unable to identify the real person grooming him/her.⁵⁵

International laws such as the UNCRC and the OPSC do not directly address online grooming. However, the CRC committee states that it is a kind of child sexual exploitation and grooming of a child may occur in the context of creation and distribution of material showing child sexual abuse (child pornography)⁵⁶

At the regional level, the AU Agreement on Cyber Security and Personal Data Protection stipulates that it is illegal to facilitate or provide access to pornographic content to a minor, which include online grooming elements.⁵⁷

Out of 196 countries 63 countries have legislation specific to online grooming , 133 countries have no such legislation and 51 countries have defined “online grooming” to include computer- and Internet-specific terminology this include united state, United Kingdom, Trinidad & Tobago Antigua & Barbuda, Argentina Aruba ,Australia, Austria, Belgium, Botswana, Brazil , Brunei Darussalam, Bulgaria, Canada, Chile, Colombia , Costa Rica, Croatia, Cyprus ,Czech Republic, Ecuador, El Salvador, Estonia, Finland , France, Germany.⁵⁸

⁵⁴Georgia M. Winters , Elizabeth L. Jeglic& Leah E. Kaylor (2020): Validation of the Sexual Grooming Model of Child Sexual Abusers, Journal of Child Sexual Abuse

⁵⁵International Centre for Missing & Exploited Children Online Grooming of Children for Sexual Purposes: Model Legislation & Global Review,(2017)

⁵⁶CRC Committee, CRC /c/156, para 68

⁵⁷African Union Convention on Cyber Security and Personal Data Protection Article 29(3)(1)(d)

⁵⁸International Centre for Missing & Exploited Children ,Online Grooming of Children for Sexual Purposes: Model Legislation & Global Review,(2017)

In Ethiopia, according Proclamation No. 958/2016, online grooming is prohibited. The legislation covers sexually explicit communication online with a child for the purpose of enabling sexual abuse.⁵⁹ It is not clear whether the abuser should have the intention to meet the child offline or commit the abuse solely online.

B. Sexting

It is the self-production, sharing, and transmission of sexually provocative indecent or almost nude photos through mobile phones and/or the internet, this means that the child is the one producing the images or the videos.⁶⁰

It is usually committed between peers willingly, who think that this is fun, but it can also be unwanted when his / her peers coerce the child to send a picture or videos.⁶¹

Sexting is not a crime under any international regional or national legal instrument. In some countries, the child is criminally charged for producing the image/video, however, some argue that the child should not be charged because they are victims themselves.⁶²The CRC committee has also stated that children should not be criminally prosecuted for production of their own images but if the images are produced due to blackmailing, coercion, against the will of the child and afterwards if the images are distributed, disseminated, imported, exported, offered sold those responsible should be punished.⁶³

C. Sextortion(Sexual Extortion)

Is the process of pressuring a child to expose or disseminate explicit, pictures or videos or sexual chats for the purpose of obtaining more images, sexual favors, money, or something else, it is linked to sexting and grooming.⁶⁴For instance, the perpetrator could start a relationship with a child, influencing the child into online or offline sexual interaction, typically involving the creation and transmission of sexual photographs or films to the offender. After obtaining the

⁵⁹ Computer crime Proclamation No. 958/2016art 12(2)

⁶⁰ECPAT, Online child sexual abuse and exploitation: Current forms and good practice for prevention and protection , 2017

⁶¹Id

⁶²Id

⁶³CRC Committee, CRC /c/156, para 67

⁶⁴Justin W. Patchin and Sameer Hinduja, Sextortion Among Adolescents: Results From a National Survey of U.S. Youth,2020, CRC Committee, CRC /c/156, para 69

photographs/videos, the offender may blackmail, intimidate, and demand a child into giving more images, money, or sexual favors under the fear of the child's images being disseminated with family, friends, and others.⁶⁵

Sextortion may be considered child sexual abuse if the extortionist is a family member who takes advantage of the trust relationship to acquire images and further exploit the child. If the perpetrator is a stranger, it may be called predation and grooming, in which a child is gradually used by an unfamiliar online friend.⁶⁶

Sextortion can be seen as a form of revenge porn that uses non-physical coercion means to get sexual favors from the victim.⁶⁷ The similarity between the two is both are forms of image-based sexual abuse that employ personal photographs as the primary mechanism to influence or cause harm on the victim. The difference between them is that the perpetrator of revenge porn seeks to publicly humiliate the target, whereas the perpetrator in sextortion seeks to secretly extract something from the target. Sextortion might develop into revenge porn if the photographs taken and privately and later publicly released.⁶⁸

For an act to be categorized as sextortion, it requires the presence of two elements i.e. sexual element and corruption element.⁶⁹

1. **Sexual element**– an implicit or explicit request to participate in any form of forced sexual acts, which includes, among other things, revealing private body parts, requesting images or pornographic material, and unwelcome contact.
2. **Corruption element** - the person making the request must hold a position of authority, which they misuse by demanding or accepting the sexual component (benefit) in return for using the power that has been handed to them.

⁶⁵ International Centre for Missing & Exploited Children, Online Grooming of Children for Sexual Purposes: Model Legislation & Global Review.(2017) p.15

⁶⁶ Justin W. Patchin1 and Sameer Hinduja Sextortion Among Adolescents: Results From a National Survey of U.S. Youth

⁶⁷ AMNA, Extortion, Sextortion & Blackmail: The Differences(2019)Accessed from <https://safeamna.org/2019/09/29/extortion-sextortion-blackmail-the-differences/>

⁶⁸ Justin W. Patchin1 and Sameer Hinduja Sextortion Among Adolescents: Results From a National Survey of U.S. Youth

⁶⁹Guilherme France,Criminalizing sextortion: challenges and alternatives,2022

Sexual extortion is not expressly prohibited under any of the international, regional and national legal instruments. Under the Ethiopia, the computer crime proclamation criminalizes intentionally intimidating or threatening another person or his families with serious danger or injury by disseminating any writing, video, audio or any other image through a computer systems.⁷⁰ Even though the provision does not expressly prohibit sexual extortion some of the elements of sextortion are present.

D. Live Streaming of child sexual abuse

There is no internationally agreed definition for live streaming of CSA.⁷¹ But some documents describe it as the live transmission of CSA through digital technology for others to watch it.⁷² The abuse is dual in real time via the internet; it occurs in online chat rooms, social media platforms, and video chat features.⁷³ It involves the production and transmission of CSAM and the exploitation of children in prostitution⁷⁴

Live streaming can be either abuse of one or more children being broadcasted online, or a child / children being forced to perform sexual activities in front of a camera (usually for payment).⁷⁵ Offenders can request during or at the beginning for specific abuse to be performed, this is called child sexual abuse to order.⁷⁶

It has been suggested that economic disparities play a role in this, since payment is required; perpetrators from developed countries reach victims in developing countries where child protection has not been given attention, poverty is high, and there is easy access to children.⁷⁷ The majority of victims of live-streamed abuse on the internet are from South-East Asia, specifically the Philippines and the majority of offenders are from Europe and the United

⁷⁰ Computer crime proclamation 958/2016, art 13 (1)

⁷¹We Protect Global Alliance, Global Threat Assessment 2021, Accessed from <https://www.weprotect.org/global-threat-assessment-21/#report>

⁷²ECPAT. Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse. Adopted by the Interagency Working Group in Luxembourg, 28 January 2016 p.47

⁷³ ECPAT, Online child sexual abuse and exploitation: Current forms and good practice for prevention and protection , 2017

⁷⁴ Id

⁷⁵ We Protect Global Alliance, Global Threat Assessment 2021, p. 60 Accessed from <https://www.weprotect.org/global-threat-assessment-21/#report>

⁷⁶ECPAT. Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse. Adopted by the Interagency Working Group in Luxembourg, 28 January 2016 p.47

⁷⁷ECPAT, Summary paper on online child sexual exploitation , 2020 p. 6

States.⁷⁸ Some evidence suggests that a number of offenders who watch live streaming of child sexual abuse also travel abroad to physically abuse children in non-EU nations.⁷⁹

Payment methods include internet payment services, money transfer services, and local payment centers and mobile phone payments are a popular growing payment technique that does not require a credit card or even a bank account.⁸⁰

Because live streaming of child sexual abuse involves the act of live broadcasting child sexual activities rather than actually recording a picture or video depicting child sexual abuse, obtaining evidence of the abuse and charging offenders for possession, production, or dissemination of child sexual abuse/exploitation material can be difficult, unless the abuser purposely records it after the streaming ends.⁸¹

Live streaming of self-generated content has increased significantly on well-known social media platforms, such as Face book and Instagram. This occurs when the offender grooms victims or they are acting it for their peers. The majority of self-generated live streaming is from westerns, and this may lead to sextortion.⁸²

Live streaming child sexual abuse is not explicitly included in international, regional, or national legal instruments.

E. Child sexual abuse / exploitation material (Child Pornography)

Under the OPSC, CSAEM is defined as 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.⁸³ Child pornography does not necessarily refer to videos audios, pictures, posters, images showing children participating in sexual activity. It might also be virtual child pornography; The OPSC prohibits possession of child pornography if it is for the purpose of producing, distributing, disseminating, importing, exporting, offering, selling.⁸⁴ The

⁷⁸ECPAT, Online child sexual abuse and exploitation: Current forms and good practice for prevention and protection, 2017

⁷⁹EUROPOL, internet organized Crime Threat Assessment, 2018 Accessed from

<https://www.europol.europa.eu/internet-organised-crime-threat-assessment-2018#downloads>

⁸⁰ Id

⁸¹ECPAT, Online child sexual abuse and exploitation: Current forms and good practice for prevention and protection, (2017)

⁸² Id

⁸³ OPSC Art 2(c)

⁸⁴UNICEF, Handbook On The Optional Protocol On The Sale Of Children, Child Prostitution And Child Pornography, (2009)P.12

CRC committee has also underlined that states should take legislative measures to criminalize the act of recruiting or coercing a child into participating in pornographic performance and knowingly attending pornographic performance involving children and also to criminalize CSAM involving non-existent children meaning virtual child pornography.⁸⁵

The AU Cyber Convention prohibits both virtual and actual use of a child in pornography it also prohibits the mere possession of child pornography materials.⁸⁶

Out of 196 countries, 138 countries have legislation on CSAEM, while 10 countries do not have legislation on CSAEM, 34 countries have not defined CSAEM, and 28 countries do not criminalize the knowing possession of CSAEM regardless the intent to distribute, these countries include Zimbabwe, Zambia, United States, United Arab Emirates, Italy⁸⁷

Ethiopia has criminalized child pornography under proclamation 958/2016 and the possession of child pornography is criminalized if it is without authorization.⁸⁸

2.1.4. Drivers of OCSEA

1. Accessibility

Because of the growing use of social media platforms, smart phones with cameras, and the accessibility of live video communication, offenders now have more opportunity to engage with children.⁸⁹

2. Economic factors

The vulnerability of children to sexual exploitation is greatly impacted by poverty and economic disparity.⁹⁰ Poverty may force children into survival sex and the internet may easily expose them to interact with individuals who can abuse their economic vulnerabilities.⁹¹

⁸⁵CRC Committee, CRC /c/156, para 63&64

⁸⁶ African Union Convention on Cyber Security and Personal Data Protection, article 1, 21(3)(a),(b)&(c) respectively

⁸⁷ International Centre for Missing & Exploited Children Child Sexual Abuse Material: Model Legislation & Global Review, 2023

⁸⁸ computer crime proclamation 958/2016, art 12(1)

⁸⁹ Malin Joleby, Technology-Assisted Child Sexual Abuse, (2021)

⁹⁰ The Dark Side Of The Internet For Children Online Child Sexual Exploitation In Kenya - A Rapid Assessment Report, 2018

Families could even subject their children for such kind of violation to get money. Due to poverty parents may go to the extreme to get money. A woman in Romania was sexually abusing her one-year-old daughter and three-year-old son via Skype for payment. The investigation was started after the offender (watching the video) had a conversation with her.⁹²

3. Conditions of the child

Children from marginalized groups, girls, children with disabilities, and children who have mental health issues, children who are not in school, and children from low-income households could put at risk for OCSEA.⁹³ Additionally, previous experiences of sexual abuse and dysfunction in the family may raise the possibility of becoming a victim.⁹⁴ This is because these children lack self-esteem, isolate themselves and look to others for friendship and validation, making them easy target for the perpetrator.⁹⁵

4. lack of awareness

Children in communities with little or no awareness of the various types of sexual abuse and exploitation are more subjected to such kinds of violations. This is because of lack of awareness leads to unguided access and could make the child vulnerable to the abuse and exploitation.⁹⁶ Furthermore children who are unaware of their rights are more likely to be abused, discriminated against, and exploited.⁹⁷

2.1.5. Consequence of sexual violence on children

Sexual violence against children has lifelong impacts on the child and families, communities, and nations. On personal level, sexual violence causes physical, psychological/mental, behavioral disorders are the major impacts of sexual violence on

⁹¹ United Nation General Assembly resolution A/76/144, Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, Mama Fatima Singhateh, Accessed from <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/196/73/PDF/N2119673.pdf?OpenElement>

⁹² EUROPOL, *Internet Organized Crime Threat Assessment*, (2018) P.35

⁹³ UNICEF, *Children in a Digital World*, (2017) P.80

⁹⁴ UNODC, study on the effects of new technology on the abuse and exploitation of children, 2015

⁹⁵ UNICEF, *Children in a Digital World*, 2017

⁹⁶ Id

⁹⁷ Amnesty International, *Children's Human Rights*, Accessed at <https://www.amnesty.org/en/what-we-do/child-rights/>

children.⁹⁸ People who experienced childhood sexual abuse are more likely to experience medically unexplained symptoms like irritable bowel syndrome or chronic pain, as well as mental illness and high healthcare utilization, than people who did not experience such abuse.⁹⁹

Among the long-term effects on mental and psychological health include diagnoses of post-traumatic stress disorder, anxiety, depression, eating disorders, sleep difficulties, and suicide and self-harm thoughts additionally victims will suffer from brain development problems.¹⁰⁰

These impacts may affect their behavior which could be exhibited by making poor choices like substance abuse or participating in unprotected sex and this will make it difficult for them to have good relation with others and live a healthy life.¹⁰¹ As a result, children who have become victims of sexual violence may be underperforming in both academics and the workforce later in their life.¹⁰²

2.2. Modern day slavery and OCSEA

Modern Slavery is when a person is used by others for the offenders own or another person's benefit and the person losses freedom.¹⁰³ The term comprises slavery, servitude, forced and compulsory labour and human trafficking. The perpetrators of this crime could be individuals, small businesses or a wider organized crime network.¹⁰⁴

It is estimated that around 49.6 million people live in modern slavery (forced labour and forced marriage) and 6.3 million are in commercial sexual exploitation and children constitute

⁹⁸Cate Fisher, Alexandra Goldsmith, Rachel Hurcombe, Claire Soares, The impacts of child sexual abuse:A rapid evidence assessment, July 2017, Accessed from <https://www.who.int/news-room/fact-sheets/detail/violence-against-children>

⁹⁹ Id

¹⁰⁰, Cate Fisher, Alexandra Goldsmith, Rachel Hurcombe, Claire Soares, The impacts of child sexual abuse:A rapid evidence assessment, July 2017 Accessed from <https://www.who.int/news-room/fact-sheets/detail/violence-against-children>

¹⁰¹Judy Cashmore and Rita Shackel, The long-term effects of child sexual abuse ,2013

¹⁰²Denelle M. McWherter, The impact of sexual abuse on student performance,2005 University of Northern Iowa

¹⁰³ Anti slavery international, What is modern slavery?, Accessed from <https://www.antislavery.org/slavery-today/modern-slavery/>

¹⁰⁴Modern slavery awareness and victim identification guidance, Managing risks associated with modern slavery a good practice note for private sector

roughly a quarter of all victims of modern slavery and 1.7 million children are in commercial sexual exploitation.¹⁰⁵

Any form of slavery is prohibited under international legal instruments.¹⁰⁶ Any work that is likely to harm children's health, safety, or morals due to its nature or the conditions, under which it is carried out, and specifically the use, procurement, or offering of a child for prostitution, the creation of pornography, or the staging of pornographic acts is categorized as the worst forms of child labor under the ILO convention.¹⁰⁷

The digital technology is used to force victims into crime, forced labour, and to harvest and sell their organs and also for sexual exploitation especially social medias are used to enable modern day slavery since offenders have got the access to target several individuals in various areas at once, by anonymously accessing victims personal information, and taking advantage of their vulnerabilities.¹⁰⁸ Social media platforms are used to facilitate forced commercial sexual exploitation of both adults and children, offenders attract victims through false job advertisement or under the pretense of forming friendship or relationship.¹⁰⁹

Online offenders also extort children for material or money and may subject them to sexual coercion and in-person sexual abuse.¹¹⁰ And human traffickers use the internet to groom children and they either offer tickets so that they meet the victim or they use the internet as a market place to sell live streaming and buyer logs in on sites or buy it.¹¹¹

¹⁰⁵International Labour Organization (ILO), Walk Free, and International Organization for Migration (IOM), Global Estimates of Modern Slavery: Forced Labour and Forced Marriage, Geneva, 2022

¹⁰⁶UNDHR, Art 4

¹⁰⁷Worst Forms of Child Labour Convention, 1999. Art 3 (b)&(d)

¹⁰⁸The Role of the Internet in People Smuggling and Human Trafficking, e Crime Research Reports. Accessed from: <https://www.academia.edu/34645738>, UNODC, Global Report on Trafficking in Persons (2020), Accessed from https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf

¹⁰⁹Brittany Anthony, On-Ramps, Intersections and Exit Routes: [A Roadmap for Systems and Industries to Prevent and Disrupt Human Trafficking](https://polarisproject.org/wp-content/uploads/2018/08/A-Roadmap-for-Systems-and-Industries-to-Prevent-and-Disrupt-Human-Trafficking-Social-Media.pdf). (2018). Accessed from: <https://polarisproject.org/wp-content/uploads/2018/08/A-Roadmap-for-Systems-and-Industries-to-Prevent-and-Disrupt-Human-Trafficking-Social-Media.pdf>

¹¹⁰UNICEF, Sexual violence against children Accessed From <https://www.unicef.org/protection/sexual-violence-against-children>

¹¹¹Brittany Anthony, On-Ramps, intersection and exist routes ; [A Roadmap for Systems and Industries to Prevent and Disrupt Human Trafficking social media](https://polarisproject.org/wp-content/uploads/2018/08/A-Roadmap-for-Systems-and-Industries-to-Prevent-and-Disrupt-Human-Trafficking-Social-Media.pdf) , (2018) Accessed from: <https://polarisproject.org/wp-content/uploads/2018/08/A-Roadmap-for-Systems-and-Industries-to-Prevent-and-Disrupt-Human-Trafficking-Social-Media.pdf>

The internet is being used to control, use, abuse, and exploit children, depriving them of their freedom. Traffickers can use various methods to control victims, including location-tracking software and the use of global positioning systems in mobile phones to determine the victim's location, and traffickers can commit sextortion to acquire additional images.¹¹²

In conclusion OCSEA is a transnational crime that is committed particularly against children, it may take different forms but in some instances these forms may overlap, it may also overlap with offline child sexual abuse and exploitation. Furthermore the complexity of the crime makes it difficult for investigators to investigate the crime since the perpetrator can be anonymous that use dark websites

¹¹² United Nation, Traffickers abusing online technology, UN crime prevention agency warns Accessed from <https://news.un.org/en/story/2021/10/1104392>

Chapter Three

3.1. Legal and Institutional Frame Works

OCSEA is a transnational crime, so it is difficult for a single state to prevent and protect children from being abused and exploited online. Therefore, it is crucial that the international community come to an agreement regarding the need for an effective, multi-sectoral, and global response. Having international, regional and national legal instruments is one of way in which this form of collaboration is facilitated. This chapter will review some of the most important international and regional mechanisms addressing the issue.

3.1.1. International, Regional and National Legal Instruments on OCSEA

a. International Legal Instruments on OCSEA

Sexual violence is a crime that violates the victim's right to human dignity and the right to bodily and mental integrity and respect for human dignity is the foundation of human rights.¹¹³ To prevent and protect children from any kind of sexual abuse including in the online environment the international community has developed legal instruments. The major legal instruments that deal with children's issue are the UNCRC and the OPSC.

i. UNCRC

The UNCRC is one of the binding legal instrument that outline civil, political, economic, social and cultural rights of every child, regardless of their race, religion or abilities. It recognizes children as equal bearers of human rights and as capable agents in the pursuit of those

¹¹³Legal framework for combating sexual exploitation of children, Peter Newell in close collaboration with UNICEF's Innocenti Research Centre and with contributions from the NGO Group for the Convention on the Rights of the Child, ECPAT and those who attended the Expert, Consultation on "Legal Frameworks, Procedures and Enforcement: Preventing and Responding to Sexual Exploitation of Children and Adolescents", held in Bern, Switzerland in October (2008).

rights. Furthermore it encompasses all basic rights recognized under the UDHR, ICCPR and ICESCR.¹¹⁴

Even though it does not provide a comprehensive definition of sexual abuse and exploitation, it has clearly indicated that children should be protected from sexual abuse. Article 19 of the UNCRC requires states to take legislative, administrative, social and educational measures to protect children from violence including sexual violence while in care of some one. The protective measures that a state party is expected to adopt are described under sub article 2, including the creation of social programmes and structures for handling incidents of child abuse.

And article 34 of the UNCRC specifically address the issue of sexual abuse, it requires states to protect children from all types of sexual exploitation and abuse, and for this purpose states can take national, bilateral and multilateral measures to prevent the inducement or coercion of a child to engage in any unlawful sexual activity, exploitative use of children in prostitution or other unlawful sexual practices and exploitative use of children in pornographic performances and material.

ii. OPSC

OPSC is an instrument that is entirely dedicated to addressing child sexual abuse and exploitation, it is the first comprehensive international instrument prohibiting and defining CSAM.¹¹⁵

It was adopted by resolution A/RES/54/263 in 2000 at the fifty fourth session of the United Nation General Assembly and it came into force on 18 January 2002.¹¹⁶ The OPSC is an instrument which focuses on the State's obligations to criminalize, prevent, investigate, prosecute, punish, and cooperate internationally in order to prevent the sale of children, child prostitution and child pornography both within and across State borders. The OPSC criminalizes the production, distribution, dissemination, importation, exportation, offering, selling, or

¹¹⁴Peter Newell, Legal frameworks for combating sexual exploitation of children, 2008

¹¹⁵UNICEF, Handbook On Optional Protocol On The Sale Of Children, Child Prostitution And Child Pornography

¹¹⁶United Nations Treaty Collection, optional protocol to the convention on the right of the child on the sale of children, child prostitution and child pornography, Accessed from https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-c&chapter=4&clang=en

possession of child pornography; it does not criminalize having access to child sexual abuse material, as a result, it falls short of adequately addressing the issue of OCSEA.¹¹⁷ The committee also urges States parties to criminalize the intentional causing, for sexual purposes, of a child to witness sexual abuse or sexual activities, even without having to participate¹¹⁸

The OPSC not only require states to criminalize child sexual abuse but it also requires states to take steps to provide assistance and compensation for victims.¹¹⁹ The committee requires state to provide services like health care, social reintegration free of charge to all children who need them throughout the nation, as well as closely supervised post-trial reintegration services without discrimination by certified professionals , additionally states are required to take appropriate actions to provide the children with the long-term social and psychological care and collaborate with law enforcement, reporting hotlines, the commercial sector, particularly internet service providers, and social networks to build tools that will block and remove information as quickly as possible to prevent the child from re victimization from the continues circulation and existence of CSEAM .¹²⁰

States parties are required to take action to shut down places where these offences are committed as well as to take measures for the seizure and confiscation of any products used to commit or facilitate violations covered under the OPSC and also any revenues obtained from such offences. In this regard, international cooperation should be ensured, and any requests for such seizure or confiscation from another State party should be granted.¹²¹

Although there has been major technological advancement since the UNCRC and OPSC came into effect, both legal instruments are crucial in addressing OCSEA.

iii. Protocol to prevent, suppress and punish trafficking against persons, Especially women and children, supplementing the United Nation convention against transnational organized crime

Trafficking in persons means the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of

¹¹⁷Sabine K. Witting, Transnational by Default: Online Child Sexual Abuse Respects No Borders

¹¹⁸CRC Committee, CRC /c/156, para 70

¹¹⁹Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography article 9(3)&(4)

¹²⁰CRC Committee, CRC /c/156, para 100(a),102&103

¹²¹ OPSC, article 7

abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.¹²²

Children, women and adolescents compose the majority of victims for the purpose of sexual exploitation and labour.¹²³ When the child is trafficked for the purpose of sexual exploitation it is called sex trafficking.¹²⁴ And the advancement of digital technological has made it easier for perpetrators to recruit, control and exploit victims even without meeting them in person, traffickers may use digital technology in the recruitment and exploitation phase, during the recruitment phase traffickers use technology to groom the victims and during the exploitation phase technology can be used to advertise and sell sexual services provided by the victims.¹²⁵

The protocol also requires states to provide assistance to victims which include appropriate housing, counseling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand medical, psychological and material assistance; and employment, educational and training opportunities it also requires states to give particular care to the needs of children. And it also requires states to ensure that the victims receive compensation.¹²⁶

b. Regional Legal Instruments on OCSEA

i) Europe

The Council of Europe enacted a Convention on the Protection of Children from Sexual Exploitation and Abuse also known as the (Lanzarote Convention) in 2007 and it came into force

¹²²UN General Assembly. (2000, November 15). Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children supplementing the UN Convention against Transnational Organized Crime. Article 3 (a).

¹²³ United Nations Global Initiative to Fight Human Trafficking, Accessed from <https://www.unodc.org/lpo-brazil/en/trafico-de-pessoas/ungift.html> , United Nation, Traffickers abusing online technology, UN crime prevention agency warns Accessed from <https://news.un.org/en/story/2021/10/1104392>

¹²⁴ECPAT, Terminology Guidelines for the Protection of Children from Sexual Exploitation and sexual Abuse. Adopted by the Interagency Working Group in Luxembourg, 28 January 2016 pp 61

¹²⁵ Dr Paolo Campana, Online and technology-facilitated trafficking in human beings Summary and recommendations, (2022)

¹²⁶ UN General Assembly. (2000, November 15). Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children supplementing the UN Convention against Transnational Organized Crime. Article 6 (3)&(6).

on July 1, 2010 and has been signed by all EU member states and non-member states.¹²⁷ It criminalizes the different types of OCSEA including online grooming, child pornography, child pornographic performance (which include live streaming of child sexual abuse), corruption of children (initiating a child to witness sexual abuse or sexual activity), aiding or abetting the commission of such crimes, it also criminalizes the intentional attempt to commit such crime.¹²⁸

The convention stipulates that state parties to the convention have the right not to criminalize possession and production of pornographic material if that do not involve real children this means that possession of virtual child pornography and if the images that are produced and possessed by the children who have reach the age in which they are permitted to engage in sexual activities by their country law and if they did this with their consent and solely for their own private use.¹²⁹

The convention puts sanctions that the state parties have to stipulate this sanctions include withdrawal of parental rights, deny the perpetrator, temporarily or permanently, the exercise of the professional or voluntary activity involving contact with children in the course of which the offence was committed provide for the seizure and confiscation of goods, documents and other instrumentalities used to commit the offences and proceeds derived from such offences or property the value of which corresponds to such proceeds, permanent or temporary closure of any establishment used to carry out the crime¹³⁰

Directive 2011/93/EU is the other major legal instrument on preventing child sexual abuse, sexual exploitation, and child pornography. It stipulates measures that should be taken on legal persons and websites.¹³¹ Additionally it requires State parties to take appropriate measures to provide assistance to victims.¹³²

¹²⁷Independent commissioner for child sexual abuse issue, International and European Law, Accessed from <https://beauftragte-missbrauch.de/en/themen/recht/international-and-european-law>

¹²⁸ council of Europe treaty series No. 201 council of Europe convention on the protection of children against sexual exploitation and sexual abuse (Lanzarote convention) Art 23,20,21,22,24(1)&(2) respectively

¹²⁹ Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, Article 20(3)

¹³⁰ Id 27

¹³¹ Directive 2011/92/Eu Of The European Parliament And Of The Council, on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA article 13, 25

¹³² Id art 19

ii) Africa

The ACRWC is a regional treaty that focuses primarily on children's rights. It prohibits discrimination and safeguards children's rights to life, safety, privacy, and the physical, mental, and spiritual well-being. In regards to sexual exploitation and abuse, states are required to protect children from all forms of sexual exploitation and abuse, and in particular to take measures to stop children from being encouraged, forced to engage in any sexual activity, used in prostitution or other sexual practices, or used in pornographic activities, performances, or publications.¹³³ Unlike the OPSC the AU Convention on Cyber Security and Data Protection (Malabo Convention) does not require State Parties to provide assistance to OCSEA victims.

In order to address cyber-crimes, the AU Convention on Cyber Security and Data Protection was adopted by the twenty third ordinary session of the Assembly, held in Malabo, Equatorial Guinea on June 2014.¹³⁴ The Convention classifies the offense committed using digital technology into four. These are attacks on computer system, computerized data breaches, content related offences and offenses relating to electronic message security measures, the issue of OCSEA is covered under content related crimes. The Convention also provides procedures for cybercrime investigation and prosecution, including international coordination among African nations.¹³⁵

The Convention is signed by 18 countries and 14 countries have ratified the convention.¹³⁶

¹³³African charter on the rights and welfare of the child, 1999 Article 27

¹³⁴ List Of Countries Which Have Signed, Ratified / Acceded To African Union Convention On Cyber Security And Personal Data protection, 2022 Accessed from https://au.int/sites/default/files/treaties/29560AFRICAN_UNION_CONVENTION_ON_CYBER_SECURITY_AND_PERSONAL_DATA_PROTECTION.pdf

¹³⁵ African Union Convention on Cyber Security and Personal Data Protection, article 31(2), 28 respectively

¹³⁶ List Of Countries Which Have Signed, Ratified / Acceded To African Union Convention On Cyber Security And Personal Data protection, 2022 Accessed from https://au.int/sites/default/files/treaties/29560-sl-AFRICAN_UNION_CONVENTION_ON_CYBER_SECURITY_AND_PERSONAL_DATA_PROTECTION.pdf

c. National legal frameworks

Ethiopia has ratified different international and regional treaties that are intended to protect human rights including children's right this is international and regional legal instruments are considered being part and parcel of the law of the land.¹³⁷ In regards to children's right UNCRC, OPCS and ACWRC are the major international and regional legal instruments that Ethiopia has ratified and acceded. But Ethiopia has not ratified the AU Convention on Cyber Security and Data Protection but there is ongoing process to ratify the proclamation.¹³⁸ And the national laws that are applied to address OCSEA are the Computer Crime Proclamation and the Criminal Code.

i. The Constitution

The FDRE Constitution prohibits the subjecting of children to exploitive practices neither to be required nor permitted to perform work, which may be hazardous or harmful to his/her, health or welling.¹³⁹ Since sexual abuse and exploitation is harmful to the health and wellbeing of the child, it can be said that CSAE is included under this provision.

ii. Laws

a. Criminal Code of the Federal Democratic Republic of Ethiopia

The Ethiopian Criminal Code criminalizes engaging in a sexual activity with a child.¹⁴⁰ The penalties are higher if the perpetrator is a man and the victim is a girl, perpetrator is in a position of power, or if the victim is under the age of 13.¹⁴¹

¹³⁷ The FDRE Constitution, Art 9(4)

¹³⁸ Official INSA Telegram Channel, Accessed from <https://t.me/insagovet>

¹³⁹ FDRE constitution Article 36(d)

¹⁴⁰ Government of Ethiopia. (2005). Criminal Code, Articles 627 and 626.

¹⁴¹ Id, Articles 626 and 627.

Section four of the criminal code deals with crimes that tend to corrupt morals under this section making, importing or exporting, transporting, receiving, possessing, displaying in public, offering for sale or hiring , distributing or circulating materials and trading and trafficking in materials which are deemed obscene or grossly indecent and informing how to get these materials is criminalized and is penalized with not less than six month imprisonment and fine , and one of the conditions that is listed as an aggravating circumstance is knowingly exhibiting handing over such object to a child, which is punishable with at least a year of simple imprisonment and a fine which does not exceed more than 10,000 Birr,¹⁴² this provision is similar with article 3(c) of OPSC which prohibits child pornography.

Additionally organizing, giving public auditions or performances to obscene or grossly indecent contents, in a theatre or in a cinema, by projection or by radio or television broadcast, by video, or in any other way is criminalized , it also criminalizes publicly adverting indecent and immoral objects, and sending such material through any means to a person who has no professional interest.¹⁴³ This provision seems to provide an exception to sending child pornography to a person that is when a person has professional interest, which is a violation of the child's right enshrined under the CRC.

Furthermore, the criminal law criminalizes publicly displaying videos, images, or writings to pervert or misdirect a child's sexual instinct,¹⁴⁴ which protects children from witnessing sexual activities. The CRC committee has also recommended that States parties criminalize the intentional causing, for sexual purposes, of a child to witness sexual abuse or sexual activities, even if the child does not participate.¹⁴⁵

Legal persons are also criminally liable if they are involved in the above listed acts.¹⁴⁶ The penalty is fine ranging from 10,000 to 20,000.¹⁴⁷

¹⁴² Id , Article 640

¹⁴³ Id, Article 641&644 respectively

¹⁴⁴ Id, Article 644

¹⁴⁵ CRC Committee, CRC /c/156, para 70

¹⁴⁶ Government of Ethiopia. (2005). Criminal Code, Articles 645

¹⁴⁷ Id Article 93(3)

The Criminal Code was enacted when digital technology was not advanced , so it does not take into consideration the different forms of OCESA and it puts professional works as an exception. This creates a problem to punish the perpetrator. Moreover, the penalties provided fall under the category of simple imprisonment and simple imprisonment is applied to crimes that are not serious and perpetrated by persons who are not a serious danger to society.¹⁴⁸ This can indicate that the Criminal Code did not recognize the seriousness of the crime

b. Computer Crime Proclamation No.958/2016

The computer crime proclamation repealed Articles 706 to 711 of the Criminal Code of the Federal Democratic Republic of Ethiopia.¹⁴⁹The proclamation was enacted taking into the advancements in the digital technology, to create a legal mechanism and procedure to prohibit, prevent, detect, prosecute and respond to cybercrimes.¹⁵⁰

Article 12 of the Computer Proclamation, deals with obscene or indecent crimes committed against children. It prohibits intentionally producing, transmitting, selling, distributing, making available or possessing without authorization any picture, poster, video or image through a computer system that shows a minor engaging in sexually explicit conduct or a person appearing to be a minor engaged in sexually explicit conduct. Additionally it criminalizes grooming a child by transmitting, sending erotic speeches, pictures, text messages or videos through computer system. The maximum punishment for both crimes is ten years.

Moreover service providers are held criminally liable in accordance with article 12 of the proclamation for any illegal computer content data disseminated through its computer systems by third parties if it has directly involved in the dissemination or edition of the content data upon obtaining actual knowledge that the content data is illegal, failed to take any measure to remove or to disable access to the content data; or failed to take appropriate measure to remove or to disable access to the content data upon obtaining notice from competent administrative authorities.¹⁵¹ The proclamation also stipulates that legal persons could be penalized if they

¹⁴⁸Id, Article 106

¹⁴⁹ Computer Crime Proclamation 958/2016 Federal Negarit Gazette No. 83 , 2016, Article 45

¹⁵⁰Id, preamble

¹⁵¹Id, Article 16

commit any of the crimes covered under the proclamation including OCEA, and the punishment is a fine not exceeding 200,000 Birr, since it states that crimes punishable with rigorous imprisonment not exceeding ten years are punishable with a fine not exceeding 200,000 Birr.¹⁵²

The proclamation states that “Where any of the criminal acts provided for under this has resulted in the commission of another crime punishable under any special law or criminal code, the relevant provision shall apply concurrently” For instance a human trafficker may groom a child online as a result the child may become trafficked, the trafficker is penalized not only under the trafficking proclamation, but also under the computer crime proclamation.¹⁵³

In Ethiopia, the attempt to commit this crime is punishable, a person who intentionally begins to commit a crime and is not able to pursue the criminal activity to its end, or committing the criminal activity to its end without achieving the result necessary for the completion of the crime is guilty of an attempt.¹⁵⁴ So a person who attempts to commit this crime will be punished.

c. Prevention and Suppression of Trafficking in Persons and Smuggling of Persons Proclamation No1178/2020

The proclamation criminalizes holding another person in slavery or practices similar to slavery, servitude or debt bondages and exploiting the person in removing organs or prostitution or other forms of sexual activities¹⁵⁵ Here other forms of sexual activities refers to pimping out, using or deploying a person for prostitution, or causing a person to engage in immoral acts, especially by exhibiting one’s nakedness or sexual parts for the view of others, including the recording of these acts through the use of a photograph, video, audio or any other means for the purpose of distribution.¹⁵⁶ And, according to article 3(1) of the proclamation, the crime of trafficking in persons, along with other criminal acts, holding another person and exploiting in forms of sexual activities is punishable by 7-15 years in imprisonment and a fine ranging from 20,000 to 100,000 Birr.

¹⁵² Id, Article 20

¹⁵³ Id, Article 19

¹⁵⁴ Government of Ethiopia. (2005). Criminal Code, Article27(1)

¹⁵⁵ Prevention and Suppression of Trafficking in Persons and Smuggling of Persons Proclamation No 1178/2020 article

¹⁵⁶ Id Article 2(4)

From this one can infer that the proclamation considers holding someone and producing SAEM (sexual abuse and exploitation material) for the purpose of distribution is considered as a form of slavery

3.1.2. Institutional Mechanisms

The implementation of the above legal and policy frame works requires an institutional mechanism.

i. Institutional Mechanism at International Level

INTERPOL

INTERPOL is the biggest international police organization in the world that promotes police collaboration and crime control around the world. Its headquarters is in Lyon, France, has a National Central Bureau(NCB) in each of its 195 member nations including Ethiopia and it has six regional offices: one each in Argentina (Buenos Aires), Cameroon (Yaoundé), Côte d'Ivoire (Abidjan), El Salvador (San Salvador), Kenya (Nairobi), and Zimbabwe (Harare). These regional offices bring police across the region together to share experiences and fight common crime.¹⁵⁷ Interpol assists law enforcement agencies all around the globe with their investigations and provides training, knowledge, and support in the three areas of transnational crime: terrorism, cybercrime, and organized crime. Interpol promotes collaboration between organizations of national law enforcement through criminal databases and communications networks.¹⁵⁸

The ICSE image Database and the cyber tipline are used to create collaboration and communication between organizations of national law enforcement.

The ICSE image Database, which is administered by INTERPOL, is an intelligence and investigative tool that enables specialized detectives to share information on child sexual exploitation cases with colleagues around the world.¹⁵⁹ The main purpose of the ICSE database

¹⁵⁷ Interpol, Member Countries, Accessed from <https://www.interpol.int/en/Who-we-are/Member-countries>

¹⁵⁸ Craig Taylor, Interpol, 2022, Accessed from <https://cyberhoot.com/cybrary/interpol/>

¹⁵⁹ Towards a global indicator on unidentified victims in child sexual exploitation material towards a global indicator technical report

is to facilitate the process of identification of victims and to minimize duplication of effort by law enforcement relating to identification of victims.¹⁶⁰

Additionally, it enables communication and data sharing about cases and held CSAEM amongst experts in the field from more than 68 different nations.¹⁶¹ And Interpol has the responsibility to upload data to the ICSE database on behalf of countries that are not connected to the database. Some countries may not be connected to the data base because a country to be connected to the ICSE database there are requirements which include having criminal legislation that criminalizes CSEAM and a specialized national unit working with victim identification, and capacity to support the process of their connection to the database.¹⁶² The database holds more than 4.3 million images and videos and has helped identify more than 32,000 victims worldwide.¹⁶³

The other source of information for Interpol on OCSEA is the cyber tipline. The NCMEC's Cyber tip line is the centralized reporting system for the OCSEA, including child sexual abuse material, child sex trafficking and online enticement, it receives reports from electronic service providers and parents.¹⁶⁴

Electronic service providers have the duty to respond to any harm caused by third party using their platform, according to the United Nations Guiding Principles on Business and Human Rights (UNGPs). Business have corporate responsibility to respect human rights which requires businesses, to avoid causing or contributing to adverse human rights impacts through their own activities and to address such impacts when they occur, and seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products, or services by their business relationships, even if they themselves have not contributed to those impacts.¹⁶⁵

¹⁶⁰Id

¹⁶¹Interpol, International Child Sexual Exploitation database, Accessed from <https://www.interpol.int/en/Crimes/Crimes-against-children/International-Child-Sexual-Exploitation-database>

¹⁶²Towards a global indicator on unidentified victims in child sexual exploitation material towards a global indicator technical report

¹⁶³Interpol, International Child Sexual Exploitation database, Accessed from <https://www.interpol.int/en/Crimes/Crimes-against-children/International-Child-Sexual-Exploitation-database>

¹⁶⁴National center for missing and exploited children, Cyber Tipline Reports by Electronic Service Providers (ESP), The Cyber Tipline Your Resource for Reporting the Sexual Exploitation of Children, Accessed from <https://www.scag.gov/wp-content/uploads/2011/03/cybertip.pdf>

¹⁶⁵United Nations Office of the High Commissioner for Human Rights 2011, Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework HR/PUB/11/04, p. 14-15.

ii. Institutional Mechanism at National Level

a. Federal Police

Federal police is empowered to investigate crimes relating to information network and computer system¹⁶⁶

The computer crime proclamation gives Federal police and the public prosecutor joint investigation power over cybercrimes covered.¹⁶⁷ The federal police and the public prosecutor may also set up a special task force unit to follow up on computer crimes.¹⁶⁸ The federal police is also a member of the national executing task force, established to prevent and control computer crimes.¹⁶⁹

Federal Crime Investigation Office is the specific office within Federal police specifically tasked to conduct tactical investigation while Ethiopian Federal Police Commission Crime Investigation Bureau Forensic Investigation Directorate is tasked to conduct the technical investigation on all crimes under the jurisdiction of the federal government.

Federal Crime Investigation Office is composed of a number of divisions working on various criminal aspects. Among these divisions, Cyber Crime investigation Division is a division tasked with the investigation of cyber crime incidents that are requested either by the federal or state law enforcement organs. And the digital forensic directorate under the Ethiopian federal police commission crime investigation bureau forensic investigation directorate is responsible to extract information from digital apparatus.

Interpol NCB is part of the federal police commissioner's office and connects Ethiopian national law enforcement with other countries and the General Secretariat through a secure global police communications network known as I-24/7. Its roles include seeking information from other NCBs to help investigate crime or criminals in their own country, as well as sharing

¹⁶⁶ Ethiopian Federal Police Commission Establishment Proclamation 720/2011, article 6 (5(b))

¹⁶⁷ Computer Crime Proclamation 958/2016 Federal Negarit Gazette No. 83, 2016, Art 23(1)

¹⁶⁸ Id, Art 38(2)

¹⁶⁹ Id, Art 41

criminal data and intelligence to assist another country.¹⁷⁰ It also extradites offenders and collaborates with worldwide Interpol on transnational crimes like as trafficking, weapons, narcotics, and OCSEA. Regarding OCSEA, the NCB in Ethiopia receives information from Interpol (International) via cyber tipline, and when registered child sex offenders cross borders and it receive a “Green Notice”,¹⁷¹ which is critical in preventing and controlling child sex tourism.

b. Ministry of Justice /Public Prosecutor

The responsibilities of a public prosecutor includes investigating computer crimes, in collaboration with the Federal Police and it may led the investigation process,¹⁷² cooperating as well as entering in to an agreement with the competent authority of another country so as to enable the exchange of information, carry out joint investigations, and execute extradition of criminals.¹⁷³

Additionally it is given the responsibility of leading a National Executing Task Force, which shall be established in order to prevent and control computer crimes and identify other relevant organizations to be incorporated in the Task Force and ensure their representation.¹⁷⁴ The Task Force has the responsibility to develop national discussion forum, discuss on occasional dangers materialized and provide recommendation thereof, design short and long term plans to be performed by the respective institutions as well as put in place synchronized system by coordinating various relevant organs.¹⁷⁵

c. Courts

According to the Computer Crime Proclamation, the Federal High Court is the court with the authority to adjudicate matters concerning cybercrime including OCSEA.¹⁷⁶ But if the cases

¹⁷⁰ INTERPOL, Ethiopia Accessed from <https://www.interpol.int/en/Who-we-are/Member-countries/Africa/ETHIOPIA>

¹⁷¹Michelle Estlund, INTERPOL’s Green Notice: What is it, and how is it used? Red law 2023 Accessed from <https://www.rednoticelawjournal.com/2023/01/interpols-green-notice-what-is-it-and-how-is-it-used-part-1-of-2/>

¹⁷²Computer Crime Proclamation 958/2016 Federal Negarit Gazette No. 83 , 2016, Art 23(1)

¹⁷³ Id, art 42

¹⁷⁴ Id, Art 41

¹⁷⁵ Id, Art 41(3)

¹⁷⁶Id, Art 40

fall under the criminal code then the first instant courts have jurisdiction since the crimes are punishable with simple imprisonments.

Even though the public prosecutor has the burden of proofing material facts regarding the cases brought to the court, the court can shift the burden of proofing to the accused if the public prosecutor proves the basic facts of the case.¹⁷⁷

d. Information Network Security Agency (INSA)

The Agency shall have duty to establish online computer crimes investigation system and provide other necessary investigation technologies.¹⁷⁸ It is to issue directives necessary for the effective implementation of this Proclamation also entrusted with the responsibility.¹⁷⁹

INSA have to provide technical support, conduct analysis on collected information, and provide evidence necessary upon request in relation to investigations.¹⁸⁰ The agency may also take reports from any service provider or government organ that has knowledge of the commission of the crimes stipulated in this Proclamation or dissemination of any illegal content data by third parties through the computer system it administers and the agency The Agency may issue a directive as to the form and procedures of reporting.¹⁸¹

3.2. Jurisdiction and International Cooperation

3.2.1. Jurisdiction over OCSEA

Sates have the right to protect their peace and stability to ensure this they enforce criminal law, which stipulates prohibited activities and omissions, as well as the penalties that will be imposed on violators. A state has the authority to punish anybody who violates its criminal law through its law enforcement institutions. The exercise of jurisdiction by a state is

¹⁷⁷Id, Art 37

¹⁷⁸ Id, Art 39

¹⁷⁹ Id, Art 44(2)

¹⁸⁰Id, art 23 (2)

¹⁸¹Id, Art 27

the manifestation of its sovereignty. And in the cases of transnational crimes the issue of jurisdiction will arise.

OCSAE is a transnational crime this creates the issue of jurisdiction to address this the CRC committee recommends states parties to remove the requirement of the principle of double criminality, since the principle creates a gap in the law, which enables impunity.¹⁸² But the AU Convention on cyber security and personal data protection requires State Parties to respect the principle of double criminality¹⁸³

The OPSC has tried to addresses the issue of jurisdiction.

*According to the OPSC a country can have jurisdiction over the case*¹⁸⁴

- *if when the offences are committed in its territory or on board a ship or aircraft registered in that State and the crimes must be those listed under article 3(1),*
- *When the alleged offender is a national of that State or a person who has his habitual residence in its territory;*
- *When the victim is a national of that State*
- *If the alleged offender is present in its territory and it does not extradite him or her to another State Party on the ground that the offence has been committed by one of its nationals*

a) Territorial Jurisdiction

Territoriality refers to the idea that a country may regulate both civil and criminal proceedings within its territory.¹⁸⁵ Territorial jurisdiction does not always require that all components of the offense take place on the territory.¹⁸⁶ The state in which the crime has occurred has primary jurisdiction.¹⁸⁷

¹⁸²CRC Committee, CRC /c/156, para 84

¹⁸³ AU convention on cyber security and personal data protection Article 28(1)

¹⁸⁴OPSC, Art 4

¹⁸⁵ Wade Estey, The Five Bases of Extraterritorial Jurisdiction and the Failure of the Presumption against Extraterritoriality(1997)

¹⁸⁶ UNODC, Comprehensive study on cybercrime, 2013

¹⁸⁷CRC Committee, CRC /c/156, para 82

OPSC recognizes territorial jurisdiction, under Article 4(1) it states that each State party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in Article 3(1) when the offences are committed in its territory or on board a ship or aircraft registered in that State.¹⁸⁸

b) Extra Territorial Jurisdiction

Extraterritorial jurisdiction has existed for a long time under international law, and some nations have recently used it to attempt to combat sexual exploitation in travel and tourism. This is especially true when children are harmed or exploited in States that lack the means or motivation to properly investigate and convict offenders.¹⁸⁹

Extra territorial jurisdiction can be based on passive personality, active personality, universal jurisdiction and Jurisdictional reasonableness can be used as a base in addressing jurisdictional conflict.

i. Jurisdiction Based On Passive Personality

The passive nationality principle states that a nation can have jurisdiction if the victim is a national of the state besides the fact that the perpetrator is a citizen of another state.¹⁹⁰ Few treaties, particularly those pertaining to children's rights, provide for jurisdiction based on the passive nationality principle.¹⁹¹

According to Article 4 (2(b)) a state can establish jurisdiction when the victim is the national of the state, but the Committee encourages States Parties to include cases of child victim whose habitual residence is in the State's territory.¹⁹²

¹⁸⁸ Offences listed under Article 3(1) sale of children ,Offering, delivering or accepting, by whatever means, a child for the purpose of (Sexual exploitation of the child . Transfer of organs of the child for profitEngagement of the child in forced labour;) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption; Offering, obtaining, procuring or providing a child for child prostitution, Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography .

¹⁸⁹ Peter Newell, Legal Frameworks For Combating Sexual Exploitation Of Children

¹⁹⁰ Wade Estey, The Five Bases of Extraterritorial Jurisdiction and the Failure of the Presumption against Extraterritoriality(1997)

¹⁹¹ UNODC, Comprehensive study on cybercrime, (2013)

¹⁹² CRC Committee, CRC /c/156, para 83

ii. Jurisdiction Based On Active Personality/ Nationality

A nation can govern its citizens' actions and exercise jurisdiction over them regardless of where they are.¹⁹³ In order to apply this principle, some nations believe that the act must also constitute an offense in the state where it happened.¹⁹⁴

The OPSC recognizes jurisdiction based on active personality, under Article 4(2) states that a state can have jurisdiction when the alleged offender is a national of that State or a person who has his habitual residence in its territory. This implies that the despite the fact that the state in which the crime has occurred has primary jurisdiction, the state of the accused perpetrator's nationality or habitual residence has the power to investigate and prosecute, including issuing an international warrant for the alleged offender's arrest.¹⁹⁵

There have been some arguments forwarded against jurisdiction over residents this was because residents do not enjoy the same rights as citizens so this may jeopardize the person's right to a fair trial.¹⁹⁶

States shall establish jurisdiction over OPSC covered offenses committed abroad where the accused offender is present on their territory and would not be extradited because he or she is one of their nationals.¹⁹⁷ The Committee further urges states to make all necessary legislative changes to comply with this requirement, which is critical in the fight against impunity.¹⁹⁸

iii. Universal Jurisdiction

The Committee urges states parties to create universal jurisdiction for all OPCS covered crimes, as this will make it easier to investigate and prosecute such crimes regardless of the nationality or residence of the accused perpetrator and victim. The Committee further cites the fact that many of the crimes listed in the Optional Protocol can be committed or made easier by

¹⁹³ Wade Estey, The Five Bases of Extraterritorial Jurisdiction and the Failure of the Presumption against Extraterritoriality(1997)

¹⁹⁴ UNODC, Comprehensive study on cybercrime, (2013)

¹⁹⁵ CRC Committee, CRC /c/156, para 82

¹⁹⁶ Sabine K. Witting, Transnational by Default: Online Child Sexual Abuse Respects No Borders

¹⁹⁷ OPCS, Art 4(3)

¹⁹⁸ CRC Committee, CRC /c/156, para 86

the use of ICT, and that jurisdiction must apply to these forms of the crimes.¹⁹⁹ This was challenged by Austria, for two reasons first the concept of universal jurisdiction infringes on the sovereignty of other States and second it does not address how to investigate and get evidence.²⁰⁰

3.2.2. International Cooperation

International cooperation is essential to combat transnational crimes including OCSEA. Under the OPCS states are required to work in collaboration in connection with investigations, crime or extradition proceedings, including assistance in obtaining evidence and that they should take all necessary steps to strengthen international cooperation by multilateral, regional and bilateral arrangements for the investigation, prosecution and punishment of the offences listed under Art 3(1).²⁰¹

In conclusion tackling OCSEA requires cooperation at national level among responsible organizations and at international level with the international institutions that are established to combat transnational crimes. Additionally, it is critical to work with internet service providers since it can help to limit access to CSEAM, as per United Nations Guiding Principles on Business and Human Rights internet service providers also have the duty to respond to any harm caused by third party using their platform. Furthermore, to hold the perpetrator responsible and ensure international cooperation, it is important to disregard the principle of double criminality.

¹⁹⁹Guidelines regarding the implementation of the optional protocol to the convention on the right of the child on the sale of children ,child prostitution and child pornography , 156 ,2019 (crc Committee, crc/c/156, pragh 87)

²⁰⁰Government of Austria, Austrian comments on the draft Guidelines on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2019)

²⁰¹OPCS Art 6(1) Art& 10(1)

Chapter Four

Socio- Legal and Institutional Challenges to the Effective Prevention and Investigation of OCSEA

Introduction

This chapter identifies the factors which made it challenging to prevent OCSEA and conduct an effective investigation. Thus, findings of this study focus on the legal and institutional challenges and opportunities to the effectiveness of the prevention and investigation of OCSEA in Ethiopia.

4.2.1. Legal Challenges and Opportunities

Legal Opportunities

Ethiopia has enacted a proclamation that deals with computer crimes. Under this proclamation, some types of OCSEA are criminalized and this proclamation provides higher penalties than those that are provided under the Criminal Code. This is a positive move since legislation that criminalizes an act and punishes people who violate the law is a method of combating crime.

Legal Challenges

a) Lack of Clarity

Article 12 of the proclamation criminalizes obscene or indecent crimes committed against minors which include intentionally producing, transmitting , selling , distributing, making available or possessing picture, poster, video or image through a computer system that depicts a minor engaged in sexually explicit conduct or a person appearing to be a minor engaged in sexually explicit conduct, and enticing or soliciting a minor for sexual explicit conduct by transmitting or sending erotic speeches, pictures, text messages or videos through computer system.

However, key terms in the provision , such as erotic, solicit, sexually explicit conduct, and obscene or indecent offences, are not defined and may be subject to interpretation. According to the responder, if words are not defined in the proclamation, it may be open to interpretation so the legislation needs to have been clear.²⁰²

*“The words in the proclamation need to be clearly defined because providing definition for terms ensures every one attaches the same meaning”*²⁰³

The effect of the laws lack of clarity is observed in the discussion the researcher had with some of the interviewees on the case of Melat Mohammed²⁰⁴ “A 14 years old girl was kidnapped and her kidnaper starts to post some pictures of her. These pictures include them (Melat and the perpetrator) kissing and sleeping on the bed. Some argued that the pictures should not be considered as production of child pornography since the pictures do not anything but both sleeping together and other argued that it should be considered as production of child pornography basing their argument on the fact that the pictures has their own implication.²⁰⁵ The researcher agrees with those who consider the pictures to be child pornography since the pictures show that the child engaging in a sexual conduct with a man kissing and cuddling in a bed with a man which are considered sexual conducts. This shows that if the case is to be taken to court it up the judge’s interpretation and understanding. The researcher believes that the perpetrator should be punished for the disseminating indecent photos in addition to commission of statutory rape which is criminalized under the criminal code article 620(2(a)).

Furthermore, it criminalizes possession of child pornography without authorization and it is not clear who gives the authorization and the conditions someone has to fulfill in order to get the authorization. Here some argue that if a person possess a child pornography for the purpose of research and investigation, the person should not be criminally liable and the base for this argument is the criminal code article 642 which states that ‘works or objects purely artistic, literary or scientific in character which are not calculated to inflame erotic felling or lust are not

²⁰² Interview with MOJ, May 16,2023 09:00 AM

²⁰³ Interview with MOJ, May 16,2023 09:00 AM

²⁰⁴ Hub tube በሀዋሳከተማ የተጠለፈችው ሜላት መሀመድ አነጋገሪ ጉዳይ|melatmohammed, <https://www.youtube.com/watch?v=vNDHk3jypWI>

²⁰⁵ Interview with MOJ, June 16,2023 UNICEF June 13,2023 and MOWSA June 13,2023

held to be obscene or indecent.' additionally article 643 of the criminal code stipulates that it is a crime to send to some who has no professional interest in them, These articles are used as defense because it is a basic principle of criminal law that there is no crime as long as the legal, material, and moral components are not present.²⁰⁶ But the researchers believe that this opens the door for perpetrators to possess child pornography and claim that it is for the purpose of scientific, or artistic work, and it is important to prioritize the best interests of the child, in this case the protection of the child from OCSEA, so the law should presume that anyone possessing child pornography is doing so for the purpose of abuse or exploitation.

The researcher believes that proclamation lacks clarity because it tried to address the a vast and complicated issue in one provision.

b) Inadequate Coverage of Crimes

The computer crime proclamation only criminalizes producing, transmitting , selling , distributing, making available or possessing picture, poster, video or image through a computer system that depicts a minor engaged in sexually explicit conduct or a person appearing to be a minor engaged in sexually explicit conduct, and enticing or soliciting a minor for sexual explicit conduct. However, it does not include kinds of OCSEA that are mentioned in the CRC committee's report; for instance, sexting, virtual child pornography, and live streaming.²⁰⁷

Even though the researcher believes that article 13(1) of the computer crime proclamation can be used to criminalize sexual extortion, it is important to explicitly cover sexual extortion in order to alleviate the debate that judges cannot create a crime by analogy which is provided under Article 2(3) of the Criminal Code

c) Inadequate Punishment

The objective of punishment of criminals is in order to deter them from committing another crime and make them a lesson to others or by providing for their reform and measures to prevent the commission of further crimes. The punishment stipulated for the producing,

²⁰⁶ Government of Ethiopia. (2005). Criminal Code, Article23(2)

²⁰⁷ Interview with MOJ, May 16,2023 09:00 AM

transmitting, selling, distributing, making available or possessing picture, poster, video or image of child pornography is imprisonment from three years to ten years. But looking at the impact it has on the child, it is inadequate, the minimum should not be three years, because according to the Ethiopian criminal code three years is considered to be simple imprisonment.²⁰⁸

And if a legal person produces, transmits, sells, distributes, makes available picture, poster, video or image of a child engaging in a sexually explicit conduct the punishment is 200,000 birr which is not adequate to attain the objective of the punishing a criminal.

The researcher believes that imposing a higher penalty like the United States would be beneficial in creating a deterrent effect. In the United States, any breach of federal child pornography law is a serious offence, and convicted offenders face significant statutory penalties. A first-time offender convicted of producing child pornography faces penalties and a statutory minimum of 15 years to a maximum of 30 years in prison. A first-time offender convicted of trafficking child pornography in interstate or foreign commerce risks penalties and a prison sentence ranging from 5 to 20 years. Convicted offenders may face severe penalties if they have past convictions or if the child pornography offence happened in aggravating circumstances, such as the pictures being violent, sadistic, or disturbing, the child was sexually abused or the offender has prior convictions for child sexual exploitation. In these situations, a convicted offender may face up to life imprisonment.²⁰⁹

The researcher was able to look at the minutes of the TWG and it was noted *“The Ministry of Justice has recently conducted a rapid assessment to identify the existing prevention and response mechanisms in relation to OCSEA. The assessment identified gaps related to the law however there is a challenge addressing these gaps because there are no OCSEA cases that have been through the criminal justice system thus testing its sufficiency or lack of it in handling these cases”*²¹⁰ The researcher disagrees with this statement there should not be many children that go through this misery to prove that the law has gaps. If the protection in the laws is inadequate, the victims may not come forward.

²⁰⁸Government of Ethiopia. (2005). Criminal Code, Article23(2)

²⁰⁹ The united states of department of justice , Citizen's Guide To U.S. Federal Law On Child Pornography

²¹⁰Minutes Technical Working Group – Child Online Safety, February/28/2023

Furthermore, the researcher found that there are cases of showing pornography video to a child, but the researcher was unable to go through the case files due to difficulties in finding the files since the files that are closed after receiving judgment are sent to police and the two cases in Arada sub city and Bole sub city happened years ago and files are organized manually, However, the researcher was able to find more information on the cases from interviews. The first case was a case that took place seven years ago. In the case, Kalabe (the perpetrator) was accused of forcing children below the age of 9 to witness pornography and perform what they have seen on each other. He was sentenced according to the criminal law due to the concurrency of the crimes. He was sentenced to 25 years in prison. The first count was based on article 627 of the criminal code, which criminalizes sexual abuse on infants, while the second count was based on article 644 of the criminal code.²¹¹ And the other case is the case of taxi driver who used to show pornography to the children he gives taxi service, and he was sentenced according to article 644 of the criminal law. The prosecutor stated that she used the criminal code because the computer crime proclamation only covers sending pornography to a child via digital technology not physically showing child pornography.²¹² The perpetrators in both cases were convicted under the criminal law, which imposes low penalties.

The researcher also believes that it is important to register child sex offenders for two reasons. The first is that it would deter potential offenders due to the long-term shame associated with being caught, and the second is that it could help police in investigations when trying to understand who a suspect is and what he/she has done, especially when dealing with perpetrators who move around to track their movements and identify repeat child sex offenders.

In general, even though the government made the right decision by passing a legislation that addresses cybercrimes, including OCSEA, a law that is unclear, puts inadequate punishment and has gaps will not be able to achieve its objective. In this case, which is to prevent and punish crimes committed using digital technology. As a result of the lack of clarity and the loopholes, victims could be unable to describe the violence they experienced, and offenders might take

²¹¹ interview with public prosecutor Arada sub city July 13, 2023 11:00 AM, interview with public prosecutor 4 July 10, 2023 02:00 PM

²¹² interview with public prosecutor at Bole Sub City July 10, 2023 02:00 PM

advantage of legal gaps to avoid consequences. And the inadequate punishments will not have detent and retributive effect.

4.2.2. Institutional Challenges and Opportunities

Institutional Opportunities

Having an institutional mechanism is very important for the implementation of the law. The computer crime proclamation lists the institutions that are responsible to address cybercrimes including OCSEA. And MOWSA has taken the initiative to create collaboration among these institutions which include service providers, in February 2023, a TWG formed comprising of a total of 19 members from governmental organizations (agencies), NGO's and internet service providers. The TWG primary objective is to oversee and coordinate Ethiopia's programmes for protecting children online.²¹³

Institutional Challenges

a) Lack of Awareness and commitment by the Government

There is lack of awareness about the severity and urgency of OCSSEA even among law enforcement officers. Other kind of cyber crimes, such money laundering and fraud, have overshadowed OCSEA. A responder has stated that, law enforcement agencies, in particular the Federal police investigation Bureau are more focused on fighting cybercrimes that have impact at a country level like financial cyber crimes²¹⁴

Another respondent claimed that psychological harm to a victim is treated lightly in Ethiopia,²¹⁵ and another respondent claimed that the issue is seen as a western problem; people in less developed countries like Ethiopia wouldn't be subjected to such abuses because internet access is luxurious, and the government should first address other serious problems.²¹⁶

²¹³Interview with MOWSA , May 9, 2023 10:00 AM

²¹⁴Interview with INSA, June 13, 2023 10:00 PM

²¹⁵ Interview with MOJ, May 16,2023 09:00 AM

²¹⁶Interview with MOWSA , May 9, 2023 10:00 AM

*“Many governmental organizations believe that this is not a problem in Ethiopia since many Ethiopians live in poverty and they would not have access to the internet. In general, it can be said that OCSEA is considered to be not a real problem”*²¹⁷

Furthermore, a respondents has pointed out that lack of awareness on the issue has resulted in a lack of capacity; the fight against OCSEA, particularly the prevention and investigation processes, requires the availability of capable and qualified personnel to identify, collect, and acquire digital information relevant to the investigation but the lack of awareness on the issue has caused the personnel’s not to develop their skills.²¹⁸

b) Lack of Cooperation

i) Lack of Institutional Cooperation

OCSEA require strong coordination between institutions with the necessary knowledge and technical expertise. According to the computer crime proclamation, federal police and public prosecutors have the investigation power and INSA provides technical support, conduct analysis on collected information, and provide evidences if necessary service providers are also required to assist in the collection of data.²¹⁹

Even though a TWG is formed, the researcher has noted that majority of NGOs and certain governmental organizations still haven't started to function in accordance with the duties that have been designated to them. A respondent has mentioned that although the MOWSA's action should be commended, much work remains, the respondent has also added that it is crucial that a TWG on child online protection be established because it will help to advance and speed up a multi-stakeholder and cross-sector strategy to address OCSEA in Ethiopia.²²⁰ The TWG is expected to make it easier for organizations to share more knowledge and data, which will improve the services provided to OCSEA victims, enable government agencies to jointly plan, oversee, and report on shared operations and facilitate international coordination by active and

²¹⁷Interview with MOWSA , May 9, 2023 10:00 AM

²¹⁸Interview with Ethiopian federal police commission crime investigation bureau forensic investigation directorate June 7, 2023 11:30 AM

²¹⁹ Computer Crime Proclamation, art 23&25(6)

²²⁰Interview with MOWSA , May 9, 2023 10:00 AM

coordinated participation in international initiatives like We PROTECT Global Alliance and make it simpler to coordinate any support from the international community on development priorities based on Ethiopia's needs.²²¹

ii) Lack of international cooperation

The Ministry of Justice is empowered to establish international cooperation with other countries in regards to matters concerning computer crime, including for exchange of information, joint investigations, extradition and similar matters.²²²

Another respondent has pointed out that the nature of cybercrime is borderless and major social media companies are located abroad, forming collaboration with these companies or the country where they are registered, as well as other countries, will greatly assist in taking immediate action by removing the posts in order to prevent further victimization. The respondent also added for instance face book has office in Kenya and this has made it easier for Kenyan government to work with the company.²²³

c) Confusion on the Investigative Power

According to the computer crime proclamation, one of the major organs which were given the power to investigate cybercrimes together with the public prosecutors is the federal police. But federal police has stated that it is not currently working on the issue, since it does not have a specific unit that is established to investigate sexual crimes that are perpetrated against women and children. And some respondents have suggested that this mandate should not be given to federal police. Regional polices should be delegated to do the investigation. The reason they put for this is that in addition to federal police not having a unit which investigates sexual violence perpetrated against women and it does not have enough human power to deal with the issue.

Furthermore, the researcher noted that Addis Ababa police is participating in the meeting with the TWG, the proclamation states that regional state police to whom the power of the

²²¹ Id

²²² Computer Crime Proclamation, art 42

²²³ Interview with INSA, June 13, 2023 10:00 PM

federal police is delegated can conduct the investigation, but federal police has not appropriately and formally delegated investigative power to Addis Ababa police.

The confusion over who has investigative power has led to simply documenting many reports obtained from the cyber tip line. The Ethiopian National Central Bureau (INTERPOL) receives reports from the cyber tip line, but because Interpol does not have investigative power and does not know to whom it ought to turn over the reports, it simply documents the reports. The respondent from the Ethiopian National Central Bureau (INTERPOL) stated that they get reports every day but are unable to act owing to the organization's lack of investigation power and the confusion over identifying the responsible police bureau with the investigative power.²²⁴

The researcher was able to see that the cyber tip line shows created date, type of abuse, reporting service provider, reported person's information(last name, screen name ,phone number, email address, age , and date of birth), source of captured information, prior report numbers and number of associated files. From May 29/2023 to June 4/2023, Interpol has received 733 cases However, these cases will not be investigated since it is unclear which police organization is in charge of investigating them.

And the respondent from the Ethiopian Federal Police Commission Crime Investigation Bureau Forensic Investigation Directorate has explained that, while they are aware that Ethiopia receives reports from the cyber tip line, they have not received a request from either federal or regional polices to conduct an investigation, and the only responsibility of the forensic unit is to extract information from devices, which they only do upon request from any police²²⁵

d) Lack of Adequate Investigative Equipment and Technological Expertise

The complex nature of cybercrime, it is extremely difficult, if not impossible, for someone lacking technical competence to conduct the investigation.²²⁶

²²⁴Interview with Interpol June 7, 2023 10:00 AM

²²⁵Interview with Ethiopian federal police commission crime investigation bureau forensic investigation directorate June 7, 2023 11:30 AM

²²⁶Interview with UNICEF June 13,2023 11:00 AM

Respondents from some of the institutions believe that Ethiopia lacks investigation equipment and technological skills that is up to date with current technology advancements.²²⁷

The public prosecutors also have raised the current technologies available are not adequate to find out who has really posted or created the image since many Ethiopian's share their apparatus (mobile or computer) to their friends.²²⁸

However, the respondent from the Ethiopian Federal Police Commission Crime Investigation Bureau Forensic Investigation Directorate argue that *“if cases are brought for investigation, it will be able to develop the experts' skills; yet, the expert's skills are not competent with current technological advancement because they are not working on cases.”*²²⁹

UNODC has provide a platform for federal police to share experience from Kenya police in relation to investigating cyber crimes including OCSA and trainings for police have been given.²³⁰

²²⁷Interview with MOWSA , May 9, 2023 10:00 AM, Interview with MOJ, May 16,2023 09:00 AM, Interview with UNODC June 12,2023 10:00 AM

²²⁸ Interview with public prosecutor Yeka Sub city June 13,2023 at 02:00 PM, and Interview with public prosecutor Akaki Sub city June 06,2023 at 11:00 AM

²²⁹Interview with Ethiopian federal police commission crime investigation bureau forensic investigation directorate June 7, 2023 11:30 AM

²³⁰Interview with UNODC June 12,2023 10:00 AM

4.2.3. Determination of Jurisdiction under Ethiopian Criminal Code

The Ethiopian criminal code governs conflict of laws i.e. when countries laws vary According to the criminal code of Ethiopia, jurisdiction can be decided based on article 11, 12,13 14 and 15 of the Criminal Code Ethiopian. Courts have primacy jurisdiction when the crime has been committed on Ethiopian territory or against Ethiopian outside Ethiopia.

In terms of article 11 of the Criminal Code, the criminal jurisdiction of the State applies to any person whether a national or a foreigner who is suspected of having committed criminal acts on the territory of Ethiopia. And if the suspect has taken refuge in a foreign country, his extradition shall be requested so that he may be tried under Ethiopian law in terms of article 11(3) of the Criminal Code. Where his extradition to Ethiopia cannot be acquired, the Ethiopian authorities may request that he shall be tried in the country of refuge in accordance with article 12 of the Criminal Code.

Article 17 of the Criminal Code establishes universal jurisdiction over crimes against international conventions, and crimes identified by the provision which include crimes situated under Article 640 (indecent publication) and 641 (indecent performance) irrespective of the place of commission of the crime, the nationality of the offender or the victim and irrespective of the direct implication of the crime against Ethiopian interests. Ethiopian courts have jurisdiction to adjudicate the cases. Additionally, Ethiopia also has jurisdiction on any person who has committed a crime outside of Ethiopia against an Ethiopian national where the criminal is not tried in the foreign country.²³¹

And the criminal code states that if there is a disparity between the punishment provided the under the code and the law of the country of the commission the punishment the one which is more favorable to criminal will be applicable ²³² The researcher believes that the punishment which is favorable to the criminal should not be applied, the punishment which has the highest

²³¹ Government of Ethiopia criminal code (2005) Article 18

²³² Id Article 19

should be applied since the aim of criminalizing acts is to prevention of crimes by giving due notice of the crimes and penalties prescribed by law and should this be ineffective by providing for the punishment of criminals in order to deter them from committing another crime and make them a lesson to others, or by providing for their reform and measures to prevent the commission of further crimes.

Article 25 of the criminal code stipulates how to deal, when certain criminal conduct is started in one place and its desired result is achieved in another place (“non-instantaneous crimes”) as they are described by the Criminal Code, Ethiopia can exercise its principal jurisdiction only if the criminal act is committed in Ethiopia. And when the prohibited conduct is committed abroad and the consequence thereof has occurred in Ethiopia, the jurisdiction of Ethiopia is subsidiary to the jurisdiction of the place of commission.

And in relation to extradition, the Criminal Code stipulates that any foreigner who commits an ordinary offence outside Ethiopian territory and seeks asylum in Ethiopia may be extradited. This extradition will be governed by the Ethiopian laws and treaties. Extradition is typically permitted when the State where the crime was committed makes a competent application and the offence does not directly and substantially impact the Ethiopian State. Because no Ethiopian person with such status at the time of the crime or the request for his extradition may be turned over to a foreign country, he will be prosecuted by Ethiopian courts under Ethiopian law.²³³

4.2.4. Responses Available for Victims

Aside from the violation of their human rights, victims experience several kinds of psychological and physical harm. To assist those who have been victims of OCSEA, the government should have established a confidential counseling and reporting mechanism. A respondent has mentioned that it is important to establish a response system for victims since victims can have quite different needs based on their situation and the degree of the violence and its effects.²³⁴

²³³ Id Article 21

²³⁴ Interview with UNODC June 12,2023 10:00 AM

A research respondent has stated that there have been efforts to start hotline services in all the regions and city administration that provide counseling for children who have been victims of any kind of violence but most of the hotline services are not functional for different reasons. One of the reasons is related to payment for the line which is expensive and the organization that established the service is responsible for payment. In some regions it is BOWSA and in others it is the regional police, and many children are unaware that such services exist, so they do not use them as much as expected. The respondent added that the problem is that the government starts to take such actions when things are aggravated but these things should be established before too many children are victimized.²³⁵

According to respondents, even if not all victims encounter the same problem and the severity of the problem could vary. OCSEA victims may experience a variety of psychological problems and if offline child sexual abuse is committed in addition to the OCSEA the children may also face physical health problems in addition to the psychological problems.²³⁶

A respondent has mentioned that it is unnecessary to establish new health facilities that particularly deal with OCSEA, "the one stops that are already established are sufficient the only thing that is needs to be done is to strength and educate the staff about OCSEA and the treatments that that they should provide"²³⁷

Additionally, in regards to witness protection if an OCSEA victim come seeking justice she /he will receive the same treatment as other sexual and gender based violence survivors receive. This means if the perpetrator is a family member or her/ his family is unable to protect her /him from the perpetrator, she/he will be send to safe house owned by NGO's and if additional protection is needed she/her will be able to receive the protections provided under the witness proclamation.²³⁸

²³⁵ Interview with MOWSA , May 9, 2023 10:00 AM

²³⁶ Interview with MOWSA , July 5, 2023 09:00 PM, Interview with Public prosecutor Akaki ,July 6 ,2023 11:00 AM

²³⁷ Interview with UNICEF June 13,2023 11:00 AM

²³⁸ Interview with Public prosecutor 2, July 14,2023 10:00 AM

4.2.5. Social challenges

a) Lack of awareness

The researcher has collected data was collected from children and parents to see what they think OCSEA is and out of 25 children 23 children and out of 15 parents 14 parents do not know about OCSEA and have wrong misconceptions . For the purpose of this research the researcher puts them into groups there are those who think children who do not to talk to strangers, children involved in religious activity that he / she would never be involved in such kind of relation²³⁹and some believe that there child do not have access to the internet so they will not become victims of such violation. The other misconception is that these parents have mentioned that the financial status of the family might have an impact on the child becoming a victim. A respondent sated that this problem exists in rich families since rich families are busy with work and do not look after their children and these parents buy devices for their children to make them happy.²⁴⁰ And another respondent stated that children from poor family are subjected to such violence since their parents are not able to meet their children's need for them, they look other means to get money.²⁴¹This shows that parents are not aware that their children could be a victim of such crime. Additionally parents have mentioned that the families parenting style have its own impact on the child becoming a victim, A respondent stated that children living in a family where there is a strict rule will less likely become victims of such violation

Moreover from the interview with the children the researcher was able to find out that children do become victims of OCSEA without even knowing they have become victims For instance a respondent mentioned that she is a tik toker and a person who says that he lives in Sweden is constantly writing how beautiful and talented she is, and that he wants her to send him pictures of her wearing a brassiere (bra) so she could become a model for the brassiere(bra) company he is working for, but the respondent believes that this does not constitute OCSEA because he has never asked for sex.²⁴² The respondent believes that as long as a person does not

²³⁹Interview with Parents 3,5,7,8, 9,10,13

²⁴⁰ Interview with Parents 2,4,6,7,9, 10,13,15

²⁴¹Interview with Parents 1,3,5,11,12,14

²⁴²Interview with child

ask for sexual favours, it does not constitute OCSEA, but the reality is that the person might be grooming her.

Another child has mentioned that there is a telegram group where they can contact with other persons and if they like that person they can meet him/her physically, the child expressed them as dating sites and the child did not see it as a problem because it is based on her will

Additionally one child mentioned that in TikTok games the punishments include wetting one's self which will result in exposing their body. He states that I purposely asks girls to wet themselves so that I can see their body structure when there cloth got stuck on their body”.

The most shocking thing is that all the children think that texting messages that have sexual contents are not a problem. most of the interviewees stated that as long there is no physical interaction it would not be a problem rather they believed it to be “fun” and even one responder stated that she has physically met people she knew on face book but to be safe she likes to meet them on public areas and she added that she has never come across any trouble rather she enjoys those moments which include meeting new people, eating out, receiving gifts.

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Furthermore most of the children have stated that if they are paid a good amount of money that they would not mind if someone took their picture that does not show there face or groom them. A child has even mentioned that she would rather become rich this way than wait 30 years to get a decent paying job. She added that “even though my parents provide my basic needs I wants to earn fast money and become rich I do not want to learn because I hate learning and the learning process is long and even if I finish university I might not even get a job that pays good money.”²⁴⁴

²⁴³ Interview with child

²⁴⁴ Interview with child

b) Blaming the victims

Victim blaming is the act of totally or partially holding the victim responsible for the crime that happened to them.²⁴⁵ Victim blaming is more prominent in cases of rape and sexual harassment, some blame the victims out of ignorance, to get the sense that this would not happen on them and others blame because they want to believe that the world is peaceful²⁴⁶

The majority of respondents think that the victim chose to speak to the perpetrator and choose to engage in sexual discourse or perform the sexual act, and that the victim's choices are the result of her/his bad behaviour.²⁴⁷

A parent has stated that “A child with a bad behaviour is exposed to such kind of violation children with good behaviour will not engage in such kind of things so they will not be exposed to such kind of violations”,²⁴⁸

Reasons for Failure to Report

The previously mentioned institutional, legal, and social challenges may have contributed to it being harder for victims and the community at large to report such incidents. Furthermore, the challenges mentioned above might be linked to the additional explanations for not reporting, which are stated below.

a) Fear and shame

Sexual violence exposes victims to stigma and, in certain cases, discrimination, and may jeopardize their standing in the community. Victims of sexual violence are often blamed for what happens to them in many communities.²⁴⁹

The majority of students who took part in the study stated that they would not even tell their parents if this happened to them because they would be blamed, labeled as a "bad child," and be forbidden from talking with their friends and causing shame on their family.²⁵⁰

²⁴⁵Canadian Resource Centre for Victims of Crime, *Victim Blaming*,(2018)

²⁴⁶ Psychological of victim blaming Accessed from <https://ylcube.com/c/blogs/psychology-victim-blaming/>

²⁴⁷ Interview with parents 1,2 ,3,5,7,8,9,10,11,12,13,15

²⁴⁸ Interview with parents 1

²⁴⁹ Evelyne Josse, They came with two guns': the consequences of sexual violence for the mental health of women in armed conflicts

b) Lack of Awareness

Many people are unaware that the act is a crime and the offender could be held responsible by law. The majority of parents have stated that they are not aware of the risks that could occur online especially on children.²⁵¹ And even those who know that this is a crime do not know what they should hold as evidence.²⁵²

c) Lack of confidence in the legal system

People go to law enforcement when they believe that they will get the appropriate justice. However, if they think that they won't get proper justice, they will be discouraged to go to law enforcement organs.²⁵³ Some of the respondents mentioned the in general cases of sexual abuse the punishment perpetrators receive less than the time and the energy spent by the victim and the victim's family.²⁵⁴ A respondent stated that "*The perpetrators of sexual violence will be released on bail and will threaten and destroy evidence against the victim, and they are also released early for having a good behavior in the prison*".²⁵⁵ According to one responder, offenders are more likely to flee from one area to another after committing a crime but the child and her/his parents suffer greatly and law enforcement organs are negligent will not look after the offer.²⁵⁶

Another respondent stated that "*the only outcome from reporting is getting finger pointed and becoming the talk of the community and in the end the perpetrator will not be punished adequately the victim and the victim's family will suffer more*"²⁵⁷

²⁵⁰ Interview with child

²⁵¹ Interview with parent 1,2,4,7, 8, 9,10,13,14,15

²⁵² Interview with parent 3,6,5

²⁵³ Legitimacy Policing in Depth, Accessed from <https://www.rand.org/pubs/tools/TL261/better-policing-toolkit/all-strategies/legitimacy-policing/in-depth.html>

²⁵⁴ Interview with parent 3,6,8, 9,10,14,15

²⁵⁵ Interview with parent 2, 4,5,6 12, 9,

²⁵⁶ interview with parent 11

²⁵⁷ Interview with parent 8

Chapter Five

Conclusion and Recommendation

5.1. Conclusion

The advancement of digital technology has made our life easy. We are able to share information, learn, recreate, communicate, express ourselves, find jobs, connect with other easily. Especially children are interested to use these digital technologies and parents use smart phones to calm their children or distract them, not taking into consideration the danger their children are exposed.

Although the internet has provided children with access to information, education, increased their creativity, and allowed them to show their talent, it has also introduced numerous risks such as accessing inappropriate sites, being exposed to online information that promotes hate, violence, and pornography, not being able to developing real social skills and engage in physical activity and exercise, sharing their personal information on social media sites, and being bullied on social media sites.

The internet has made it easier for perpetrators to gain more access to children through social media platforms to they choose their targets, they groom them and they abuse, them without even raveling their identity, which leaves the victim in a state of constant fear and re-victimization because of easy distribution and not being able to identify the person who abused them and how many people have seen the abuse.

OCSEA is becoming one of the major crimes being committed against children around the world, it is a transnational crime. There are different type of OCSEA which include child pornography, sextortion, online grooming, sexting and live streaming, this abuses can occur solely online or the abuse might happen offline and letter displayed online or in some cases the abuse might take place offline and be displayed online at the same time.

The crime violates multiple of the victim's human rights, as well as harming her/his mentally, socially, and economically. There is a misconception about the crime, which presents it as a Western problem that would not occur in poor nations. As a result, it has gotten substantially less attention.

One way of fighting this dangerous crime is through having a strong law. However, International and regional human right instruments that give legal protection to children in cases of crimes committed through internet has come short when it comes to protecting children from online sexual violence. The instruments do not address all kinds of online child sexual abuse but the CRC committee has tried to include all the forms of OCSEA under the guidelines regarding the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, but it is not a binding legal instrument.

At the national level, Ethiopia has adopted legislation and established several institutional mechanisms to combat cyber crime. The most applicable legal framework that could be used for the purposes of OCSEA is the Computer Crime Proclamation. The proclamation mentioned particular cybercrimes as well as procedures that the Ethiopian criminal law missed. Even though adopting a proclamation is a step in the right direction, the proclamation still has problems with clarity, addressing all types of OCSEA, and providing adequate penalties for the commission of the crime.

In terms of institutional procedures, the proclamation lists the institutions responsible and assigns those tasks, but the institutions suffer from a lack of resources, capability, and qualified personnel, lack of collaboration and coordination, lack of understanding of the crime as well as confusion over who has investigation authority. Additionally among other things lack of awareness about the reporting system and non-functionality of the hotline services might be the cause for the discouragement to report.

These legal and institutional gaps have could be obstacles to combat OCSEA in Ethiopia so the government have use the available opportunities and fix the challenges in order to protect children and deter perpetrators. Children should be able to enjoy all the best things that are available and it is important for everyone create a safe space for children where they feel confident and be able to get the most out of the world has to offer, internet by its self is not a bad thing so denying the access won't be the solution to protect children but it is important to mitigate the risks. For that all stakeholders including law enforcement bodies should work hand in hand.

The issues mentioned above are indicative of the tremendous amount of work that has to be invested in fighting online sexual abuse committed against children. The effort must focus on prevention, protection, prosecution, and response. As a result, the researcher suggests the following.

5.2. Recommendation

a) Legal frame work

- The Computer Crime Proclamation needs a revision .It should include the different types of OCSEA listed in the international documents including sexting, sextortion, live streaming, virtual child pornography and additionally, it should provide the definitions for some of the terms that are ambiguous, like erotic, solicit, sexually explicit conduct, and obscene or indecent offences,
- The penalties for these crimes should be increased so that they have deterrent and retribution effect.
- Child sexual abuse and exploitation should be put as a condition to deny bail since perpetrators can use the right to bail to destroy evidence and threaten victims and their family and this creates fear in the victim and their family to report cases
- Provide legal basis to systematically register sex offenders so that they could be held liable if they reoffend in another city/region

b) Institutional mechanisms

i. Capacity building and equipping with technological tools

- Clarifying which police organ either the federal or regional has the mandate to investigate the crime and establishing a police unit or team that particularly investigates OCSEA since the nature of the crime is complicated and it may be overlooked
- Assigning police officers that solely investigate OCSEA, since OCSEA cases are handed to polices officers that handle other cases it might be overlooked
- providing in-depth training on the types of OCSEA for law enforcement organs including polices, prosecutors and judges on OCSEA
- Allocate budget to equip law enforcement body with the necessary resource, technological tools and training

ii. Cooperation

- All stake holders(police, Interpol, MOJ, courts INSA, MOWSA, Ethio Telecom, Safaricom, NGO's and other responsible organizations) should cooperate, collaborate and take the commitment to fulfill their duties
- Strengthen Interpol NCB 's international cooperation with other NCB's and international Interpol to prevent OCSEA, identify victims and the perpetrators, and destroy criminal networks involved in manufacturing and disseminating inappropriate content.
- Strengthen collaboration with NGO's

Response system (Service Provision)

- Strengthen and promote hotline services so that it is easily accessible,
- Strengthen one-stop centers and raise awareness among one-stop center staff about OCSEA.
- Make sure that the services are child sensitive and inclusive

- Establish a mechanism to immediately block and delete dangerous content concerning the child, in order to prevent such material from being accessible and spread in the future which could victimize the victim
- The government should build safe houses to provide protection for victims since the safe houses owned by the NGO's could be closed due to different reasons additionally the government should invest in quality rehabilitation and integration programs

Community Level

Awareness creation

- Raising community awareness about different types of OCSEA, related laws, and reporting mechanisms
- Educate children about the risks of using the internet and how to protect themselves
- Law enforcement organs should closely work with the community to gain the community trust back
- Educating teachers and parents about OCSEA so that they can teach digital skills and online safety to children.
- Economically empower families so that they do not fall short of providing the needs of their children are not forced into survival sex.

Reference

Books, Article, journals and thesis

- Brittany Anthony, On-Ramps, Intersections and Exit Routes: A Roadmap for Systems and Industries to Prevent and Disrupt Human Trafficking, (2018). Accessed from: <https://warinternational.org/wp-content/uploads/2022/03/A-Roadmap-for-Systems-and-Industries-to-Prevent-and-Disrupt-Human-Trafficking-Health-Care.pdf>
- Bryce Garreth Westiake, The past, present, and future of online child sexual exploitation: Summarizing the evolution of production, distribution, and detection, San Jose State University, (2020)
- Canadian Resource Centre for Victims of Crime, Victim Blaming, (2009)
- Cate Fisher, Alexandra Goldsmith, Rachel Hurcombe, Claire Soares, The impacts of child sexual abuse: A rapid evidence assessment, (2017)
- Chris Hollis, Sonia Livingstone, Edund sonuga bark, : The role of digital technology in children and young mental health – a triple-edged sword? (2020) Accessed from <https://doi.org/10.1111/jcpp.13302>
- Craig Taylor, Interpol, 2022, Accessed from <https://cyberhoot.com/cybrary/interpol/>
- David Barrett, Alison Twycross, Data collection in qualitative research, Evidence-Based Nursing 2018; Accessed From <http://dx.doi.org/10.1136/eb-2018-102939>
- Denelle M. McWherter, The impact of sexual abuse on student performance, (2005) University of Northern Iowa
- Dr Christine Van Den Wyngaert, Double criminality as a requirement to jurisdiction , Accessed from Google scholar <file:///C:/Users/user/Downloads/telholm,+2+-+Page+3-16.pdf>
- ECPAT, Online child sexual abuse and exploitation: Current forms and good practice for prevention and protection , 2017

ECPAT, INTERPOL, and UNICEF. (2022). Disrupting Harm in Ethiopia: Evidence on online child sexual exploitation and abuse. Global Partnership to End Violence against Children

ECPAT, Summary paper on online child sexual exploitation , 2020 p. 6

ECPAT. Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse. Adopted by the Interagency Working Group in Luxembourg, 28 January 2016 p.49

ECPAT. Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse. Adopted by the Interagency Working Group in Luxembourg, 28 January 2016 p. 23

ECPAT. Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse. Adopted by the Interagency Working Group in Luxembourg, 28 January 2016 p.47

ECPAT. Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse. Adopted by the Interagency Working Group in Luxembourg, 28 January 2016 p.41

European Day on the Protection of Children against Sexual Exploitation and Sexual Abuse
Accessed

from [https://www.europarl.europa.eu/RegData/etudes/ATAG/2021/698789/EPRS_ATA\(2021\)698789_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2021/698789/EPRS_ATA(2021)698789_EN.pdf)

EUROPOL, Internet Organised Crime Threat Assessment, 2018 P .35

Evelyne Josse, 'They came with two guns': the consequences of sexual violence for the mental health of women in armed conflicts

AMAN, Extortion, Sextortion & Blackmail: The Differences(2019)

Final report submitted by Ms. Jay J. McDougall, Special Rapporteur, on Systematic rape, sexual slavery and slavery-like practices during armed conflict E/CN.4/Sub.2/1998/13.,

Georgia M. Winters , Elizabeth L. Jeglic & Leah E. Kaylor (2020): Validation of the Sexual Grooming Model of Child Sexual Abusers, Journal of Child Sexual Abuse

Gilian Tenbergen, Matthias Wittfoth, Helge Frieling, Jorge Ponseti, Martin Walter, Henrik Walter, Klaus M. Beier, Boris Schiffer, and Tillmann H. C. Kruger The Neurobiology and Psychology of Pedophilia: Recent Advances and Challenges

Global kids online comparative report, Global Kids Online project management: Daniel Kardefelt-Winther, UNICEF Office of Research – Innocenti; Sonia Livingstone, London School of Economics and Political Science; Mariya Stoilova, London School of Economics and Political Science; Jasmina Byrne, UNICEF New York Headquarters

Europol, Internet Organised Crime Threat Assessment (IOCTA) 2021, Publications Office of the European Union, Luxembourg Accessed from <https://www.europol.europa.eu/internet-organised-crime-threat-assessment2018#downloads>

Independent commissioner for child sexual abuse issue, International and European Law, Accessed from <https://beauftragte-missbrauch.de/en/themen/recht/international-and-european-law>

Interagency Working Group, Explanatory Report to the Guidelines regarding the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 2019

International Centre for Missing & Exploited Children Online Grooming of Children for Sexual Purposes: Model Legislation & Global Review, (2017)

International Labour Organization (ILO), Walk Free, and International Organization for Migration (IOM), Global Estimates of Modern Slavery: Forced Labour and Forced Marriage, Geneva, 2022

Interpol, Member Countries, Accessed from <https://www.interpol.int/en/Who-we-are/Member-countries>

Interpol, International Child Sexual Exploitation database, Accessed from <https://www.interpol.int/en/Crimes/Crimes-against-children/International-Child-Sexual-Exploitation-database>

Interpol, International Child Sexual Exploitation database, Accessed from <https://www.interpol.int/en/Crimes/Crimes-against-children/International-Child-Sexual-Exploitation-database>

Janelle C Brown, child on child sexual abuse: An investigation of behavioral and emotional sequelae University of Pennsylvania, (2004).

Judy Cashmore and Rita Shackel, The long-term effects of child sexual abuse, 2013

Legal framework for combating sexual exploitation of children, Peter Newell in close collaboration with UNICEF's Innocenti Research Centre and with contributions from the NGO Group for the Convention on the Rights of the Child, ECPAT and those who attended the Expert, Consultation on "Legal Frameworks, Procedures and Enforcement: Preventing and Responding to Sexual Exploitation of Children and Adolescents", held in Bern, Switzerland in October (2008).

Lorraine Radford, Debbie Allnock and Patricia Hynes, Preventing and Responding to Child Sexual Abuse and Exploitation: Evidence review, (2015)

Malin Joleby, Technology-Assisted Child Sexual Abuse, 2021

Max Taylor and Ethel Quayle, Child Pornography An Internet Crime, 2003

McDougall, Gay, J. (1998). Contemporary forms of slavery: systematic rape, sexual slavery and slavery-like practices during armed conflict.

Modern slavery awareness and victim identification guidance, Managing risks associated with modern slavery a good practice note for private sector

Mohajan, Haradhan, Qualitative Research Methodology in Social Sciences and Related Subjects(2018) p.1

Natasha Mack, Cynthia Woodson, K AthleenM, Macqeen, GrageGust, Emlly Namely, A Qualitative Research Methods: A Data Collector's Field Guide(

Peter Newell, Legal Frameworks For Combating Sexual Exploitation Of Children

Psychological of victim blaming Accessed from <https://ylcube.com/c/blogs/psychology-victim-blaming/>

Ron Alvarez, Cyber Enabled Crime vs. Cyber Dependent Crime, September(2021)

Sabine K. Witting, Transnational by Default: Online Child Sexual Abuse Respects No Borders

Schweiger,G. Ethics poverty and children’s vulnerability. Ethics and social welfare (2019).Accessed from <https://doi.org/10.1080/17496535.2019.1593480>

Stoilova, M., Rahali, M. & Livingstone, S Classifying and responding to online risk to children: Good practice guide. London: Insafe helplines and the London School of Economics and Political Science (LSE).(2023)

The Dark Side Of The Internet For Children Online Child Sexual Exploitation In Kenya - A Rapid Assessment Report, (2018)

The Role of the Internet in People Smuggling and Human Trafficking, eCrime Research Reports. Accessed from: <https://www.academia.edu/34645738>,

Towards a global indicator on unidentified victims in child sexual exploitation material towards a global indicator technical report(2018)) p. 39

Interpol, ECAPT Towards a global indicator on unidentified victims in child sexual exploitation material towards a global indicator technical report, (2018) p. 39

UNICEF, Children in a Digital World,(2017)

UNICEF, Children in a Digital World,(2017) P.80

UNICEF, Handbook On The Optional Protocol On The Sale Of Children, Child Prostitution And Child Pornography, (2009) P.12

United Nation Children’s Fund and International Telecommunication Union, “How many children and young people have internet access at home? estimating digital connectivity during the COVID 19 pandemic”,(2020) UNICEF, New York

United Nations Children’s Fund Action to end child sexual abuse and exploitation: A review of the evidence,(2020) UNICEF, New York, p.16

United Nations Children’s Fund Ending online child sexual exploitation and abuse: Lessons learned and promising practices in low- and middle-income countries,(2021) UNICEF, New York

UNODC, Comprehensive study on cybercrime, (2013)

UNODC, Global Report on Trafficking in Persons (2020)

UNODC, study on the effects of new technology on the abuse and exploitation of children,(2015)

Wade Estey, The Five Bases of Extraterritorial Jurisdiction and the Failure of the Presumption against Extraterritoriality21 Hastings Int'l & Comp. L. Rev. 177 (1997).

We Protect Global Alliance, Global Threat Assessment (2021), p. 60 Accessed from <https://www.weprotect.org/global-threat-assessment-21/#report>

We Protect Global Alliance, Global Threat Assessment (2021),Accessed from <https://www.weprotect.org/global-threat-assessment-21/#report>

What works to prevent online violence against children? Executive Summary Geneva: World Health Organization; 2022,

WHO, Guidelines for medico-legal care for victims of sexual violence, 2003

yaman Akdeniz, Internet Child Pornography and the Law National and International Responses,(2008)Google scholar [https://books.google.com.et/books?hl=en&lr=&id=0hw3DAAAQBAJ&oi=fnd&pg=PP1&dq=yaman+Akdeniz,+Internet+Child+Pornography+and+the+Law+National+and+International+Responses,\(2008\)&ots=FSZnHiodNO&sig=8IE96_dUm3minpx0XKZNzhLE_Jo&redir_esc=y#v=onepage&q=yaman%20Akdeniz%20%20Internet%20Child%20Pornography%20and%20the%20Law%20National%20and%20International%20Responses%20C\(2008\)&f=false](https://books.google.com.et/books?hl=en&lr=&id=0hw3DAAAQBAJ&oi=fnd&pg=PP1&dq=yaman+Akdeniz,+Internet+Child+Pornography+and+the+Law+National+and+International+Responses,(2008)&ots=FSZnHiodNO&sig=8IE96_dUm3minpx0XKZNzhLE_Jo&redir_esc=y#v=onepage&q=yaman%20Akdeniz%20%20Internet%20Child%20Pornography%20and%20the%20Law%20National%20and%20International%20Responses%20C(2008)&f=false)

International, Regional instruments and National laws

1. African charter on the rights and welfare of the child, 1999 Article 27
2. African Union Convention on Cyber Security and Personal Data Protection
3. Computer Crime Proclamation No. 958/2016.
4. Constitution of the Federal Democratic Republic of Ethiopia ,(1995)
5. Council of Europe treaty) No201 council of Europe convention on the protection children against sexual exploitation and sexual abuse Lanzarote convention series
6. CRC /c/156, Guidelines regarding the implementation of theOptional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

7. Criminal Code [Ethiopia], Proclamation No. 414/2004
8. Optional Protocol to Convention the on the Rights of the Child on the sale children of child prostitution and child pornography
9. Promotion And Protection Of All Human Rights, Civil, Political, Economic, Social And Cultural Rights, Including The Right To Development Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Najat M'jid Maalla(2009) A/HRC/12/23
10. Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse. Adopted by the Interagency Working Group in Luxembourg, 28 January (2016)
11. UN Secretariat, "Secretary-General's Bulletin on Special Measures for Protection for Sexual Exploitation and Abuse", (2017)A/71/818
12. UNDHR,
13. United Nations Office of the High Commissioner for Human Rights 2011, Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework HR/PUB/11/04, p. 14-15.
14. Vienna Commitment against Child Pornography on the Internet Conclusions and recommendations of the international conference Combating Child Pornography on the Internet" 29 September to 1 October 1999
15. Worst Forms of Child Labour Convention, 1999. Art 3 (b)&(d)

Internet sources

1. Amnesty International, Children's Human Rights, Accessed at <https://www.amnesty.org/en/what-we-do/child-rights/>
2. Anti-slavery international, What is modern slavery?, Accessed from <https://www.antislavery.org/slavery-today/modern-slavery/>
3. Children and Technology: Positive and Negative Effects (2023), accessed from <https://www.globaltrademag.com/children-and-technology-positive-and-negative-effects/>
4. Digital 2022: Ethiopia, <https://datareportal.com/reports/digital-2022-ethiopia>
5. List Of Countries Which Have Signed, Ratified / Acceded To African Union Convention On Cyber Security And Personal Data protection, 2022 Accessed from

<https://au.int/sites/default/files/treaties/29560-sl->

[AFRICAN UNION CONVENTION ON CYBER SECURITY AND PERSONAL DATA PROTECTION.pdf](#)

6. National center for missing and exploited children, Cyber Tipline Reports by Electronic Service Providers (ESP), The Cyber Tipline Your Resource for Reporting the Sexual Exploitation of Children, Accessed from <https://www.scag.gov/wp-content/uploads/2011/03/cybertip.pdf>
7. National Center for Missing and exploited children, Cyber tip line(2022), Accessed from <https://www.missingkids.org/cybertiplinedata>
8. The Gaurdian, Accessed From <https://www.theguardian.com/fashion/2022/nov/29/balenciaga-apologises-for-ads-featuring-bondage-bears-and-child-abuse-papers>
9. UN Human Right Office Of The Commission, Global Emergency Of Child Exploitation And Abuse Needs Global Action: UN Experts Accessed From <https://www.ohchr.org/en/statements/2022/11/global-emergency-child-exploitation-and-abuse-needs-global-action-un-experts>
10. UNICEF, Sexual violence against children Accessed From <https://www.unicef.org/protection/sexual-violence-against-children>
11. What causes a sexual behavior problem? National center on the sexual behavior of youth, Accessed from www.ncsby.org. Retrieved 2023-02-15.
12. What is Cybercrime? Accessed from <https://www.norfolk.police.uk/advice/cybercrime/1-what-cybercrime>

Key Informant interview-

1. Interview with child protection team leader and senior expert at MOWSA ,(May 9, 2023) at 10:00 AM
2. Interview with senior at Ministry of Justice ,(May 16,2023) at 09:00 AM,
3. Interview with Director Of Digital Forensic at Ethiopian federal police commission crime investigation bureau forensic investigation directorate (June 7, 2023) at 11:30 AM
4. Interview with Online Child Safety Consultant at UNICEF (June 13,2023) at 11:00 AM

5. Interview with Program Officer at UNODC (June 12,2023) at 10:00 AM
6. Interview with senior policy frame work consultancy experts,
7. Interview with national Interpol and international police cooperation and tanning project expert at INTERPOL (June 7, 2023) at 10:00 AM
8. Interview with Public Prosecutor at Arada Sub city (July 13,2023) at 11:00 AM
9. Interview with Public Prosecutor at Bole Sub city (July 10,2023) at 02:00 PM
10. Interview with Public Prosecutor at Akaki kaliti Sub city (July 06 ,2023) at 11:00 AM
11. Interview with Public Prosecutor at Yeka Sub city(June 13,2023) at 02:00 PM

In depth interview

1. Has been conducted with
 - 25 children and
 - 15 Parents

Guiding Questions

A. PUBLIC PROSECUTOR

1. Do you think the computer crime proclamation properly address the issue of OCSEA?
2. The computer crime proclamation has empowered the federal police and Attorney General to organize separate task units when necessary to follow up computer crime have you organized such task units?
3. Have you come across such cases? Which form of OCSEA is prevalent in Ethiopia?
4. Has Ethiopia made an extradition agreement with other countries to exchange criminals of OCSEA? If the country needs to extradite, how can this be accomplished?
5. What are the challenges in dealing with this issue?
6. What happens if more than one country claims jurisdiction?
7. Do you think if these cases have universal jurisdiction this would be interfere with a countries sovereignty?
8. If a Ethiopia requires investigation support or other country requests support from Ethiopia how can such collaboration be facilitated in a timely and efficient manner?
9. How can transnational law enforcement mechanisms take the specific considerations of child victims into account?
10. Do you think that it would be good if Ethiopia ratifies the OPSC ?

B. MINISTRY OF WOMEN AND SOCIAL AFFAIRS

1. What is the ministry currently doing to deal with OCSEA?
2. What kind of protection and support should the OCSEA victims receive?
3. Would the hotline service be available to children to report such crimes?
4. What kind of services should be available to the victims?
5. Do you think the socio-cultural situation of Ethiopia is the reason for children not reporting the abused they have suffered?

C. FEDERAL POLICE

1. Do you think the systems in Ethiopia are adequate to investigate the crime?
2. The computer crime proclamation has empowered the federal police and Attorney General to organize separate task units when necessary to follow up computer crime have you organized such task unit?
3. Have you come across such cases? Which form of OCSEA is prevalent in Ethiopia?
4. What are the challenges in dealing with this issue?
5. What do you think should be done to strengthen the investigation system?
6. What do you think is the reason for children not reporting the abused they have suffered?

D. INTERLOPE

1. What is your organization role in dealing with OCSEA?
2. Have you come across such cases? Which form of OCSEA is prevalent in Ethiopia?
3. What are the challenges in dealing with this issue?
4. What do you think should be done to deal with the crime and help the victims?
5. If a Ethiopia requires investigation support or other country requests support from Ethiopia how can such collaboration be facilitated in a timely and efficient manner?

E. ETHIOPIA INFORMATION NETWORK SECURITY AGENCY (INSA)

1. What is your organization role in dealing with OCSEA?
2. What do you think is the responsibility of the government to alleviate the crime?
3. What do you think should be done to deal with the crime and help the victims?
4. Have you tried to work with other countries to develop systems to protect children from OCSEA?
5. Have you tried to work with other countries to develop systems to removes sexual abuse of a child online?

F. UNICEF and UNODC

1. The study conducted by your organization indicates that around 300,000 children have been subjected to OCSEA, what do you think is the major reason for this?
2. What do you think is the role of the government role to control this offence and help the survivors?
3. What do you think is the role of NGO's to tackle this offence and the help survivors ?
4. What kind of protection and support should the OCSEA survivors receive?
5. Do you think the economic status of the survivors has connection with them becoming a victim?
6. What are the challenges in dealing with this issue?
7. Do you think the socio-cultural situation of Ethiopia is the reason for children not reporting the abused they have suffered?

G. CHILDREN

1. Do you know about OCSEA?
2. Have you come across children who have been victims of OCSEA?
3. If you ever talked with strangers online? do you think that this has risk?
4. Would you meet in person some you meet online?
5. Have you ever talked with someone online in a sexual manner?
6. Do you think it is okay to talk with someone(stranger) in a sexual manner?
7. If you become a victim to such a crime, would you report it? if no why not?

H. PARENTS

1. Do you know about OCSEA?
2. Do you think if a child becomes a victim of OCSEA it may be his/ her own fault
3. If your child / student become a victim to such a crime, would you report it? If no, why not?
4. What do you think the Government should do to protect children from such kind's offence?
5. Do you think your children / students know the risks that that are online?

