



Global Monitoring

status of action against commercial sexual exploitation of children

SOUTH AFRICA



2nd EDITION

This publication has been produced with the financial assistance of the Swedish Cooperation Agency (SIDA), The Oak Foundation and Irish Aid. The views expressed herein are solely those of ECPAT International. The support from these donors does not constitute endorsement of the opinions expressed.

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GLOSSARY OF TERMS AND ACRONYMS

- **AU.COMMIT:** AU Commission Initiative Against Trafficking In Persons
- **AU:** African Union
- **BRICS:** association of emerging national economies including Brazil, Russia, India, China and South Africa
- **CARE:** South African initiative Community AIDS Responses
- **CDA:** South Africa Central Drug Authority
- **CEDAW:** United Nations Committee on the Elimination of Discrimination against Women
- **CLPA:** Child Labour Programme of Action
- **COP:** Child Online Protection
- **CPU:** Police Child Protection Unit
- **CUBAC:** children suspect of being used by adults to commit crime
- **CWSA:** Child Welfare South Africa
- **DSD:** Department of Social Development
- **DWCPD:** Children and People with Disabilities
- **DWCPD:** Department for Women, Children and People with Disabilities
- **ECPAT:** End Child Prostitution, Child Pornography and Child Trafficking
- **EU:** European Union
- **FCS:** Family Violence, Child Protection and Sexual Offences Unit
- **FPB:** Films and Publications Board
- **FTTSA:** Fair Trade and Tourism South Africa
- **HIV/AIDS:** Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome
- **HPPB:** Human Trafficking, Prostitution, Pornography and Brothel Task Team
- **HSRC:** Human Sciences Research Council
- **ICT:** information and communication technology
- **IOM:** International Organisation for Migration
- **ISPA:** Internet Service Providers' Association of South Africa
- **ISTT:** Trafficking in Persons Inter-Sectoral Task Team
- **ITU:** International Telecommunications Union
- **Kinsa:** Kids' Internet Safety Alliance
- **NCPR:** National Child Protection Register
- **NGO:** non governmental organisation
- **NIDS:** National Income Dynamics Study
- **NMCF:** Nelson Mandela Children's Fund (NMCF),
- **NPA:** National Prosecuting Authority
- **NPAC:** National Plan of Action for Children
- **NRSO:** National Register of Sex Offences
- **OEC:** Office on the Rights of the Child
- **PEPFAR:** USAID's President's Emergency Plan for AIDS Relief
- **SABC:** South African Broadcasting Corporation

- **SACTAP:** IOM's Southern African Counter-Trafficking Assistance Programme)
- **SACTAP:** Southern African Counter-Trafficking Assistance Programme
- **SACU:** Southern African Customs Union
- **SADC:** Southern African Development Community
- **SADC:** Southern African Development Community
- **SADOL:** South African Department of Labor
- **SAHRC:** South Africa Human Rights Commission
- **SANTAC:** Southern Africa Network against Trafficking and Abuse of Children
- **SAPS:** South African Police Service
- **SOC:** Sexual Offences Courts
- **SOCA:** Sexual Offences and Community Affairs Unit
- **Southern African Counter-Trafficking Assistance Programme**
- **SWEAT:** Sex Work Education and Advocacy Taskforce
- **TCC:** Thuthuzela Care Centres
- **TECL:** Towards the Elimination of the worst forms of Child Labour Programme
- **UN:** United Nations
- **UNAIDS:** Joint United Nations Programme on HIV/AIDS
- **UNFPA:** United Nations Population Fund
- **UNHCR:** United Nations High Commission for Refugees
- **UNICEF:** United Nations Children's Fund
- **Unisa:** University of South Africa
- **UNODC:** United Nations Office on Drugs and Crimes
- **WASPA:** Wireless Application Service Providers' Association
- **YRU:** Young people Research Unit

FOREWORD

At the First World Congress against Commercial Sexual Exploitation of Children (CSEC) held in Stockholm in 1996, governments from around the world first gave recognition that commercial sexual exploitation of children is a global crime of epidemic proportions. The Stockholm Declaration and Agenda for Action - a strategic framework for actions against CSEC - was adopted by the 122 governments participating in the Congress in order to guide a systematic global response against the sexual exploitation of children.

The outcome document of the First World Congress was soon followed by the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC). Adopted in 2000 as a legally binding treaty of the United Nations, the Optional Protocol (and other relevant international treaties) reaffirms the urgent need for political will and concrete actions from governments to ensure that children in their countries can live free from all forms of commercial sexual exploitation.

In 2001, high-level delegates from 136 governments, local and international non-governmental organisations and children and young people, convened in Yokohama for the Second World Congress to review the achievements and challenges in combating CSEC as well as to identify new priorities needed to bolster and enhance action. Seven years later, the World Congress III in Rio de

Janeiro provided the largest global platform to date for delegates from 137 governments to renew their state's commitment to protect children from commercial sexual exploitation. The Rio Declaration and Call for Action strongly urges all stakeholders, including the private sector, to continue their due diligence in taking the necessary follow-up actions to eliminate CSEC. The Rio Call for Action emphasises the obligation to uphold the rights of the child as identified in existing international human rights and child rights instruments. It also offers a framework for the accountability of all duty-bearers of children's rights, particularly governments, in the fight against sexual exploitation of children and re-affirms the continuing relevance of the Agenda for Action, first agreed to in Stockholm twelve years earlier.

This report, as part of the Second Edition series of country monitoring reports produced by ECPAT International, provides a comprehensive baseline of information on all manifestations of CSEC in the country and an assessment of achievements and challenges in implementing counteractions (including the participation of children and young people themselves) to eliminate CSEC. The report, which follows the framework of the Stockholm Agenda for Action, serves as an instrument for the sharing of information and experiences among various stakeholders and duty-bearers within the country as well as internationally. It also suggests concrete priority actions urgently needed to proactively advance the national fight against

CSEC. Furthermore, this report enables the monitoring of the implementation of international instruments on child rights, related to commercial sexual exploitation that have been ratified by the concerned state.

The production of this report is achieved through extensive collaboration within the ECPAT global network. ECPAT International would like to thank ECPAT member groups in the countries assessed, local and global experts and other organisations

for their invaluable inputs to this report. ECPAT International would also like to express its profound appreciation of all the hard work of its dedicated team from within the Secretariat and for the generous support of its donors that helped make the finalisation of this report possible. The contributions of all involved have greatly strengthened the monitoring of the Agenda for Action and the heightened collaboration needed to fight the new and evolving complex manifestations of commercial sexual exploitation of children.

METHODOLOGY

The Agenda for Action against Commercial Sexual Exploitation of Children provides a detailed framework and categories of actions to be taken by governments in partnership with civil society organizations and other relevant actors for combating commercial sexual crimes against children. Broadly, these actions are focused on: 1) Coordination and Cooperation; 2) Prevention; 3) Protection; 4) Recovery, Rehabilitation and Reintegration; and 5) Child Participation. The Agenda for Action is thus the formal and guiding structure used by governments that have adopted it and committed to work against CSEC. As such, the Agenda for Action is also the main organising framework for reporting on the status of implementation of the Agenda as seen in the World Congress II of 2001, the Mid-Term Review meetings held between 2004 and 2005 and the World Congress III in 2008. It has been used in the same way to structure and guide the research, analysis and preparation of information presented in these reports on the status of implementation of the Agenda in the individual countries.

Preparatory work for this 2nd Edition report involved a review of the literature available on sexual exploitation for each of the countries where ECPAT works. A number of tools were prepared, such as a detailed glossary of CSEC terms, explanatory literature on more difficult themes and concepts and a guide to relevant CSEC-related research tools, to assist researchers in their work and to ensure consistency in the gathering, interpreting and analysing of information from different sources and parts of the world.

Desktop research has shown a continuing lack of information in the areas of Recovery, Rehabilitation and Reintegration. After extensive efforts to collect information relevant to these areas for each of the countries covered, it was decided that as this information was not consistently available, the reports thus focus only on those areas of the Agenda for Action where verifiable information can be obtained. Thus, the report covers: Coordination and Cooperation; Prevention; Protection and Child and Youth Participation, and where information on recovery, rehabilitation and reintegration, was available, it has been included under the country overview. These 2nd Edition Reports also reflect a greater focus on integrated and inter-sector collaboration for the realisation of the right of the child to protection from sexual exploitation, including the need nationally for comprehensive child protection systems.

Research of secondary sources, including CRC country and alternative reports, OPSC country and alternative reports, the reports of the Special Rapporteurs, as well as research and field studies of ECPAT, governmental and non-governmental organizations, regional bodies and UN agencies, provided the initial information for each report. This information was compiled, reviewed and used to produce first draft reports. In-house and consultant specialists undertook a similar process of review to generate information on specialised areas of the reports, such as the legal sections. Nevertheless, researchers often encountered a lack of information. While sources also included unpublished reports and field and

case reports of ECPAT and other partners, many countries lacked up-to-date data and information on areas relevant to this report.

Despite these limitations, sufficient information was gathered to provide a broad overview of the situation in each country. Subsequently, first drafts were prepared and shared with ECPAT groups, which then supplemented the information with other local sources and analysis (taking care to identify them and source appropriately). Upon receipt of these inputs, a series of questions were generated by the ECPAT International team for deeper discussion, which involved ECPAT groups and specialists invited by them. The information from these discussions was used to finalise inputs to each of the reports. These consultations proved to be invaluable for analysis of the country situation. They also served as a measure for triangulating and validating information as different actors offered their perspective and analysis based on their direct work.

As previously noted, the information of each country report is organised to correspond to the structure of the Agenda for Action. Thus all the 2nd Edition reports feature updated information in relation to: (i) an overview of the main CSEC manifestations affecting the country; (ii) analysis of the country's National Plan of Action (NPA) against CSEC and its implementation (or the absence of an NPA); (iii) overview and analysis of coordination and cooperation efforts during the period under review; (iv) overview and analysis of prevention efforts; (v) overview and analysis of protection efforts, which includes detailed information on national legislation related to CSEC (see www.ecpat.net for further details); (vi) overview and analysis of country's efforts incorporate participation of children in youth in the development and implementation of efforts to combat CSEC and (vii) priority actions required.

SOUTH AFRICA



INTRODUCTION

Gaining independence from the British in 1910, South Africa became a full democracy after the abolition of apartheid in 1994, when the country's first multi-racial general elections brought an end to decades of white rule. Diversity is a key feature of South Africa, where 11 languages are recognised as official. The majority of the population (79%) are black Africans, followed by white (nearly 10%), coloured and Indian-Asians.¹ South Africa has the continent's biggest economy (though this went into recession in May 2009) and is, along with China, Brazil, Russia and India, a member of the BRICS club of emerging world economic powerhouses.² Recently, South Africa has been placed with the "Medium Human Development Countries" ranking 123 among the 187 countries that were surveyed, according to the 2011 Human Development Report.³

Despite being the richest country in Africa, economic growth has not translated into improvements in economic well-being for the majority of the population. With a Gini index increasing from 0.56 in 1995 to 0.63 in 2009, South Africa is one of the most unequal societies in the world.⁴ Children are particularly affected by poverty. A 2012 report by the Children's Institute found that, using a lower-bound poverty line (equivalent to R575 or 66 USD per person per month in 2010), 60% of the 18.5 million children living in South Africa were poor. Although income

poverty rates have declined for children overall, also as a result of the child support grant being implemented by the government, there are stark differences in poverty headcounts, particularly between White and African children, which illustrate the lasting effects of apartheid.⁵

HIV/AIDS is a prominent concern with a devastating impact on the child population. In 2010, South Africa had an estimated 518,000 HIV-infected children aged 0 – 14 years, the highest number of children living with HIV of any country worldwide.⁶ The number of AIDS orphans is also the highest globally. UNAIDS estimates that there were 1 800 000 children up to the age of 17 whose mothers had died due to the disease living in South Africa at the end of 2008.⁷ More recently, the Medical Research Council warned that without significant changes in sexual behaviour or interventions, about 15 percent of all children under the age of 15 and more than 30 percent of all children between the ages of 15 and 17 will have lost their mothers by 2015.⁸ Whilst some of the children orphaned by AIDS enjoy the care of extended families, others are forced to become heads of households or end up on the streets. A General Household Survey published in 2007 exposed a significant increase in the number of children living or working on the street, finding that 6.4 % of households had a child aged between 5 – 17 years who had left the

household in the last twelve months (meaning that roughly more than 700,000 children had not been in their houses for up to a year).⁹ Worsening poverty among especially vulnerable families and communities affected

by HIV/AIDS, and increasing rates of adult mortality associated with AIDS illnesses, is creating a very dangerous situation for affected children who become easy targets for sexual exploitation and trafficking.¹⁰

Child rape continues to increase

South Africa has one of the highest level of child rape in the world. According to recent reports, the number of incidents appear to be on the rise. Police statistics revealed a 40 percent increase in child rape cases between 2008 and 2011. More than 28,000 children under the age of 18 years were sexually assaulted from 2010 to 2011, a third of whom being under 10 years.¹¹ A report released in June 2009 also exposed the high incidence of child rape, concluding that there were about 60 cases every day, with more than 88 percent of the incidents going unreported. In a survey conducted among 1,500 schoolchildren in the Soweto township, a quarter of all the boys interviewed said that 'jackrolling', a term for gang rape, was fun.¹² Perpetrating violence in the context of a male peer group plays a role in the construction of masculinity, particularly in a society where traditional gender norms support male superiority and sexual entitlement.

Child rape is frequently associated with cases of commercial sexual exploitation of children (CSEC), including production of child pornography and prostitution of children,¹³ and may at times be fuelled by the false belief common among many African men that having sex with a virgin is a cure for HIV/AIDS (so called "virgin cleansing myth").¹⁴ In 2011, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed serious concern about the high number of girls who suffer sexual abuse and harassment in schools by both teachers and classmates, as well as the high number of girls who experience sexual violence while on their way to/from school. The Committee was particularly concerned at reports indicating that prostitution, exploitative sex and rape are perpetrated in connection with a child's access to education.¹⁵

South Africa has almost universal enrolment until grade 9 and the average number of years of education attained has increased by over 50% in the past three decades. Yet most of this improvement is below the secondary school completion level, especially among poor children. Analysis of attendance among discrete age groups shows a significant drop in attendance amongst children older than 14. The National Income Dynamics Study (NIDS) found that 25% of grade 9 learners in 2008 had dropped out without graduating from high school, with only 16% of those who had left being employed or in alternative education.¹⁶ According to a 2010 study, the lack of educational and employment opportunities within South Africa and neighbouring countries constitute one of the main driving factors behind human trafficking for sexual and other purposes.¹⁷

In recent years, South Africa has experienced a growing influx of migrant children from neighbouring countries, mainly Zimbabwe, Mozambique, Swaziland and Lesotho. During the 2008/9 period it is estimated that close to 4,000 migrant children were living independently of close relatives and outside of their country of origin. Girls are slightly more likely to migrate independently compared to boys and the likelihood that a child will migrate independently also increases substantially with age. Poverty, peer pressure, the death of parents and caregivers, the practice of children being loaned/sent to better-situated family members to be raised, as well as conflict and political unrest all contribute to push children to relocate to South Africa. Many of them arrive unaccompanied and are often denied their rights, detained illegally or deported. Once in

the country, migrant children are vulnerable to child labour, physical and sexual abuse, sexual exploitation and trafficking. In many

cases, they have no access to basic necessities such as food, shelter, health services, and education.¹⁸

Prostitution of children

There are no updated studies nor reliable statistics on prostitution of children in South Africa. Although unsubstantiated, estimates of children involved range between 28,000 and 30,000, approximately half of whom are said to be between 10 and 14 years of age, and the other half between 15 and 18 years old.¹⁹ According to some child rights activists, commercial sex is increasing and becoming rampant, with some girls being pushed into selling their bodies by their own parents. Pimps often 'recruit' children from desperately poor areas where there is little alternative for financial income. Child victims are often controlled by pimps with drugs and alcohol. Many are moved to South Africa by traffickers from other countries in the region while others run away from home and end up on the streets where the easiest way to make money is to sell themselves.²⁰

There appears to be various forms of prostitution of children. An increasingly prevalent phenomenon is that of young girls getting into so-called relationships with older men where there is an exchange of money or some reward, sometimes with the knowledge of their parents who are complicit.²¹ There are also other forms of contractual sex, when adults circulate children to their friends and other contacts.²² Prostitution of children occurs in different locations, from beachfront areas to suburbs and townships, and is difficult to detect because it often happens behind closed doors.²³

According to the Police Child Protection Unit (CPU) in Johannesburg, approximately 15 new girls between the age of 15 and 18 are arrested every month for their involvement in prostitution. About one-fourth of Cape

Town's children living and/or working on the streets, including boys, are engaged in prostitution. It is also estimated that there are at least 32 brothels and hotels in Johannesburg where about 5,000 young girls are exploited in the sex industry. Durban Children's Society has reported that commercial sex in some areas of the city is common, with "madams" using young girls involved in prostitution to lure other peers.²⁴

A research in Diepsloot community, an informal settlement in the north of Johannesburg, found that 40% of girls below the age of 16 were involved in commercial sexual exploitation. One in every 5 of girls was HIV positive. The prostitution of children took the form of survival sexual exploitation, mainly due to poverty and the high unemployment rate in the area. Schools in Kwa Zulu Natal, a province in the South-Eastern part of the country, have reported that there are prostitution rings operating in their schools where groups of girls between 11 and 16 years frequent discos and provide sex services in exchange for money or another form of consideration. Some children give all their earnings to pimps in exchange for drugs.²⁵

Poverty, urbanisation, domestic violence and family rejection are all contributory factors to children caught up in prostitution. Family breakdown as a result of HIV/AIDS has also resulted in an increased number of children being orphaned and homeless, and criminal gangs are taking advantage of this by sexually exploiting them. Most girls involved in prostitution come from broken families and they have often been sexually abused.²⁶

The overall lack of systematically gathered quantitative information is a major obstacle to the accurate assessment of the magnitude of trafficking in persons in South Africa, including child trafficking for sexual exploitation. A 2010 government-commissioned study conducted by the Human Sciences Research Council (HSRC) offers a detailed analysis of human trafficking - including trafficking trends, victims' profile, purposes for human trafficking and key driving factors - but fails to provide hard data.²⁷

South Africa is a source, transit, and destination country for men, women, and children subjected to forced labour, sex trafficking²⁸ and other criminal activities. Trafficking of children and young people to South Africa takes place predominantly from neighbouring countries. The major countries of origin for trafficking from Africa are Mozambique and Zimbabwe, followed by Malawi, Swaziland and Lesotho. Zimbabwean and Malawian children are trafficked through the Musina/ Messina border.²⁹ Taxi drivers or thugs at the border transport Zimbabwean migrants, including children, into South Africa and may subject them to sex or labor trafficking upon arrival.³⁰ Young girls are trafficked through

the Lesotho border post at Maseru and then on to Bloemfontein. Destination points include Johannesburg, Cape Town and farms within Mpumalanga Province. Barberton in Mpumalanga has been identified as a conduit for young girls trafficked from Swaziland by illegal miners. Loose networks of traffickers and large organised criminal groups operating across the African continent and within South African borders are both involved in the trafficking process. Illegal transportation of children is facilitated by lax border controls and bribery of border officials.³¹ Young children, particularly girls, make up a large component of the trafficking flows from Africa. The forms of trafficking are different and include exploitation in prostitution, pornography, domestic servitude, forced labour, begging, criminal activity (including drug trafficking), and trafficking for the removal of body parts (or muti). Girls are mainly trafficked for sexual exploitation while young boys are used to smuggle drugs and for other criminal activities.³² Besides poverty and migration to seek better lifestyles and economic opportunities, cross border trafficking of children to South Africa appears to be driven by other key factors, including the demand for commercial sex from local men (such as miners) and travelling sex offenders.³³

Child trafficking and the 2010 FIFA World Cup

During the run-up to the 2010 FIFA World Cup, government and civil society organisations expressed concern over a possible increase in human and child trafficking in South Africa. A rapid assessment conducted in 2008 by Molo Songolo, a Cape Town based NGO, indicated that the demand for sexual services, including sexual services from children, combined with the relaxation of visa controls and the closure of schools that would leave children unattended and unsupervised, could create favourable conditions for a surge in child trafficking and sexual exploitation.³⁴ In line with this assessment, the South Africa Central Drug Authority (CDA) predicted that 40,000 extra trafficked sex-workers would be imported for this sport event. Whilst there are no statistics on the number of adults and children trafficked in conjunction with the World Cup, the South Africa Department of Justice and Constitutional Development reported afterwards that there were no cases of sex trafficking during the event. A recent study undertaken by the United Nations Population Fund (UNFPA) and

the Sex Work Education and Advocacy Taskforce (SWEAT) to monitor supply and demand of female sex work around the time of the 2010 World Cup confirmed that sex-worker demographics did not change significantly. Data collected for this research also did not support fears about an increase of trafficking of children into the sex industry during the World Cup period.³⁵

Whilst there is no concrete data of child trafficking for sexual exploitation from and through South Africa, several sources suggest that trafficking of children occurs mainly within the country's borders. Child victims are reportedly recruited from rural areas or informal settlements and transported to the urban centers of Johannesburg, Pretoria, Cape Town, Bloemfontein, and Durban. Girls are usually subjected to sex trafficking and domestic servitude while boys are forced to work in street vending, food service, begging, criminal activities, and agriculture.³⁶ According to a 2008 research by IOM, boys under the age of eighteen are increasingly lured into sexual exploitation, more frequently for use in pornography. The study also found that adolescent girls and young women who leave exploitative situations as domestic servants are vulnerable to recruitment into

the sex industry.³⁷ Domestic trafficking for sexual exploitation appears to have a strong link to organized criminal groups. Nigerian syndicates dominate the commercial sex trade within the country, though local criminal rings and street gangs organise the prostitution of children in a number of South African cities.³⁸ Women are very often involved as recruiters, and advertisements in local newspapers to deceive young girls and women into the sex industry are frequently used as a recruitment technique. Family members may also be involved in the trafficking process, sometimes by selling their children directly to traffickers. Children who are most vulnerable to trafficking include child-headed households due to HIV/AIDS, unregistered children, and children living in impoverished rural areas and informal settlements.³⁹

The U.S. Department of State annually releases a Trafficking in Persons Report which categorises countries into different "tiers" based on the extent of government action to combat human trafficking. Countries that have the highest level of compliance with the Trafficking Victims Protection Act's minimum standards for the elimination of trafficking are placed in **Tier 1**. Those that have made "significant efforts" to meet the standards are placed in **Tier 2** and countries that are not making significant efforts to combat human trafficking are placed in **Tier 3**.

In the 2013 report, South Africa was placed in **Tier 2**.⁴⁰

Child pornography/child abuse images

Child pornography is a growing concern in South Africa as evidenced by the increasing number of arrests for related offences.⁴¹ While the true extent of this criminal practice remains unknown, the numerous child pornography rings dismantled in recent years (six only in 2010) reflect its pervasive nature.⁴² The production and distribution of child abuse materials, including through the use of

Internet and other ICTs, has gained massive media and political attention while also becoming a major area of law enforcement activity and parallel social concern. Nevertheless, relatively little is known about this form of CSEC and existing research in this area remains limited.⁴³

A 2007 study conducted by Human Sciences

Research Council on behalf of the Films and Publications Board (FPB) investigated the scope of manufacturing and distribution of child pornography in South Africa, the number of criminal cases in which child pornography played a role, and the profiles of perpetrators and children who are vulnerable to this form of exploitation. The study estimated that fewer than 20 cases of persons possessing, manufacturing or distributing images were investigated in South Africa between 2003 and 2007. In terms of vulnerability, the research found that children who have an established relationship with the abuser and who do not have adequate

supervision were most exposed to the production of abuse images. Children with internet and high end cell phones, children with low self-esteem or with difficult relations with their parents were also considered at-risk. The investigation did not identify a clear offender profile as sexual abusers were found to be a heterogeneous group, including but not limited to pedophiles. An increase in the number of self-generated images, i.e. children taking pictures of themselves or each other in sexual ways, was also reported. The pictures were then distributed to peers, generally without the consent of the people portrayed.⁴⁴

Involvement of family members in the production of child abuse images

In 2010, the police arrested eight members of a family for operating a large child pornography production ring. Four children - three boys and a girl aged between four and 15 - were allegedly raped by their relatives and groomed to have sex with each other, all of which was filmed for purposes of child pornography. Police suspected that the teenage girl was sexually abused on film by her father and mentally disabled brother. The investigation began when social workers noticed that two children - aged 6 and 8 - were not performing well at school. A ninth person, suspected to be selling and distributing the child abuse images, was arrested in 2011 and, together with the other accused, is currently on trial.⁴⁵

The number of South Africans using the Internet has significantly risen due to the impact of smart-phones and mobile phones. According to a recent study, the number of internet users increased from 6.8 million at the end of 2010 to 8.5 million by the end of 2011, with the result that usage is now reaching 20%. As mobile – and mobile internet – usage increases, attention is being focused on the vulnerability of children to abuse and exploitation online. A number of studies recently identified risks faced by South African children in their online interactions. A 2008 study conducted by the FPB investigated the impact of sexual abuse through ICTs, revealing that exposure to “worrying content” on the Internet including “sexual nature and nudity” content involved 22 % of surveyed participants. Online forums, like chat rooms, served as a platform among 14 % of respondents who had been exposed

to “distressing content” and have received “sexual advances.” Furthermore, results revealed that 12 % of surveyed individuals had been exposed to “distressing content” via cell phones. A majority of this so-called distressing content was of a sexual nature, though 7 % reported having been exposed to mostly violent and sexual content via email.⁴⁶

Another report released in 2011 by the Young People Research Unit (YRU) at the University of South Africa (Unisa) had surveyed 1000 young South Africans aged 12 to 25-years old. This report found that 17.8 % of participants had, at one time, felt worried or threatened by online harassment, 30.8 % were faced with an “unwanted discussion about sex” online, and 12.6 % had been “asked to do something sexual” online. The study also found that boys are more likely to engage in unsafe online activities than females, which

may put them at greater risk of becoming victims of online “victimisation.”⁴⁷

A study was conducted by UNICEF on the use of ICT by children and young people under the Digital Citizenship and Safety project that aimed to get a better understanding of digital behaviour of youth living in developing nations. The first of the series entitled “*From ‘What’s your ASLR’ (age, sex, location, race) to ‘Do You Wanna Go Private?’*” was research conducted with Harvard University and its Berkman Center for Internet and Society as well as the University of Cape Town and Mxit, the leading African social network platform.⁴⁸

Sexting, i.e. sending or receiving of sexually explicit or sexually suggestive images or video via a cell phone, talking with and meeting strangers and online grooming are also common risks faced by South African children using ICTs. The Wireless

Application Service Providers’ Association (WASPA) has reported that 22 percent of teen girls and 20 percent of boys have sent nude or semi-nude photos of themselves over the Internet or their phones.⁴⁹ According to a UNICEF study, it was found that everyday 42 % of young people talk to strangers on Mxit (a free instant messaging application) and 33 % are doing so at least once a week. Another study in the Nelson Mandela Bay area found that 40 % of students surveyed had met someone in person after having chatted online. Meeting with strangers may also result in later sexual abuse and exploitation. The media have reported numerous examples of teenage girls who meet up with older men after having met online and who were sexually assaulted. In 2010, according to a news report, a 15-year old girl was drugged and raped by a 27-year old man she met on Mxit. In 2011, a similar case led to rape of a 20-year old by three men.⁵⁰

Sexual exploitation of children in tourism

South Africa is considered one of the most popular destinations for travelling sex offenders in the African region.⁵¹ Claims by academics indicate that the country is becoming a major hub for underage sex tourism in Cape Town, Johannesburg, Port Elizabeth and Durban.⁵² Although some media reports highlighted an increase of this phenomenon, sex tourism is often overlooked⁵³ and updated research on this specific manifestation of CSEC continues to be lacking. Establishing how often child sex tourists are arrested in South Africa is difficult, mainly because they are usually charged with indecent assault or rape and not on account of sex tourism. Convictions of foreign sex offenders are not uncommon though. Available information seems to suggest that child sex tourists come from

European countries such as Germany, UK and Switzerland,⁵⁴ as well as from the USA and other countries.⁵⁵

On numerous occasions, the city of Cape Town has been central in debates on the scope and size of sex tourism in South Africa, as it is considered as one of the world’s top en sex tourism destinations. Johannesburg, as a sex tourism destination, has also received some attention in the media with the prosecution of a Swiss ‘sex tourist’ caught sodomising a 14-year-old boy from Alexandra township in 2005.⁵⁶ According to a child rights expert, street children regularly report sexual encounters with adults who are not South African nationals. Nevertheless, only few travelling child sex offenders are caught and convicted.⁵⁷

German arrested for possession of child pornography

In January 2012, three people, including a German national, were arrested on suspicion of operating a child pornography ring in Denham Town. The German, a business man, was managing an illegal fertility treatment centre where the police seized several computers and hard drives which contained sexually explicit photographs and videos of minors. The men were arrested following a complaint from a teenager who the police suspect was one of several young girls who had fallen victim to the men. The German national was accused of possession of child pornography and other sexual assault charges.⁵⁸

Early and forced marriage

In some remote villages in the Eastern Cape and Western Cape, the tradition of *ukuthwala* is still practiced. *Ukuthwala* is a form of abduction that involves kidnapping a girl or a young woman by a man and his friends or peers with the intention of compelling the girl or young woman's family to endorse marriage negotiations. In ancient Africa, particularly among the Nguni, *Ukuthwala* was a condoned although abnormal path to marriage targeted at certain girls or women of marriageable age. However, it did not involve raping or having consensual sex with the girl until marriage

requirements had been concluded. Today *Ukuthwala*, particularly in the Eastern Cape, increasingly involves the kidnapping, rape and forced marriage of minor girls as young as twelve years, by grown men old enough to be their grandfathers. *Ukuthwala* as currently practised is a serious violation of the rights of the child⁵⁹ and may also contribute to sexual exploitation. As noted by the latest U.S. Department report on human trafficking, this tradition leaves girls vulnerable to forced labor and prostitution.⁶⁰

Following the 1996 Stockholm and the 2001 Yokohama global forums on the commercial sexual exploitation of children, South Africa reaffirmed its commitments at the 2008 World Congress III against Sexual Exploitation of Children and Adolescents, in Rio de Janeiro, Brazil. The World Congress III renewed global action and galvanised international resolve to combat sexual exploitation of children and adolescents.

NATIONAL PLAN OF ACTION

Whilst South Africa has yet to adopt a national plan of action specifically against CSEC, the country has adopted various policy documents that are relevant for addressing this violation. Child protection plans with components to address child trafficking and sexual exploitation were developed and successfully implemented in conjunction with the FIFA World Cup 2010. Further, the NPA for Children (NPAC) valid for 2012-2017, which was recently approved by the Cabinet, details a number of strategies to protect children from sexual exploitation, child pornography and child trafficking. Despite these efforts, the government reported that departmental budgets which impact on the

well-being of children have increased substantially over the last decade - especially in the areas of education, health, basic services and housing.⁶¹ NGOs that play a critical role in the implementation of these plans (such as Child Welfare South Africa) have raised concern over the limited resources available, their exclusion from the consultation process and the concrete realization of the NPAC.

The *National Policy Framework and Strategic Plan for the Prevention and Management of Child Abuse, Neglect and Exploitation* finalized in 2004 by the National Child Protection Committee of the National Department of Social Development in close consultation with civil society organisations, identifies seven priority areas of action for addressing child abuse and commercial sexual exploitation of children. The plan details a number of interventions for mitigating risks of child abuse, including child trafficking, and lays out roles and responsibilities of all sectors involved in child protection. Resources were allocated for the effective implementation of this strategy and monitoring and evaluation schemes were additionally formalized.⁶²

To respond to concerns of increased risks of child exploitation and trafficking raised nationally and internationally, the Department of Social Development, in consultation with UN agencies and civil society organisations, developed a specific Child Protection Action Plan for the FIFA World Cup 2010. The plan envisaged the establishment of a national Government-NGO working group and task teams in host cities charged with the expansion and implementation of local child protection plans. The purpose of these plans was to guide child protection services during the event through collaboration between the public, civil society and government. Besides outlining training and capacity building programs for the relevant stakeholders as well as procedures for communication between the government, civil society and service providers, the plan provided for education and mobilization of parents and communities in partnership with existing civil society programs and provincial authorities.⁶³ Meetings were held after the World Cup to review the effectiveness of the plans and

services provided to children. The overall outcome was found to be positive, although some challenges and lessons learned were identified.⁶⁴

In 2009, the Trafficking in Persons Intersectoral Task Team established in 2003 (see section below on “Coordination and cooperation” for more details), drafted a National and Integrated Action Plan to combat human trafficking (called “Tsireledzani!”, i.e. “Let’s Protect!”) which included interventions in the field of research, victim support, capacity building and awareness-raising. The strategy was implemented by the National Prosecuting Authority in partnership with UN agencies, NGOs, the Human Sciences Research Council and the University of South Africa and was guaranteed by the financial support of the European Commission.⁶⁵

The Government has recently approved the National Plan of Action for Children 2012-2017 (NPAC).⁶⁶ Developed by the Department of Women, Children and People with Disabilities (DWCPD) in consultation with other government departments, experts in the child rights field, civil society organisations and children, the plan aims to achieve the full realisation of children’s rights in South Africa. Informed by the principles and provisions of the Convention and linked with the Government’s development priorities, plans and prescribed outcomes so as to secure the integral positioning of children on the national development agenda, it sets clear and achievable children’s rights-based goals within each of the national priority development areas while requiring all stakeholders to mainstream the realisation and resourcing of the targeted children’s rights within their own sectoral/departmental policies, plans, programmes and budgets.⁶⁷

The NPAC focuses on five broad themes (child survival, child development, child protection, standard of living of children and child participation) that are further divided into sub-themes within each comprising of specific goals, objectives, strategies and indicators. One of the sub-themes is devoted to protecting children from sexual exploitation, child pornography and child trafficking. A number of strategies are detailed under this section to ensure provision of services to child victims, prevention and early intervention, as well as high level of digital awareness and safety amongst all children. Responsibility for the coordination, implementation, monitoring and reporting on the NPAC is housed within the DWCPD. To this end, A National Interdepartmental Committee has been established under the leadership of the DWCPD to monitor and report on the implementation of the NPAC. It will consist of representatives from all government departments and will facilitate participation by civil society. To ensure broader impact, Provincial Steering Committees will also develop Provincial Plans of Action for Children while at municipal level, municipalities will develop Local Plans of Action for Children coordinated by municipal managers.⁶⁸

The Child Labour Programme of Action (CLPA) first adopted in 2003 by a large group of key stakeholders, was updated in 2007 for a second five year-phase of implementation (this is known as CLPA-II). The new plan identifies several activities falling within the mandates of a wide range of government departments and agencies. It aims to strengthen the implementation of a number of government policies by promoting, inter alia, capacity building, new legislative measures and increased public awareness and social mobilization against child labour and its worst forms, including CSEC.⁶⁹ A report on the implementation of CLPA-II released in 2012 by the Department of Labour registered progress in the legal framework related to CSEC as well as in developing training on child sex trafficking. However, it also notes that there are a substantial number of steps contemplated by the CLPA against which departments have reported no progress (for example, the action plan to monitor “hotspots” of CSEC was never developed). It therefore recommends that the design of the next stage of the CLPA 2012 – 2016 should focus, partly on improving monitoring activities to ensure that progress is made.⁷⁰

COORDINATION AND COOPERATION

Local and national levels

A number of coordinating mechanisms on child protection, human trafficking and child labour have been set up or are being established nationally and locally in accordance with existing legislation and policy documents adopted by the South African government. Whilst child victims or children vulnerable to trafficking and CSE are also dealt with, the effectiveness of these collaborative initiatives at an operational level has yet to be improved. A 2010 report on the child protection system in South Africa noted that poor coordination across government and between sectors, including with community-based organizations, affects the system on all levels. Also, whilst coordination between government and larger NGOs was reported to be generally good, coordination and collaboration with smaller NGOs and informal structures in communities was found to be poor.⁷¹ The Department for Women, Children and People with Disabilities that is currently in charge for promoting and

monitoring children's rights, has reported constraints in human and financial resources while also pointing to uncoordinated responses to children's issues, due inter alia to a lack of integrated and centralised information/knowledge management system.⁷² From the NGO side, Child Welfare South Africa has noted that coordination may also be hampered by overlapping responsibilities between existing departments which creates confusion, especially in the reporting mechanisms and structures.

The Department of Social Development (DSD) is the lead department responsible for child protection. The level of inter-departmental collaboration both horizontally and vertically between this and other key departments (including Department of Justice, National Prosecution Authorities, Department of Health, Department of Education and the South African Police Service) remains problematic, with communication being the greatest challenge. National, Provincial and Local Child Protection Committees have also been established to facilitate coordination between government departments as well as between government and civil society organizations. The functioning of these committees is hindered, however, by the lack of protocols for provincial and local Child Protection Committees and the limited attendance of related meetings by representatives from government departments.⁷³

In 2009, the Government established a Department for Women, Children and People with Disabilities (DWCPD) with the core mandate to advocate for mainstreaming Government policies and programmes with respect to those target groups.⁷⁴ The DWCPD's tasks involve overseeing, coordinating, monitoring and evaluating the impact of efforts towards addressing issues relevant to women and girls, including sexual abuse and exploitation.⁷⁵ The new department has incorporated the former Office on the Rights of the Child (ORC), previously based within the Presidency, and is therefore now responsible for monitoring children's rights.

A number of legal acts and policy documents, such as the National Policy Framework

and Strategic Plan for the Prevention and Management of Child Abuse, Neglect and Exploitation, emphasize the importance of multi-stakeholder collaboration in child protection, including against child trafficking and CSEC. The Children's Act n. 38 adopted in 2005 expands the child protection net to protect street children, children involved in child labour, trafficked children, refugee children and children in child-headed households by enforcing social work intervention and social work investigations into the circumstances of these children. In this framework, intersectoral collaboration and consultations with civil society as part of all child protection interventions is considered a key strategy. Progress has been made in this regard including at the provincial level, where multi-disciplinary teams have been established. In addition, the implementation of the Children's Act has seen the creation of a National Child Care and Protection Forum which includes representatives from relevant government departments as well as civil society organisations. This Forum is a platform through which the implementation of the Act is being monitored.⁷⁶

In response to the National Policy Framework and Strategic Plan for the Prevention and Management of Child Abuse, Neglect and Exploitation as well as the Children's Act, the Department of Social Development in consultation with civil society has developed the *Guidelines for the Prevention and Response to child exploitation*. These guidelines are essential in providing an organized response to child exploitation, including CSEC and child trafficking. The document acknowledges the need for multi-stakeholder collaboration and proposes structures at national, provincial and local level to facilitate

collaboration in service delivery. The chapter focusing on collaboration calls for, inter alia, effective coordination of and efficient service delivery, shared responsibilities of social service professionals, and strengthening of their capacity.⁷⁷

The government has bolstered efforts to support a coordinated response to child pornography. In December 2006, a Ministerial Task Team on Child Pornography was established to provide advice on this specific crime against children. The task team has forged strategic partnerships with mobile phone operators and Internet service providers, the South African Broadcasting Corporation (SABC) and other government departments. To assist the task team in assessing the work conducted by these institutions, the FPB commissioned the Human Sciences Research Council to conduct research on the extent of child pornography in South Africa and child sexual abuse through ICTs (see section above on child pornography) as well as on the capacity to deal with it in the form of laws, policies and institutions.⁷⁸ In 2009, the Department of Home Affairs also announced that it would be developing an inter-departmental protocol on the protection of children against child pornography, with a focus on advocacy and law enforcement. Government agencies working on the protocol included the South African Police Service, the National Prosecuting Authority (NPA), and the departments of basic education, social development, and justice and constitutional

development.⁷⁹

Initiatives to enhance a comprehensive approach to prevent and address trafficking in persons, including child sex trafficking, have been implemented since 2003 when the national Trafficking in Persons Inter-Sectoral Task Team (ISTT) was set up. Chaired by the Sexual Offences and Community Affairs (SOCA) Unit within the National Prosecuting Authority and comprising stakeholders from various government departments, international organisations and NGOs, the ISTT's mandate is to coordinate all government counter trafficking efforts. A broader Human Trafficking Consultative Forum was also formed involving 30 members from diverse government departments, international organisations, South African civil society organisations and foreign representatives. Quarterly meetings convene a wide variety of stakeholders to ensure coordination in planning and implementation of related measures. At the provincial level, Task Teams against human trafficking were established in Kwa-Zulu Natal, Limpopo and Mpumalanga provinces, and more were planned in Western Cape, Eastern Cape, Free State, Gauteng, North West and Northern Cape provinces.⁸⁰ The provincial Task teams increased coordination in the investigation of trafficking cases and effective gathering of evidence and testimony while also enabling victims' rapid access to care through strengthened partnership with NGOs.⁸¹

The task team in Kwa-Zulu Natal province

The Human Trafficking, Prostitution, Pornography and Brothel (HPPB) Task Team that operates in KwaZulu-Natal Province has been identified as an example of good practice. Established in October 2008, it constitutes of different entities, including the private sector and civil society organizations working on child protection. The task team has developed an action plan to guide its activities which focuses on the three strategic areas of prevention, counteraction and victim's support and protection. Since its establishment, the team has achieved important results. For example, it secured the first conviction for human trafficking in South Africa and contributed to another conviction for

possession of child pornography and sexual violation. A massive training and awareness campaign in the Province was also conducted.⁸²

The Implementation Committee on Child Labour coordinates actions to combat the worst forms of child labour, including CSEC. Chaired by the South African Department of Labour (SADOL), it includes representatives from commercial agriculture, trade unions, government agencies and the South African Police Service (SAPS). In 2011, the Committee revitalized provincial level child labour coordinating structures, which

now fully participate in the Committee. The mandate of the Committee is to monitor and support advocacy and awareness-raising, mainstream child labour into government policies, and implement child labour programmes, legislation and enforcement. The Committee meets quarterly and its members are required to submit progress reports to the Cabinet on efforts to implement the country's national strategy to eliminate child labour.⁸³

Violations

The South Africa Human Rights Commission (SAHRC) is an independent Constitutional body established in 1995 to promote respect for, observance of and protection of human rights. It is composed of Commissioners and a Secretariat. Commissioners provide strategic leadership and direct policy. They are appointed by Parliament on a seven-year term and can be reappointed to an additional term.⁸⁴ The SAHRC receives and investigates complaints of human rights violations while also providing legal advice and assistance to victims. Through one of its Commissioner, SAHRC investigates children's rights violations and has also promoted child-focused awareness raising activities, such as the provincial Human Rights Month outreach activities on 'Equity in the Realisation of Child Rights in South Africa' held in 2011 in collaboration with UNICEF.⁸⁵ Despite these efforts to address and raise awareness on child specific issues, this unit does not appear to deal with CSEC violations specifically,⁸⁶ and there are no established child-sensitive complaint mechanisms at regional and local levels which are accessible to children.

UN agencies and NGOs have promoted a number of initiatives and projects that contributed to foster partnerships and collaboration in the field of child protection. UNICEF, in partnership with civil society organisations and the private sector, supported the government to develop and implement measures to prevent and reduce the possible abuse, exploitation and trafficking of children during the 2010 FIFA World Cup. In this framework, UNICEF and its partners conducted an awareness raising campaign (see section below on "Prevention"), established child-friendly spaces in four FIFA Fan Fests, and supported other key activities such as child protection training for social workers.⁸⁷

Child Welfare South Africa (CWSA), the ECPAT Affiliate Group in the country, is the largest network of child protection agencies in the country, comprising 267 member organisations and outreach projects throughout South Africa. Since 2005, CWSA has been implementing the "Asibavikele: Let's protect them" programme to identify and monitor the care and rights of orphans and vulnerable children in the context of HIV/AIDS. Asibavikele is a community based support programme and has been successfully implemented in all 9 provinces across the country, reaching out to more than 45,000 children between 2009 and 2011.⁸⁸

The government of South Africa has participated in a number of sub-regional and multi-country programmes and initiatives to address human and child trafficking, mainly promoted by inter-governmental organizations and UN agencies. It has also concluded police cooperation agreements with some countries to counteract transnational crimes, including human trafficking. Despite these efforts, international, regional and bilateral cooperation with countries of origin, transit and destination to prevent child trafficking, prosecute offenders and provide assistance, remains limited. This is particularly concerning in the case of neighbouring countries from which most of child victims come from. In addition, while South Africa is experiencing an increase in cases of online sexual exploitation of children and is considered one of the most popular destinations for travelling sex offenders in Africa, the Government does not appear to have supported significant initiatives to enhance regional and international cooperation against these borderless crimes, especially at the law enforcement and judicial level.

Most of the regional efforts that South Africa has contributed to in recent years have revolved around trafficking in persons, including child trafficking. The Southern African Counter-Trafficking Assistance Programme (SACTAP) run by IOM since 2003 is active across the Southern African region (namely in Angola, Democratic Republic of the Congo, Mozambique, South Africa, Zambia, and Zimbabwe). SACTAP aims to support and develop the capacity of governments and civil society groups to deal with the problem of trafficking in Southern Africa while also offering assistance to victims and raising awareness among the general public.⁸⁹ As part of this programme, a Workshop on Regional Protection Mechanisms for Victims of Human Trafficking in Southern Africa was organised in South Africa in 2008, with government representatives from all Southern African Development Community (SADC) countries attending. The workshop concluded with several recommendations, including the need for states in the region to negotiate bilateral and multilateral agreements to establish mechanisms for information sharing and coordination as well as for appropriately supporting victims.⁹⁰

The SADC of which South Africa is a member has promoted a number of initiatives to counteract human trafficking. The 10

Year SADC Strategic Plan of Action on Combating Trafficking in Persons, Especially Women and Children, adopted in 2009, recognises the particular vulnerability of children to trafficking. Besides requiring member states to develop comprehensive, harmonised legislation and policies to address the problem of trafficking of women and children, the plan calls for interventions that place child rights and wellbeing at the centre.⁹¹ The SADC Protocol on Gender and Development (2008) also contains specific provisions on trafficking. The Protocol states that by 2015 all state parties shall enact and adopt specific legislative provisions to prevent human trafficking; put in place protection for victims; establish bilateral and multilateral agreements to run joint actions against human trafficking among origin, transit and destination countries; ensure capacity-building and awareness raising and implement other actions. Emphasis is also posed on the obligation of member states to protect girl children in particular from economic exploitation, trafficking and all forms of violence, including sexual abuse.⁹² The SADC Protocol on Gender and Development came in to force in November 2012 when South Africa ratified the SADC.⁹³

As a member of the African Union (AU), South Africa has participated in the AU Commission Initiative Against Trafficking In

Persons (AU.COMMIT) campaign launched in 2009 to advocate for the implementation of the Ouagadougou Action Plan to Combat Trafficking in Human Beings, especially women and children, adopted in 2006 by the European Union (EU) and the African States. The campaign encourages all actors to utilise the Ouagadougou Action Plan as a reference to develop and reform their policies, laws and interventions on trafficking in persons. As part of this initiative, a two-day consultative workshop on operationalising the Ouagadougou Action Plan and launching the AU.COMMIT campaign with the Regional Economic Communities was organised in Johannesburg, South Africa, in November 2011. The workshop contributed to foster effective ways of networking, coordination and cooperation among Member States and partners to address trafficking in persons in Southern Africa in a more strategic and programmatic manner.⁹⁴

The ILO has been implementing the Programme Towards the Elimination of the Worst forms of Child Labour (TECL) in all the countries of the Southern African Customs Union (SACU), namely Botswana, Lesotho, Namibia, South Africa and Swaziland. The first phase (referred to as TECL I) ran from 2004 to June 2008 while the second phase (TECL II) started in March 2009 and lasted three years. In the framework of this initiative, a report titled “Child Trafficking in SADC Countries: The Need for a Regional Response” was published in 2008.⁹⁵ The programme has also facilitated the sharing of information, lessons learned and good practices among the countries involved, including by organizing sub-regional conferences and developing a website and a newsletter devoted to child labour.⁹⁶

South Africa is also spearheading efforts to enhance bilateral law enforcement cooperation against transnational organised crime. For example, in 2010 South Africa and China signed a police cooperation agreement whereby they agreed to exchange intelligence information and provide mutual legal assistance on drug trafficking, illegal immigration, money laundering, arms smuggling and trafficking of women and children.⁹⁷ Similarly, in 2012 South Africa has entered into a police cooperation agreement with Italy in order to prevent, counteract and investigate cross border crimes, including human trafficking. The agreement requires the two countries to collaborate on special investigations, exchange information on methods to combat human trafficking, and share information on passports and other travel documents.⁹⁸

Only a few examples of international cooperation against child pornography have been identified by this review. The FPB engages in key international partnership agreements with international organisations and police departments from other countries to share information and bring perpetrators responsible for the production and dissemination of child abuse images to justice.⁹⁹ The Department of Communications hosts the Child Online Protection (COP) initiative launched in 2008 and led by the International Telecommunications Union (ITU). The COP initiative has been established as an international collaborative network for action to promote the online protection of children worldwide by providing guidance on safe online behaviour in conjunction with other UN agencies and partners, including ECPAT International.¹⁰⁰

The Mobile Alliance against Child Sexual Abuse Content

In February 2008, MTN, Africa’s leading telecommunications provider based in South Africa and operating in 21 countries, joined the Mobile Alliance against Child Sexual Abuse Content, which was launched by the global trade association for mobile operators (the GSM Association).¹⁰¹

The objective of the alliance is to prevent the use of the mobile environment by individuals or organisations wishing to consume or profit from child sexual abuse content. Members of the alliance undertook to develop a number of measures, including the implementation of technical mechanisms to prevent access to websites hosting child sexual abuse content. They also planned to implement “Notice and Take Down” processes to enable the removal of any child sexual abuse content posted on their own services, while supporting and promoting hotlines or other mechanisms for customers to report child sexual abuse content discovered on the Internet or on mobile content services.¹⁰² As part of this initiative, MTN has launched an ongoing service that prevents access to websites that contain illegal images of the sexual abuse of children (using a SIM card to browse the internet with a mobile phone or a datacard) and has also informed customers on how to report content that may potentially contain child pornography.¹⁰³

The FPB also runs an Internet reporting hotline under the name “FPB PRO CHILD” which is a member of the international network of hotlines INHOPE.¹⁰⁴ The hotline serves to provide the members of the public with an opportunity to report online any child pornography or sexual abuse images discovered accidentally on the Internet. This may also include child grooming activities that occur in chat rooms.

Civil society organisations have also undertaken to promote and enhance regional cooperation against CSEC. A good example is the Southern Africa Network against Trafficking and Abuse of Children (SANTAC) which brings together international organisations and NGOs from several countries in Southern Africa, including South Africa. SANTAC’s mission is to build synergies amongst institutions to fight against all manifestations of child abuse, in particular CSEC, child labour and trafficking of children for any purpose,

through lobbying and advocacy, protection, law reform, rehabilitation and care services for victims. The network has implemented a number of activities to address CSEC. In June 2010, a conference on “Child-friendly tourism” was organised in Maputo, Mozambique, to discuss the issue of sexual exploitation of children in tourism. Bringing together representatives from five SADC governments, including South Africa, the private sector, international organizations, NGOs and youth representatives, the conference concluded with a Regional Commitment and Action Plan against CSEC. The plan calls for the creation of a “Child Protection Code” local representative in each of the countries involved under the guidance of Fair Trade in Tourism South Africa (see section below on “Prevention” for more details), and requires also public awareness raising and training for the tourism industry and other actors on child sex tourism.¹⁰⁵

PREVENTION

Effective prevention of CSEC requires multi-faceted strategies and policies that simultaneously address the different elements of the problem. These strategies should target both vulnerable children and those who engage in sexual activities with children, while also addressing the root causes of CSEC, such as poverty and lack of education. Long-term prevention strategies include improving the

status of children who are most vulnerable to CSEC by implementing policies to reduce poverty and social inequality and improving access to education, health and social services. Effective short to medium term strategies include awareness raising campaigns and education and training initiatives for the general public, vulnerable groups and government officials. The resources, expertise

and influence of the private sector, particularly the tourism and IT industries, should also be engaged in prevention measures, particularly in awareness raising activities. Furthermore, information, education and outreach programmes should be directed

at those engaging in the commercial sexual exploitation of children (e.g. perpetrators of child prostitution) to promote changes in social norms and behaviour and to reduce the demand for child victims of commercial sexual exploitation.

Government efforts to prevent the different forms of commercial sexual exploitation of children have significantly increased, especially in preparation for and during the FIFA World Cup. After this big sport event preventive measures supported by public funds, in particular awareness raising campaigns, have been more limited than in the previous period and appear to have addressed different child protection issues, including child rape and abuse, with insufficient focus on CSEC. In terms of vulnerability reduction, Government programmes such as the Child Support Grant, focusing on decreasing poverty, continue to be extremely important in addressing some of the factors contributing to the commercial sexual exploitation of children in South Africa. Similarly initiatives to support vulnerable children implemented by NGOs such as Child Welfare South Africa remain essential in reducing the risk for children to be involved in commercial sex. For prevention to be more targeted and effective, it is however essential that the present knowledge base on CSEC be expanded with a view to gather accurate information on at risk groups and locations, number of children involved, changes in trends and modalities of exploitation. More emphasis should also be placed on addressing the demand that fosters the sexual exploitation of children as well as on ensuring larger and more sustained involvement of the private sector, especially the tourism and ICT industries.

Several awareness raising activities against child trafficking and CSEC were conducted in the run-up and during the 2010 FIFA World Cup, including with the participation of government institutions (especially the DSD). UNICEF, in collaboration government agencies, NGOs, the private sector and civil society, implemented the 'Give a Red Card to Child Abuse and Exploitation' campaign. The initiative was intended to provide children, communities and visitors to South Africa with a greater understanding of the potential risks of child exploitation and abuse while reducing the possibility of children to be harmed. As part of its communication strategy, UNICEF developed a series of advocacy materials such as posters, leaflets and electronic messaging with the theme 'Give The Red Card'. The red cards featured emergency telephone numbers and were distributed countrywide at service stations, schools, sport festivals, and via print and electronic media outlets and new media.¹⁰⁶

The Nelson Mandela Children's Fund

(NMCF), in cooperation with the Department of Social Development (DSD) and numerous NGOs, also launched a campaign, called "the Champions for Children," to ensure the protection and safety of children during the FIFA World Cup 2010 and beyond. The campaign provided a platform for the association of civil society organizations, donors, businesses, faith-based groups and youth representatives to work together towards the creation of a national movement for child protection.¹⁰⁷

With financial support of a corporate donor, Child Welfare South Africa implemented a national Child Trafficking and Exploitation Prevention Programme which included the distribution of pamphlets in gift bags to all people entering South Africa at main airports, talks in schools to increase vigilance and reporting, and training workshops to empower communities and the public on identifying children at risk and prevention strategies. In collaboration with several NGOs,¹⁰⁸ the Salvation Army conducted

the “Make a Big Noise” campaign which involved spreading anti-trafficking messages on special Salvation Army World Cup items, such as water bottles, red cards, footballs and

vuvuzelas. These items advertised a toll-free helpline for victims of trafficking launched by the organisation.¹⁰⁹

‘STOP’ Sex Trafficking of Children & Young People Campaign

Conducted in partnership between The Body Shop and ECPAT and launched in 2009, this three year campaign was intended to provide immediate relief to child victims with funds raised and to create long-term changes through engaging the public in awareness raising and lobbying decision makers to strengthen concerted action against child trafficking for sexual purposes.

In South Africa the campaign was implemented by Child Welfare South Africa (CWSA), the ECPAT affiliate group in the country. In the framework of this initiative, in March 2011, The Body Shop and CWSA presented more than 43,000 signatures to the government, calling for the urgent implementation and enforcement of existing protective measures as well as for accelerated action to approve and implement the anti-human trafficking bill. In response to this call to action, Mr Llewellyn Landers, Chairman of the Portfolio Committee for Justice and Constitutional Development, said the bill would be finalised ‘as soon as is humanly possible’. The Body Shop campaign has also contributed to raise awareness on child sex trafficking through media activities and a march to Parliament and has also supported, through the funds raised, a number of activities against trafficking in children implemented by CWSA.



As part of the child protection initiatives promoted in conjunction with the World Cup, the government undertook to enhance sensitisation against child abuse images and sexual exploitation of children through ICTs. Notably in 2010, the Film and Publication Board conducted a campaign to empower children, parents, care-givers, educators and the general public on how to protect children against child pornography, exposure to pornography and other undesirable content. The initiative was implemented in cooperation with several partners, including universities, the private sector and NGOs, and aimed to reach 10 million South Africans using various media, outreach activities, awareness campaigns, school visits and new social-networking media platforms.¹¹⁰ In 2008, the FPB also launched an internet based hotline to report any child pornography or sexual abuse images discovered online. The

primary purpose is to prevent distribution of child sexual abuse images when detected through the internet. Besides allowing anonymous reporting, the Internet hotline informs and educates the public about how to combat this crime and protect children.¹¹¹

In an effort to address child sex tourism during and after the World Cup, in June 2010 more than thirty South African travel and tourism companies adopted the International Code against the Commercial Sexual Exploitation of Children in Travel and Tourism. Supported by UNICEF and ILO, the Code implementation is being facilitated by Fair Trade and Tourism South Africa (FTTSA), a leading non-profit organisation that promotes equitable and sustainable tourism development in the country. Code signatories contributed to raising awareness about commercial

sexual exploitation of children in tourism immediately prior to and during the 2010 FIFA World Cup, for example by placing awareness material in hotel rooms and public spaces and inserting information into in-house publications. FTTSA, which is the official Local Code Representative, has carried out several activities to support the Code implementation. Besides creating a dedicated webpage, a quarterly newsletter and social network accounts, it has conducted Train-the-Trainer workshops all over South Africa, involving more than 70 people from 45 establishments.¹¹²

Public education and sensitisation on the different manifestations of CSEC is also conducted as part of the Child Protection

Week organised annually by the DSD in collaboration with other government agencies, civil society and the private sector. The objective of this initiative is to raise awareness on the rights of children as articulated in the Children's Act of 2005, including the right to be protected from child trafficking and sexual exploitation. The national theme adopted for the period 2011-2015 is "Working Together to Protect Children" to highlight that protecting children and creating a safe and secure environment is everyone's responsibility.¹¹³ The Department of Communications supports the Child Protection Week and in this framework has embarked on a national campaign to raise awareness on Child Online Protection.¹¹⁴

Keeping children safe online

In South Africa there are numerous examples of education games and textbooks, tutoring and counselling, available online and through mobile phones, to educate children to a safer use of the Internet and new ICTs. UNICEF has conducted several projects to enhance child safety online. In 2010, UNICEF collaborated with Mxit to create a portal on child rights and protection ahead of the World Cup which reached more than 90,000 users. A research to explore the social networking habits of young people was also undertaken and the results of the study were used as a basis for public discussion and to develop awareness-raising materials. More recently, UNICEF joined Government, civil society, media companies and Google to launch the South African version of the Google Online Family Safety Centre. The website is available in English, Zulu and Afrikaans – via computer or mobile – and assists parents and caregivers in helping their children to navigate the web safely.¹¹⁵

The ECPAT member group in South Africa, Child Welfare South Africa (CWSA) also participated in a regional capacity building training conducted by ECPAT International in Kampala, Uganda in October 2010 under the Make IT Safe project. This brought members from Uganda, Tanzania, Zambia, Kenya and Ethiopia to discuss how the cybercafés can implement the code of conduct for protection of children and gave training on implementation of the project in the respective countries. Following the training the member groups conducted awareness raising initiatives with the cybercafés and children.

The Human Trafficking Awareness Week is another intervention promoted annually by the South African government to raise awareness specifically against human trafficking, including the trafficking of children. It was initiated in 2006 by IOM's Southern African Counter-Trafficking Assistance Programme (SACTAP) in partnership with the private sector. In 2010, activities conducted in this framework included: distribution of posters bearing a counter-trafficking helpline number in toilet cubicles at Ports of Entry; dissemination by the Department of Home Affairs of counter trafficking flyers to commuters at

roadside traffic controls as well as at taxi stands; and deployment by the DSD of approximately 50 auxiliary social workers in Johannesburg to speak to communities about human trafficking. Furthermore, civil society organizations promoted the campaign through electronic media and distribution of informational material in key locations such as at schools and shopping markets.¹¹⁶

Child Welfare South Africa has carried out various programmes to reduce the likelihood that vulnerable children fall victim to trafficking and sexual exploitation. CWSA has conducted advocacy and lobbying campaigns using social media and delivered community-based training on understanding child trafficking to 1,600 community volunteers and 600 children. Since 2003, CWSA has been running a community-based child protection programme, called “Isolabantwana: Eye on the Children,” currently operating in 64 outreach communities. The programme advocates for the collaboration of communities and formal resources to protect children against abuse, neglect and exploitation (e.g. justice, police services, health etc). ‘Isolabantwana’ is a one-stop 24-hour protection service led by trained CWSA community volunteers. Over 10,000 children at risk of abuse or living under abusive circumstances are identified and assisted annually through this programme.¹¹⁷ CWSA also runs a national girl child programme empowering girls to safeguard themselves against sexual exploitation and trafficking as well as a national boy child programme educating boys and young men about sexual issues, including sexual exploitation and trafficking. Molo Songololo, a local child rights NGO whose work is

focused in the Western Cape Province and Cape Town in particular, has played a major role in creating awareness of and advocating for responses in government and society to prevent and combat trafficking in children. In 2011, the organization produced and distributed information leaflets on the subject, conducted two seminars for government and civil society actors, and held several presentations training workshops on child trafficking. Molo Songololo has also sustained its victim empowerment programme targeting vulnerable children or child victims of sexual abuse, sexual exploitation and trafficking for sexual purposes. The programme supports children and youth between 12-18 years from poor urban and rural communities as well as parents, community service providers and the general public. Thanks to this initiative, in 2011 more than 700 children and youth received direct support and assistance and nearly 1,000 children participated in rights and responsibilities workshops.¹¹⁸

The USAID’s President’s Emergency Plan for AIDS Relief (PEPFAR) continues to support a broader response to assist children orphaned due to AIDS, a group that is particularly vulnerable to CSEC. Notably PEPFAR has contributed to strengthening the social welfare workforce through the training and remuneration of 800 child and youth care workers who mobilise support networks for 100,000 vulnerable children.¹¹⁹ Several national and international organisations are currently running programmes in response to the HIV/AIDS orphan crisis facing South Africa. These include SOS Children, Oxfam, Avert, CWSA, Childline, and the Johannesburg Child Welfare Society.

PROTECTION

International instruments		
Human rights bodies related to child rights	Comments	
Charter-based bodies		
Working Group of the Universal Periodic Review – Human Rights Council	First Review: April 2008 Second Review: May 2012 Next Review: 2017	
Special Rapporteur on the sale of children, child prostitution and child pornography	September 2002	
Special Rapporteur on trafficking in persons, especially in women and children	No visit so far	
Treaty-based bodies		
Committee on the Rights of the Child	Last review in January 2000	
Children’s rights instruments	Date of ratification	Date of submitted reports
Convention on the Rights of the Child (CRC) – 1989	1995	1st Report: 1997 2nd Report: 2002 (Overdue) 3rd Report: 2007 (Overdue) 4th Report: June 2013
Optional Protocol on the sale of children, child prostitution and child pornography (OPSC) – 2000	Acceded in 2003	Initial report: 2005 (Overdue)
ILO Convention on the Worst Forms of Child Labour - 1999 (No. 182)	2000	
UN Convention against Transnational Organized Crime	2004	
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and children – 2000 (supplementing the UN Convention against Transnational Organized Crime)	2004	

Optional Protocol to the CRC on a Communication Procedure - 2011	Not signed nor ratified
Regional Instruments	Date of ratification
<i>African Charter on the Rights and Welfare of the Child</i> - 1990	2000 (Report due in 2002 but still pending)

South Africa has ratified all international and regional legal instruments relevant for combating CSEC, except the *Optional Protocol to the CRC on a Communication Procedure*. As a non-member state, South Africa has also signed the Council of Europe (CoE) *Convention on Cybercrime*. Regarding its legal system, South Africa, has a mixed dualist/monist system: according to Section 231(4) of the South African Constitution, “any international agreement becomes law in the Republic when it is enacted into law by national legislation” (monist system). However the same provisions also stipulate that a “self-executing provision of an agreement that has been approved by Parliament is law in the Republic unless it is inconsistent with the Constitution or an Act

of Parliament” (dualism). Section 233 of the South African Constitution instructs courts to afford preference to an interpretation of statutory law that is ‘consistent with international law’ whenever such an interpretation would be reasonable. Besides these two provisions, Section 39(1) (b) of the Constitution obliges courts in South Africa to consider international law when interpreting the Bill of Rights of the Constitution. The Constitutional Court has held that reference to international law in this provision includes both binding as well as non-binding international law.¹²⁰ It must be recalled that the Bill of Rights contains specific provisions related to children’s rights (see section below on “National legislation”).

National Legislation

Protection of children from exploitation is spelled out in different pieces of legislation. The National Constitution of 1996, under the Bill of Rights, provides that nobody may be subjected to slavery, servitude or forced labour,¹²¹ and protects children under the age of 18 years from maltreatment, neglect, abuse or degradation as well as from exploitative labour practice. Article 28 (1) (f) stipulates that children shall not be required or permitted to perform work or provide services that are age inappropriate or place a risk on the child’s well-being, education, physical or mental health or spiritual, moral or social development.

The *Children’s Act* 38 of 2005 (as amended by Act 41 of 2007) is the most important law for the welfare and protection of

children in South Africa. Entered into force in April 2010, its main objective is to give effect to children’s constitutional rights to: a) family care, parental care or appropriate alternative care when removed from the family environment; b) social services; c) protection from maltreatment, neglect, abuse or degradation; and d) have their best interests considered to be of paramount importance in every matter concerning the child. To achieve this objective, the *Children’s Act* provides for the following, namely: early childhood development programmes; partial and foster care services; prevention and early intervention services for vulnerable children; protection services for abused children; support groups for child-headed households; and partial and secure care facilities for children and adoption. The

Children's Act has also introduced interim provisions on child trafficking and, under Chapter 1, has provided a definition of CSEC as: "(a) procurement of a child to perform sexual activities for financial or other reward, including acts of prostitution or pornography, irrespective of whether that reward is claimed by, payable to or shared with the procurer, the child, the parent or care-giver of the child, or any other person; or (b) trafficking in a child for use in sexual activities, including prostitution or pornography."¹²² Whilst the Children's Act is regarded as a comprehensive piece of legislation, its full implementation remains hindered by numerous factors, including a lack of adequate human resources, a history of a low budget allocation and expenditure base for social services for children, and the need for knowledge and understanding among practitioners and the public on how to interpret and apply the new law.¹²³

Besides adopting the Children's Act, South Africa has further enhanced protection of children from sexual abuse and exploitation by enacting the *Criminal Law (Sexual Offences) Amendment Act 32 of 2007* (the "Act"). The purpose of this Act was to amend all aspects of the laws relating to sexual offences and to deal with all legal aspects of sexual offences in a single statute. In summary, this includes: a) repealing the common law offence of rape and replacing it with a new expanded statutory offence of rape and making the definition of rape gender neutral (in relation to who can rape and who can be raped); b) repealing the common law offence of indecent assault and replacing it with a new statutory offence of sexual assault, applicable to all forms of sexual violation without consent; and c) creating new statutory offences, including, inter alia: sexual intercourse with a child under the age of 12; new, expanded or amended sexual offences against children and persons who are mentally disabled, including offences relating to sexual exploitation or grooming, exposure to or display of pornography and the creation of child pornography; promoting

child sex tours; establishing a National Register for Sex Offenders; and making an interim provision in relation to the trafficking in persons for sexual purposes. Despite providing for progressive measures, the Act presents some shortcomings. Although it was supposed to provide meaningful protective and supportive measures for vulnerable witnesses, the Act does very little to address directly the secondary victimisation of victims of sexual offences in their interactions with the criminal justice and health systems. Regrettably, provisions designed to shield the victim from facing confrontation with the accused were removed from the final Act. Furthermore, substantive protection measures, such as the right to testify via closed circuit TV, intermediaries, and in camera hearings have all been replaced with a provision authorising the National Director of Public Prosecutions to issue directives on these matters to the members of the National Prosecuting Authority.¹²⁴ UNICEF has also reported that certain provisions in the Criminal Law (Sexual Offences) Amendment Act 32 of 2007 are not harmonized with the provisions of the Children's Act 38 of 2005. While both pieces of legislation were drafted with the protection of children in mind, there had been incidents where children have been charged under the former Act.¹²⁵

South Africa has recently enhanced its legal framework against human trafficking, including trafficking of children, by enacting the *Prevention and Combating of Trafficking in Persons Act*. Whilst the comprehensive law reform process that South Africa has embarked on in recent years is remarkable, South Africa should further expand protection of children from sexual exploitation by speeding up the approval of the Internet and Cell Phone Pornography Bill 2010 and allocating more human and financial resources to strengthen investigation, prosecution and convictions of all CSEC offences. In an effort to enhance law enforcement and inform the development of a comprehensive strategy to detect and prevent

this type of crimes, it is nonetheless essential that South Africa systematically provides criminal statistics on sexual offences against

children, including CSEC, disaggregated, inter alia, by age, sex, minority group and geographic location.

AGE OF CONSENT AND RELATED SEXUAL / OFFENCES AGAINST CHILDREN

According to the *Criminal Law (Sexual Offences) Amendment Act 32 of 2007*, the age of consent over which individuals can give permission to a sexual act is 16 years for both girls and boys. This means that a child who is 16 years or older, can actually give consent to a sexual act. Where they did not give consent, a case of rape or sexual assault should be opened. Children under the age of 12 are conclusively presumed by the law to be incapable of consenting, so a sexual act with a

child under that age constitutes rape or sexual assault. In the case of children between the ages of 12 and 16, there are two possibilities: 1) If the child willingly gave consent to the sexual act, the other party can be charged with consensual sexual penetration of a child (also defined as statutory rape) or the consensual sexual assault of a child (also defined as statutory sexual assault); 2) If the child did not consent to the sexual act, the perpetrator must be charged with rape or sexual assault.

The National Child Protection Register

According to section 111 of the *Children's Act 38 of 2005*, the Director General must keep and maintain a register to be called a National Child Protection Register (NCPR). The National Child Protection Register consists of a Part A and a Part B. Part A must have a record of all the reports of abuse or deliberate neglect of a child, all convictions of all persons on charges involving the abuse or deliberate neglect of a child and all findings by a children's court that a child is in need of care and protection because of the abuse and deliberate neglect of the child.¹²⁶ The purpose of Part B is to have a record of persons who are unsuitable to work with children and to use the information in the register in order to protect children in general against abuse from these persons.¹²⁷ The consequences of being listed in part B of the register prevents the registered person from engaging in any form of employment where they will manage, assist in managing, be employed, volunteer, or in any other capacity have access to children. Employers must ensure that none of their employees appear on Part B of the register.

Provisions on the sex offenders register in the *Children's Act* overlap with those contained in the *Criminal Law (Sexual Offences) Amendment Act 32 of 2007* which have led to the establishment of a National Register of Sex Offences (NRSO). There are however some differences between these two tools. Whilst the NRSO applies to sexual offences against children and disabled person committed within or outside South Africa, the NCPR makes no reference to disabled person and does not have extraterritorial jurisdiction. Furthermore, the NCPR obliges employers to check whether the employee appears on part B of the register while the NRSO leaves this to their discretion.¹²⁸

According to government information, fewer than 500 people have been registered as unsuitable to work with children under the *Children's Act*, despite almost 20,000 reports of child abuse and deliberate neglect registered between April 2010 and beginning of 2012. This discrepancy was attributed to several factors, including the weakness of the child protection system (mainly due to a shortage of financial resources and social workers), the low level of conviction rates for child abuse, insufficient training on the *Children's Act* and the recent implementation of the register.¹²⁹

Thanks to the enactment of *Criminal Law (Sexual Offences) Amendment Act 32 of 2007*, several gaps in the previous laws pertaining to the commercial sexual exploitation of children have been closed. However, South African criminal legislation does not specifically refer to “child prostitution” even though it contains a Section 17 addressing the offense of “child sexual exploitation” which is defined and criminalised in accordance with Art. 2(b) and 3(b) of the OPSC which respectively define and prohibit child prostitution.

Section 17 does not contain a specific definition of child prostitution as such. It provides a definition of the offense of “child sexual exploitation” which is similar to the definition of child prostitution stipulated by Art. 2 of the OPSC. Section 17(1) defines sexual exploitation of a child as the act of engaging the (sexual) services of a child for financial or other award, favour or compensation to the child or to a third person, regardless of the consent of the child and regardless whether the sexual act with the child is committed or not.

The definition of the offense of “child prostitution” under the OPSC and the definition of the offense of “sexual exploitation of children” under South African criminal law are very similar, and existing national criminal law need to be harmonized with the provisions of the OPSC. Section 17(1), therefore, should be amended so that it stipulates that the person who commits the above mentioned acts is guilty of the offense of “child prostitution,” in conformity with Art. 2(b) of the OPSC, instead of the offense of “child sexual exploitation.”

Although a child is legally allowed to consent to a sexual act (which includes touching or penetration) from the age of 16, a consensual sexual act with a child is criminalised as exploitation of the child where such an act is accompanied by a reward/payment.¹³⁰ According to Section 17(1), payments to the child do not have to be monetary in nature. Rewards can be material, such as housing, allowances for food or entertainment, payment of school fees, household expenses or gifts of any nature. They can involve an

innumerable range of benefits or exchanges between the person engaging the services of the child and the child.

Section 17(2) deals with being involved in the sexual exploitation of a child. This offence involves ‘offering’ the sexual services of a child to a third/another person for financial or other reward or compensation, by (a) inviting, persuading or inducing a person to commit a sexual act with a child; (b) participating in or facilitating a sexual act between another person and a child; (c) by making the child available to another person for sexual acts; or (d) detaining a child through threats, force, coercion, deception, abuse of power or authority, for purposes of the commission of a sexual act. Even if the sexual act is not committed by the person being offered the child, the person offering the child for sexual services is still guilty of an offence of child sexual exploitation.

The offence of furthering the sexual exploitation of a child is contained in section 17(3). This offence criminalises two types of people in the sexual exploitation of a child. The first is the case of a primary caregiver, parent or guardian of a child who allows or knowingly permits a child to be sexually exploited by another person. It is important to note that this caregiver or parent does not necessarily have to be the person offering the child to the third party for sexual exploitation; they simply have to have knowledge of the exploitation and allow it to happen in order to be committing an offence. The second kind of person who is criminalised for furthering the sexual exploitation of a child is any person who owns, leases, rents, manages, occupies

or has control of any movable or immovable property and intentionally allows or knowingly permits such property to be used for purposes of the commission of a sexual act between a person and a child.

The offence of benefiting from the sexual exploitation of a child can be found in section 17(4). Here, a person who intentionally receives financial or other reward, favour or compensation from the commission of a sexual act with a child by a third person is guilty of an offence of benefiting from the sexual exploitation of a child. Similarly,

section 17(5), referring to living from the earnings of the sexual exploitation of a child states that any person who intentionally lives either wholly or partially on the rewards, favours or compensation for the commission of a sexual act with a child is guilty of an offence.

The *Criminal Law (Sexual Offences) Amendment Act* also makes a distinction between adult sex workers and children involved in prostitution recognising that the latter are particularly vulnerable and therefore should not be subject to criminal sanction.¹³¹

The obligation to report the use of premises for child sexual exploitation

With prostitution of children moving to more private places (such as hotels, guesthouses, condos, massage parlours, etc.) and consequently becoming more hidden, it is imperative for the criminal law to require owners, tenants, or managers of commercial or residential premises who know that their premises are being used to facilitate or perform child prostitution offences to report such suspicions to law enforcement. Whilst there are very few countries that have imposed such requirements, South Africa stands as a good example in this field. The Child Care Act (1983) stipulates that: "2) Any person who is an owner, lessor, manager, tenant or occupier of the property on which the commercial sexual exploitation of a child occurs and who, within a reasonable time of gaining information of such occurrence fails to report such occurrence at a police station, shall be guilty of an offence." (Section 50A)

CHILD TRAFFICKING FOR SEXUAL PURPOSES

Thank to the recent enactment of the *Prevention and Combating of Trafficking in Persons Act*, the South African legal framework addressing trafficking is now in full conformity with international legal standards set forth in the *Trafficking Protocol*.

In an effort to address existing shortcomings in anti-trafficking legislation, in July 2013 the *Prevention and Combating of Trafficking in Persons Bill* ("the Trafficking Act") was enacted by Parliament. The Trafficking Act deals comprehensively with various aspects to curb human trafficking. It is divided into eleven chapters and two schedules. Chapter 1 sets out the objectives of the Act. These objectives underpin a holistic approach and include the internationally accepted three 'Ps,' namely, the prevention of human trafficking,

the prosecution and appropriate punishment of offenders, and protection and assistance for victims of trafficking.¹³² Importantly, Chapter 1 also covers the definitions of various concepts, such as 'trafficking', 'child' and 'forced labour.' 'Trafficking' is defined as "the delivery, recruitment, procurement, capture, removal, transportation, transfer, harbouring, sale, exchange, lease, disposal or receiving of a person, or the adoption of a child facilitated or secured through legal or illegal means, within or across the borders of the Republic,

of a person trafficked or an immediate family member of the person trafficked, by means of: (a) a threat of harm; (b) the threat or use of force, intimidation or other forms of coercion; (c) the abuse of vulnerability; (d) fraud; (e) deception or false pretences; (f) debt bondage; (g) abduction; (h) kidnapping; (i) the abuse of power; (j) the giving or receiving of payments or benefits to obtain the consent of a person having control or authority over another person; or (k) the giving or receiving of payments, compensation, rewards, benefits or any other advantage, for the purpose of any form or manner of exploitation, sexual grooming or abuse of such person, including the commission of any sexual offence or any offence of a sexual nature in any other law against such person or performing any sexual act with such person, whether committed in or outside the borders of the Republic.” While prevention issues are covered in Chapter 2, Chapter 3 is of significant importance to criminal justice in that it creates a number of new offences, in particular human trafficking, while also providing for stringent punishment.¹³³ According to the Act, any person guilty of an offence of trafficking in persons is liable “on conviction to a fine or imprisonment, including imprisonment for life, or such imprisonment without the option of a fine or both.”¹³⁴ Involvement in trafficking in persons includes: a) performing any act

aimed at committing this offence; (b) inciting, instigating, commanding, directing, aiding, promoting, advising, recruiting, encouraging or procuring any other person to commit trafficking; and (c) conspiring with any other person to commit an offence of trafficking or to aid in the commission thereof.¹³⁵ In line with the *Trafficking Protocol*, the Act provides that it is irrelevant for the purpose of punishment “that a child who is a victim of trafficking or a person having control or authority over a child who is a victim of trafficking has consented to the intended exploitation”.¹³⁶

Chapter 4 addresses the identification and protection of victims of trafficking, placing a general obligation on any person who ought reasonably to have suspected that a child is a victim of trafficking, to report that to the police. Chapter 7 provides for compensation to trafficking while Chapter 8 deals with repatriation, stating that children are to be accompanied by an adult on the trip back home. Another important provision related to children is the suspension of parental rights if parents were responsible for the trafficking of their own child.

It is important to note that the *Trafficking Act* has repealed the transitional anti-trafficking provisions in the *Sexual Offences Amendment Act* and in the *Children’s Act*.¹³⁷

Exemplary sentencing for child sex trafficking

In July 2011, the Pretoria regional court sentenced a woman, discovered in February 2008 to have trafficked three Mozambican girls into commercial sex, to life imprisonment – the most severe penalty ever applied in a trafficking case in South Africa.¹³⁸ The girls, who were between 14 and 17-years-old at the time, were kept at a house in an area outside Pretoria and were forced into prostitution. The trafficker was also given a one-year sentence for living off the money she had made from the girls.¹³⁹

South African law offers strong protection and exceeds international standards for banning the creation, possession and distribution of child pornographic images. The law contains broad definitions of child pornography and the various media by which child pornographic images can be created and distributed. With the enactment of *Criminal Law (Sexual Offences) Amendment Act 32 of 2007*, South Africa has also introduced new offences, namely exposure or display of child pornography or pornography to children and sexual grooming of children (including by using the Internet and other ICTs). Furthermore, protection of children from pornography and child pornography distributed via Internet and mobile phones will be provided once the Internet and Cell Phone Pornography Bill tabled in 2010 will be approved. South Africa is one of the few countries that regulates ISPs and requires them to take measures to prevent access to child pornography.

South Africa's Films and Publications Act, 1996, and its subsequent amendments in 1999 and 2004, define and prohibit various activities related to the production, distribution and possession of child pornography. According to Section 1 of the Act amended in 2004, Child pornography includes any real or simulated image or description of a person who is, or is depicted as, under 18 years of age, where the person is engaged in, participates in or assists another person to participate in sexual conduct. Real or simulated images showing or describing the body or parts of a person in a manner that amounts to or that may be used for purposes of sexual exploitation are also child pornography.¹⁴⁰ Sexual conduct includes real or simulated sexual intercourse, undue display of genitals or the anal region, sexual contact involving intimate body parts, oral genital contact or oral anal contact.¹⁴¹

Films and publications are broadly defined under this Act. A film includes any sequence of visual images recorded on any substance, such as film, magnetic tape, disk or other material; soundtracks and any exhibited illustrations associated with any film; or any picture intended for exhibition using a mechanical, electronic or other device.¹⁴² A publication¹⁴³ includes: (1) newspapers, books, periodicals, pamphlets, posters or other printed matter; (2) writing or typescript that has been duplicated in any manner; (3) drawings, pictures, illustrations, paintings, prints, photographs, engravings

or lithographs; (4) any record, magnetic tape or soundtrack that is not associated with a film, or any other object in or on which sound has been recorded for reproduction; (5) computer software that is not a film; (6) the cover or packaging of a film; (7) any figure, carving, statue or model; or (8) any message or communication, including a visual presentation,¹⁴⁴ placed on any distributed network, including but not limited to the Internet.¹⁴⁵

Under the *Films and Publications Amendment Act, 2004* amending the South Africa's Films and Publications Act, 1996, it is illegal to possess, create, produce, contribute to or assist in the creation or production of; import, or take steps to procure, obtain or access; or knowingly export, broadcast or distribute or cause to be exported, broadcast or distributed a film or publication that contains child pornography or that advocates, advertises or promotes child pornography or the sexual exploitation of children.¹⁴⁶ The law supplies definitions for some of these terms. Possession includes keeping or storing in or on a computer, computer system, or computer data storage medium, and also having custody, control or supervision on behalf of another person.¹⁴⁷ Similarly, distribute includes selling, renting out, offering or keeping for sale or hire.¹⁴⁸ Offenders may be punished with a fine, up to 10 years' imprisonment, or both.¹⁴⁹ In prosecuting these offences, if it is proved that a registered subscriber or user placed, accessed or attempted to access child

pornography through a distributed network, including the Internet, it shall be presumed that the registered subscriber or user placed, accessed or attempted to access the child pornography, in absence of evidence to the contrary.¹⁵⁰

The law also makes it illegal for a person with knowledge or reason to suspect that any of the above offences have been or are being committed to fail to report this knowledge or suspicion to the police, or fail to furnish information when requested by the police.¹⁵¹ Violators may be punished with a fine, up to five years' imprisonment, or both.¹⁵² The National Director of Public Prosecutions must provide written authority before this offence may be prosecuted.¹⁵³ The Films and Publications Board must also refer any submitted film or publication containing child

pornography to the police for prosecution.¹⁵⁴

The *Criminal Law (Sexual Offences) Amendment Act 32 of 2007* has introduced innovative offences related to child pornography. The Act defines child pornography as any image created, or any description or presentation of a person, real or simulated, who is, or who is depicted or described or presented as being, under the age of 18 years, of an explicit or sexual nature, whether such image or description or presentation is intended to stimulate erotic or aesthetic feelings or not. Section 20 of the Act makes it illegal to use children for or benefit from child pornography while Section 19 punishes a person who unlawfully and intentionally exposes or displays child pornography or pornography to a child.

Comprehensive provisions against sexual grooming of children

The *Criminal Law (Sexual Offences) Amendment Act 32 of 2007* created a new offence of 'grooming' children. Section 18 in particular creates two offences: *promoting the sexual grooming of children* and the offence of *sexual grooming of a child*. In essence, section 18(1) criminalises the manufacturing, production, possession, distribution, facilitation of articles, publications or films that: a) facilitate the commission of a sexual act with or by a child; b) are used in the commission of a sexual act with a child; or c) are intended to be used in the performance of a sexual act. It also criminalises the manufacturing, production, possession and distribution of child pornography. Those who facilitate meetings or communications between a child and a third party with the intention that the third party performs a sexual act with a child is also guilty of the offence of promoting the sexual grooming of a child. Section 18(2)(a) creates an offence for supplying, exposing or displaying to a child an article which is intended to be used in the performance of a sexual act; child pornography or pornography; or a publication or film with the intention to encourage or persuade a child to perform a sexual act. Section 18(2)(b) creates an offence of committing an act in the presence of a child or describing the commission of any act in the presence of a child with the intention of encouraging the child – or reducing their resistance or unwillingness – to: (i) perform a sexual act with the person encouraging the child or with another person; (ii) perform an act of self-masturbation in the presence of the person encouraging the child or in front of another person; (iii) be in the presence of the person encouraging the child to watch while (he) performs a sexual act with another person or an act of self-masturbation; (iv) be exposed to child pornography or pornography; (v) be used for pornographic purposes; or (vi) expose his or her body, or parts of his or her body to the person encouraging the child or another person in a way that would violate or offend the sexual integrity or dignity of the child. Section 18 also criminalises arranging or facilitating a meeting or communication with a child for the intention of committing a sexual act with the child (section 18(2)(c)) and having communicated or met with a child, inviting, persuading or inducing a child to travel to any part of the world to meet for the purpose of committing a sexual act with the child (section 18(2)(d)). Moreover, if this person commits a sexual act with the child, describes or explains the commission of a sexual act or uses any form of communication (including electronic communication, images, publications, depictions or descriptions, including child pornography), she or he is also guilty of sexually grooming a child.

South African law also regulates ISPs and requires every ISP to register with the Films and Publications Board¹⁵⁵ and take steps to prevent their services from being used to host or distribute child pornography.¹⁵⁶ If an ISP knows that its services are being used to host or distribute child pornography, it must take reasonable steps to prevent access to the child pornography;¹⁵⁷ report the presence of child pornography to the police, as well as particulars of the person maintaining, hosting,

distributing or in any manner contributing to the Internet address;¹⁵⁸ and preserve evidence for purposes of investigation and prosecution.¹⁵⁹ At the request of the police, an ISP must provide information about users who gained or attempted to gain access to an Internet address that contains child pornography.¹⁶⁰ Failure to comply with any of these requirements may result in a fine, up to five years' imprisonment, or both.¹⁶¹

The Internet and Cell Phone Pornography Bill

The Internet and Cell Phone Pornography Bill tabled in 2010 aims to make it illegal for Internet and mobile phone service providers to distribute pornography or permit it to be distributed. The objective of the Bill is to protect children from child pornography and women from the indignity of being seen as objects of pornography. Pornography in terms of this Bill is defined to mean both child pornography and pornography as defined under Chapter 1 of the *Criminal Law (Sexual Offences) Amendment Act 32 of 2007*. Punishment for Internet service providers or mobile phone service providers who distribute any pornography, or allow it to be distributed, is a fine or imprisonment for a period not exceeding five years, or both.¹⁶²

EXTRATERRITORIAL LEGISLATION WITH REGARD / TO CHILD SEX TOURISM RELATED OFFENCES

South African law has adopted specific extraterritorial legislation for offences related to child pornography.¹⁶³ Furthermore, the *Children's Act* and the *Criminal Law (Sexual Offences) Amendment Act* include extraterritorial jurisdiction over all South African citizens or permanent residents who violate their provisions outside South Africa,¹⁶⁴ provided that the person could not be convicted for an offence if s/he has been tried for the same offence in the country where the offence was committed.¹⁶⁵ To further enhance protection of children from sexual exploitation in tourism, South Africa has also introduced specific provisions to punish promotion of child sex tours.

Section 30 A of *Films and Publications Amendment Act, 2004* (inserted into the *Films and Publications Act 1996*), as well as the *Internet and Cell phone Pornography Bill 2010* and the *Trafficking Bill 2010* (which have not been passed yet) provide for extra-territorial jurisdiction for related crimes committed outside South Africa, regardless of whether or not the act constitutes an offence at the place of its commission (no double criminality is required)

Section 17(6) of *Criminal Law (Sexual Offences) Amendment Act* criminalises the promotion of child sex tours. According to

this provision, a person, including a juristic person, is guilty of an offence of promoting child sex tours if he/she: (a) makes or organises any travel arrangements for or on behalf of a third person, whether that other person is resident within or outside the borders of the Republic, with the intention of facilitating the commission of any sexual act with a child, with or without the child's consent, irrespective of whether that act is committed or not; or (b) prints or publishes, in any manner, any information that is intended to promote or facilitate conduct that would constitute a sexual act with a child.

According to government information, South Africa currently has extradition agreements with thirteen countries and has negotiated but not yet signed similar agreements with another nine countries.¹⁶⁶ South Africa has also concluded Mutual Legal Assistance in Criminal Matters Treaties with several states, has acceded to the Council of Europe's Convention on Extradition and has ratified the SADC Protocols on Extradition and Mutual Legal Assistance in Criminal Matters.

Section 3(2) of the South African Extradition Act provides for extradition between South Africa and foreign countries where there is no extradition agreement.¹⁶⁷ It stipulates that "any person accused or convicted of an extraditable offence committed within the jurisdiction of a foreign State which is not a party to an extradition agreement shall be liable to be surrendered to such foreign State, if the President has in writing consented to his or her being surrendered."¹⁶⁸

Child protection units

The Family Violence, Child Protection and Sexual Offences Unit has been recently re-introduced but its current effectiveness in detecting and investigating sexual offences against children, including CSEC, must be accurately assessed, especially in light of the expertise lost as a result of its previous disbandment.¹⁶⁹ It is equally important that the Sexual Offences Courts, which have been particularly successful in delivering child-friendly justice, are re-established all over the country.

The first Child Protection Unit (CPU) within the South African Police Service (SAPS) was established in 1986 with a view to preventing and combating crimes against children, as well as rendering services to help the child victim. Over the years it became clear that the services provided by the CPU needed to be expanded to include adult victims of family violence and sexual offences. This led to the establishment of the Family Violence, Child Protection and Sexual Offences Unit (FCS) in 1995. The FCSs are responsible for protecting children and investigating cases of rape, incest, indecent assault (namely common law offences committed before 16 December 2007), kidnapping, abduction, and crimes defined in the *Criminal Law (Sexual Offences) Amendment Act 32 of 2007*, *Children's Act 38 of 2005*, and the *Films and Publications Act 1996*. In 2006, a unilateral decision, with no input from civil society, was made to decentralize these units and move towards having trained police offices in all police stations across South Africa. This change resulted in a watering down of child protection services to children (mainly due to the loss of the necessary expertise)¹⁷⁰

which led to the re-establishment of the FCS units across the country in 2011.¹⁷¹ During the Child Protection Week held in 2012, the government announced that 2,155 detectives had been placed within these units.¹⁷² All FCS staff are trained to deal with crimes against children, such as child abuse, neglect, and sexual offences, including CSEC. Training includes relevant international and national obligations, psychological development, phases of a person and the interviewing of persons, investigation techniques, etc.¹⁷³

Besides the FCS, a Human Trafficking Desk was established in 2003 within the Organised Crime Unit of the SAPS. The functions of the Human Trafficking Desk include coordinating and monitoring trafficking in persons investigations and providing training to members of organised crime units tasked with investigating such cases.¹⁷⁴ A specialised Cyber Crime Unit under the SAPS also exists which is responsible for computer forensic examination, including the investigation of child pornographic images.¹⁷⁵

The Sexual Offences Courts (SOC), established since the 1990s with the aim to reduce further traumatisation of victims, have been recently discontinued in several places in South Africa. The SOC is staffed by specialized prosecutors, social workers, investigating officers, magistrates, health professionals and police. Victim-friendly practices are employed within SOCs. The court room and all associated services must be situated so as to prevent contact between the accused and victims. There must be separate waiting rooms for children and adults, private consultation areas, CCTV and/or one-way mirror systems and an intermediary room.¹⁷⁶ Many child welfare social workers have been trained as intermediaries to assist children during court proceedings, and they also work closely with the social worker involved in the investigation of the case to further minimise the traumatic process for the child victim.¹⁷⁷ To improve reports of child sexual abuse, SOCs are located near Thuthuzela centres, the one-stop facilities introduced

as a critical part of South Africa's anti-rape strategy (see section on "Support services" for more details).¹⁷⁸ Surveys of the SOC's functioning have found that conviction rates have risen from 10-20% before they were created to 60 -75% in cases heard in the specialist courts. The various evaluations of these courts conducted over time all recognise the high degree of success they have achieved in improving the experience of child victims of sexual offences in the handling of cases.¹⁷⁹ Despite this success, the number of SOCs has recently decreased (they were cut from 64 to 42 in 2009),¹⁸⁰ seemingly because of the unwillingness of magistrates to specialise in these crimes.¹⁸¹ Several civil society organizations and government agencies, including the NPA, have called for the re-establishment of SOCs across the country. However, the Minister of Justice recently warned against this solution and required further investigations into this issue with a view to developing a revised model for sexual offences courts.¹⁸²

Support services for children

The Thuthuzela Care Centre has been cited as a best practice model and received both international acclaim and serious financial backing from foreign governments. Nevertheless recent reports raised concern that this specialised service to survivors of sexual offences, including CSEC, may not be sustainable.¹⁸³ It is essential that funds are allocated not only for running existing Thuthuzelas but also to set up new centres to cover the entire national territory. There is also a need to increase the number of social workers to adequately serve the needs of children (presently there appears to be a 70% shortfall)¹⁸⁴ as well as to systematically train them on CSEC and related obligations under current legislation, especially the Children's Act, in order to address the peculiarity of the problem. Coordination across government and between sectors, including with community-based organizations, remains poor¹⁸⁵ and should therefore be enhanced to ensure effective service delivery and reduce re-victimisation of CSEC survivors.

In collaboration with UNICEF, the government of South Africa has established Thuthuzela Care Centres (TCC) in different areas of the country. Designed and implemented by the NPA in collaboration with SAPS and the Departments of Health, Social Development and Justice and Constitutional Development, the centres seek to lessen the trauma of sexual violence and to reduce secondary victimisation of

child survivors by providing professional medical care, counselling, access to dedicated investigators and prosecutors, all under one roof. Considered as model of good practice, Thuthuzela has improved the process of reporting and prosecuting of rape and other sexual offences, including CSEC, and has contributed to an increase in offenders' conviction rate.¹⁸⁶

Based on the TCC model, several “One-Stop Centres” have also been established by the DSD with support from United Nations Office on Drugs and Crimes (UNODC) and other international partners. The One-Stop Centres offer a range of services (legal, counselling, medical and forensic) to the survivors of gender-based violence, specifically women and children. In addition to counselling and support services, some of these centres provide crisis-accommodation, run awareness-raising campaigns and educational programmes in schools, as well as programmes targeting perpetrators in order to break the cycle of violence and address the root causes of gender-based violence.¹⁸⁷

Besides these facilities, there are a number of NGO-run shelters that provide services to victims of different crimes, including trafficking in persons. Some, but not all, of the civil society organisations that offer care and assistance are partially funded by the government.¹⁸⁸ In 2011, DSD accredited 13 multi-purpose shelters to host trafficking victims and identified 22 additional facilities that could potentially care for survivors. DSD also delivered training to staff operating in these shelters through a nine-week rehabilitation program to address the psycho-social well-being of trafficking victims. An intake booklet to be used in the training of 13,000 employees at shelters, hospitals, and social service facilities was additionally

developed. The city of Cape Town supported the establishment of three NGO-run safe houses for trafficking victims; two of these provide short-term emergency care, while victims await transfer to DSD-accredited shelters.¹⁸⁹

There are various hotlines managed by NGOs and intergovernmental organisations that provide a platform for reporting child trafficking and CSEC cases and assist affected children. Child Line South Africa runs a 24 hour helpline for children to report all forms of child abuse, neglect and exploitation. The South African Missing and Exploited Children Centre receives reports and provides help in tracing children going missing while Child Welfare South Africa has a reporting telephone line on child neglect and abuse. IOM and the Salvation Army also operate free hotlines for victims of human trafficking. According to government information, organisations running help lines were informed about trafficking and CSEC through training and capacity building on the implementation of the Children’s Act and on child protection issues.¹⁹⁰ It is worth noting that existing facilities are all well established and well run but the DSD is providing only partial subsidy.¹⁹¹ This may result in difficulties for the organisations in guaranteeing the long-term sustainability of their hotline/helpline services.

Reaching out to unaccompanied minors

Child Welfare South Africa, the ECPAT Affiliate Group in South Africa, in partnership with the United Nations High Commission for Refugees (UNHCR) developed a project called Unaccompanied Minors/Migrant Children in Musina, Limpopo province, in response to the increased number of children trafficked from neighbouring countries. After a three-month pilot phase at the end of December 2011, the initiative was expanded to Makhodo and Polokwane. The project focuses on providing child protection services to unaccompanied minor children through conducting Best Interests Determinations, obtaining court orders for all children in places of temporary safe care who are without court orders, facilitating legal placements (foster care) for all children declared to be in need of care, develop care plans for each child, provide psychological care for children in need of such as well as coordinate tracing and family reunification for children with traceable families; and attempt to resettle those without traceable families. More than 120 children have benefitted from the project to date.¹⁹²

Although South African government efforts to ensure trafficking victims' access to protective services (including accommodation, medical care, psychosocial support and counselling services) have increased, assistance available for survivors continues to be hindered by several obstacles. South Africa has no official mechanism and/or standard operating procedure to ensure the referral for assistance of victims of trafficking, including children, or any standard procedures for serving the victims of trafficking. This lack contributes to problems of identifying victims and referring them to police authorities. Victim referral is usually based on personal connection with law enforcement agencies,

or it is from organisations working with survivors of commercial sexual exploitation.¹⁹³ Research on human trafficking published in 2010 also found that although some anti-trafficking training was delivered to staff of shelters, there is a lack of specific skills to deal with trafficking cases and more human resources are required, notably social workers and psychologists. An urgent need for more integrated services, shelters and safe houses as well as for different types of shelters to suit the stage of recovery of the victim, including 'reception' shelters, longer-term homes and halfway or reintegration shelters, was also identified.¹⁹⁴

Training law enforcement personnel

Efforts to build the capacities of law enforcers to detect, investigate and prosecute child trafficking and sexual offences against children, including CSEC, have been intensified in recent years. Nevertheless awareness among police and all other levels of government officials as to their responsibilities under provisions of the Sexual Offences and Children's Amendment Acts remains limited. It is essential that police officers in the re-established FCS units and the specialised sexual offences prosecutors operating in the SOCs are trained to ensure the successful investigation and prosecution of CSEC cases, the prompt identification of victims and a sensitive approach to children.¹⁹⁵

A number of capacity building activities conducted by the South African Government have addressed human and child trafficking. In 2010, training of all cluster officials on the implication of the Chapter 18 on child trafficking of the Children's Act and prohibition of trafficking for sexual purposes in the *Criminal Law (Sexual Offences) Amendment Act* took place in all nine provinces. Training targeted law enforcement personnel, immigration and customs officials, prosecutors and judges, as well as other relevant officials and non-Governmental stakeholders.¹⁹⁶ Between April and December 2011, the National Prosecuting Authority (NPA) trained 116 prosecutors on the use of existing legislation to prosecute trafficking cases. In December 2011, the Department of Home Affairs provided training on trafficking and the identification of victims

to 350 officers from the South African National Defense Forces, who assumed the role of immigration management at all South African airports.¹⁹⁷

DSD delivered provincial training and capacity building for different stakeholders on the Children's Act, focusing in particular on sections relating to identifying a child in need of care and protection, including children vulnerable to or child victims of CSEC. It also provided inputs and comments on training manuals and curricula for training on issues of child trafficking, and collaborated with other sectors in training of customs and immigration officials during the 2010 FIFA World Cup. DSD training programmes that address problems of child and youth at risk will be adapted over the period 2011-2013 to incorporate children suspected of being used

by adults to commit crime (CUBAC), child trafficking, child pornography and CSEC.¹⁹⁸

SAPS implemented the Child and Youth At Risk and First Respondents to Sexual Offences training programmes for police officials. It also delivered a training module that incorporated CUBAC, CSEC, trafficking and regulations on the worst forms of child labour. Related training of trainers was held during July 2010. SAPS has additionally developed a National Instruction 3/2010 in terms of the Children's Act. The instruction guides members on how to attend to a report of trafficking and how to deal with a child victim. The National Instruction is included in the training programme for SAPS members dealing with vulnerable children.¹⁹⁹

Some capacity building sessions against child pornography were also organised. In 2009, the Internet Service Providers' Association

of South Africa (ISPA) held a workshop and training session on the prevention of child pornography, prostitution and human trafficking for the SAPS inter-sectoral task team in KwaZulu-Natal. As a result of this training, the police were equipped with knowledge about the records that ISPs are obliged to store, their obligation to monitor the content that users send and receive on their networks, as well as the conditions under which they are willing and able to give authorities access to this information.²⁰⁰ In 2010, eleven senior police officers from the FCS Unit and prosecutors from the NAP's Sexual Offences and Community Affairs Unit attended a training on child pornography in Toronto, Canada, conducted by the Kids' Internet Safety Alliance (Kinsa). The FCS Unit subsequently asked Kinsa to assist with the development and implementation of a program in South Africa that would train up to 1,000 people within two years.²⁰¹

CHILD AND YOUTH PARTICIPATION

The government of South Africa has increasingly recognized the importance of child participation in its national legislation and policies concerning children and young people. Nevertheless, only scattered small-scale interventions have been implemented to date to promote their active engagement in addressing different types of children's rights violations, including CSEC. NGOs continue to take the lead in ensuring children's participation. On the whole, consultation with children occurs on an ad hoc and often tokenistic basis as there are no formal mechanisms in place to facilitate regular and meaningful consultation with children.²⁰²

The Children's Act, whose development involved consultation with children and youth, has provisions that imply the right to participation on issues that affect children's survival and development. Notably, Section 10 allows for the child's opinion to be heard and taken into account in all matters that would concern the child. The right to participation also extends to collective decision-making, policy-making and planning, including

decisions about the operation of child and youth care centres. The management board must create a children's forum to ensure the participation of resident children.²⁰³

The *National Plan of Action for Children in South Africa* recently adopted by the Government contains an entire section on child participation. A number of strategies are envisaged to advance the children's

right to be heard and express their opinions. These include, inter alia, providing children with child friendly information on policies, legislation and programmes, facilitating civic education on the right of children to access information and to participate, and assisting local, provincial and national networks to support and promote children's participation. Limited examples of meaningful involvement of children in programmes that may have a bearing on preventing CSEC exist and these are mainly implemented by NGOs. Save the Children supports over 140 Children's Committees in schools and communities. Initially started as child participation forums where children could share concerns and ideas, these Committees have evolved into legitimate agents of change. Children's Committees organise activities which address local issues like supporting vulnerable children, including those at risk of sexual exploitation.²⁰⁴ Molo Songololo motivates and empowers children and youth for social change. This child and youth participation programme includes workshops, camps and activities for children between 12 and 18-years from poor families, schools and communities. The programme focuses on different issues relevant for children,

including CSEC and child trafficking.²⁰⁵

The South African initiative Community AIDS Responses (CARE) offers young adults training as AIDS counselors and home-based carers. With a growth in knowledge, skills and time committed to counseling, young adult volunteers are also provided with an opportunity to receive a salary. The Zisize Educational Trust, the Children's Institute at the University of Cape Town, and Okhayeni and Ntabayengwe primary schools in Ingwavuma have been implementing the children's radio project in a remote district in northern KwaZulu-Natal province, an area with a high prevalence of HIV/AIDS. Children are facilitated through a series of ongoing processes. After receiving specific participatory training to expand and consolidate their radio skills, they produce programmes on issues that concern them, including the problem of HIV/AIDS. The children also have a regular slot on the local Maputaland Community Radio station, during which time they air their pre-recorded programmes, facilitate related live discussions in studio and with listeners, and report on news collected from schools in the area.

PRIORITY ACTIONS REQUIRED



National plan of action

- All policy formulation and service delivery design and development should be done in collaboration with key stakeholders and implementing partners, with supporting costs for both staff and project related expenses to narrow the gap of the current disparity that exists. The term “partners” should be revisited and partners should be engaged at the outset to ensure relevance and truly effective partnership;
- The community driven and participatory approach which has been adopted by civil society organizations such as CWSA should be considered and replicated on the National Plan of Action for Children to efficiently address areas of greatest need;
- In order to minimize the unhealthy competition based on the funded elite, greater consultation and dialogue with key decision makers at the governmental level is requested from CWSA and other local NGOs for realizing and meeting goals more effectively with greater impact. CWSA should be the core organization to input and impact on issues of relevance to child protection services in the country because of its role.

Coordination and cooperation

- Coordination across government and between sectors, including with smaller community-based organizations and informal structures, must be enhanced to ensure effective service delivery and reduce re-victimisation of CSEC survivors;
- More human and financial resources should be allocated to ensure the effective functioning of the Department for Women, Children and People with Disabilities that is currently in charge for promoting and monitoring children’s rights;
- SAHRC needs to enhance its capacity to deal with CSEC violations and establish child-sensitive complaint mechanisms at regional and local levels which are accessible to children;
- The functioning and effectiveness of the National, Provincial and Local Child Protection Committees must be strengthened;
- An agreed upon reporting framework which helps the different stakeholders identify and report incidence and trends of children’s rights violation should be developed, going from the community up to the national level. This mechanism should ensure that data on CSEC-related crimes are systematically collected and disaggregated, inter alia, by age, sex, minority group and geographic location;
- Permanent coordinating bodies to address child pornography, involving government agencies, NGOs, the IT sector, teachers, parents' associations, media and other key stakeholders, should be established;
- The government should further enhance bilateral, regional and international judicial, police and victim-oriented cooperation in order to better counteract all forms of commercial sexual exploitation of children.

Prevention

- Research on all manifestations of CSEC should be conducted with a view to gather accurate information on at risk groups and locations, number of children involved, changes in trends and modalities of exploitation;

- ✎ The government should support sustained public awareness raising campaigns to address all forms of CSEC and, in cooperation with NGOs and community based organisations, should conduct sensitisation activities in at risk communities, villages, urban and rural areas, targeting children, parents, community leaders and other actors;
- ✎ Information, education and outreach programmes to discourage the demand for sex with children should be urgently implemented;
- ✎ Education about CSEC must be mainstreamed into primary and high school curricula, in order to empower educators and learners to react properly to situations of risk and enable them to access relevant services;
- ✎ Access to educational and vocational activities, in particular for girls, should be improved;
- ✎ Youth employment and descent work needs to be promoted through vocational and business skills training for out of school disadvantaged children, providing them with knowledge on starting income generating activities to discourage their involvement in CSEC;
- ✎ Poor and vulnerable families should receive support to start income generating activities to meet the basic needs of their children;
- ✎ A larger involvement of the private sector, especially the tourism and ICT industry, in addressing and preventing CSEC is urgently needed.

Protection

- ✎ Adequate human and financial resources must be allocated for the implementation of the *Children's Act* and the recently enacted *Trafficking Act*.
- ✎ The *Internet and Cell Phone Bill 2010* must be enacted;
- ✎ More human and financial resources are to be allocated to strengthen investigation, prosecution and convictions of all CSEC offences;
- ✎ Criminal statistics on sexual offences against children, including CSEC, disaggregated, inter alia, by age, sex, minority group and geographic location, must be collected and provided;
- ✎ The Sexual Offences Courts should be re-established across the whole country;
- ✎ Funds must be provided for running existing Thuthuzelas and set up new centres to cover the entire national territory; support should also be secured to those services offered by the NGO sector;
- ✎ The number of social workers must be increased in order to adequately serve the needs of children;
- ✎ In-depth and specialised training needs to be delivered to social workers, police officers, judges and other actors responsible for child protection focusing on CSEC and current legislation addressing these crimes;
- ✎ An official mechanism and/or standard operating procedure to ensure the referral of victims of trafficking, including children, must be developed;
- ✎ Different types of shelters to suit the stage of recovery of child survivors, including 'reception' shelters, longer-term homes and halfway or reintegration shelters, should be established;
- ✎ There is a need to set up a single, consolidated sexual offenders' register to ensure a synchronised approach to recording sexual offenders following successful conviction or reported abuse;²⁰⁶
- ✎ Partner strengthening should be the focal mandate of the government in the area of child protection. To this end CWSA and its affiliates should be given a greater portion of the budget for implementation of strategic projects towards meeting millennium development goals. This would provide CWSA and its vast network with technical support and stability to strengthen service delivery, expertise and achieve greater targets jointly for the benefit of the recipients of services.

Child participation

- ✎ Platforms should be created for ensuring institutionalised child and youth participation and promoting the meaningful involvement of children in programmes and projects addressing the different forms of CSEC.

ANNEX

The Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents*

Note: This is a condensed version. The full Rio Declaration and Call to Action also contains: Preamble; A. Review of progress and outstanding challenges; and B. Declaration.

C. Call for Action

We call on all States, with the support of international organizations and civil society, including NGOs, the private sector, adolescents and young people to establish and implement robust frameworks for the protection of children and adolescents from all forms of sexual exploitation, and we call upon them to:

I - International and Regional Instruments

- (1) Continue working towards ratification of relevant international instruments, including as appropriate the United Nations Convention on the Rights of the Child and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, ILO Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and the Convention on the Elimination of All Forms of Discrimination against Women.
- (2) Continue working towards ratification of relevant regional instruments, including as appropriate the African Charter on the Rights and Welfare of the Child, the ASEAN Charter,

the Inter-American Conventions on International Traffic in Minors and on the Prevention, Punishment and Eradication of Violence against Women, the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, and the Council of Europe Conventions on Action against Trafficking in Human Beings, on Cybercrime and on the Protection of Children against Sexual Exploitation and Sexual Abuse, conventions which can be ratified by States that are non-members of the Council of Europe.

- (3) State Parties should take all necessary measures to implement the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, taking into due accounts the conclusions and the recommendations of the Committee on the Rights of the Child in the context of its review of State Parties' reports. All countries are encouraged to use this as an important reference.

II – Forms of Sexual Exploitation and its New Scenarios

Child pornography/child abuse images

- (4) Criminalize the intentional production, distribution, receipt and possession of child pornography, including virtual

* The Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents (2008), full text available at: http://www.ecpat.net/WorldCongressIII/PDF/Outcome/WCIII_Outcome_Document_Final.pdf

images and the sexually exploitative representation of children, as well as the intentional consumption, access and viewing of such materials where there has been no physical contact with a child; legal liability should be extended to entities such as corporations and companies in case the responsibility for or involvement in the production and/or dissemination of materials.

- (5) Undertake specific and targeted actions to prevent and stop child pornography and the use of the Internet and new technologies for the grooming of children into online and off-line abuse and for the production and dissemination of child pornography and other materials. Victim identification, support and care by specialized staff should be made a high priority.
- (6) Conduct educational and awareness-raising campaigns focusing on children, parents, teachers, youth organizations and others working with and for children with a view to improve their understanding of the risks of sexually exploitative use of the Internet, mobile telephones and other new technologies, including information for children on how to protect themselves, how to get help and to report incidences of child pornography and online sexual exploitation.
- (7) Take the necessary legislative measures to require Internet service providers, mobile phone companies, search engines and other relevant actors to report and remove child pornography websites and child sexual abuse images, and develop indicators to monitor results and enhance efforts.
- (8) Call upon Internet service providers, mobile phone companies, Internet cafes and other relevant actors to develop and

implement voluntary Codes of Conduct and other corporate social responsibility mechanisms together with the development of legal tools for enabling the adoption of child protection measures in these businesses.

- (9) Call upon financial institutions to undertake actions to trace and stop the flow of financial transactions undertaken through their services which facilitate access to child pornography.
- (10) Set up a common list of websites, under the auspices of Interpol, containing sexual abuse images, based on uniform standards, whose access will be blocked; the list has to be continuously updated, exchanged on international level, and be used by the provider to perform the access blocking.
- (11) Undertake research and development, in the realm of the private sector, of robust technologies to identify images taken with electronic digital devices and trace and retract them to help identify the perpetrators.
- (12) Promote public/private partnerships to enhance the research and development of robust technologies to investigate and to trace the victims with a view to immediately stop their exploitation and provide them with all the necessary support for full recovery.
- (13) Make technologies easily available, affordable and usable for parents and other caregivers, including to assist with the use of filters to block inappropriate and harmful images of children.

Sexual exploitation of children and adolescents in prostitution

- (14) Address the demand that leads to children being prostituted by making

the purchase of sex or any form of transaction to obtain sexual services from a child a criminal transaction under criminal law, even when the adult is unaware of the child's age.

- (15) Provide specialized and appropriate health care for children who have been exploited in prostitution, and support child centered local models of recovery, social work systems, realistic economic alternatives and cooperation among programmes for holistic response.

Sexual exploitation of children and adolescents in travel and tourism.

- (16) Encourage and support the tourism, travel and hotel sectors in adopting professional Codes of Conduct, for example by joining and implementing the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism; encourage the use of businesses that put in place appropriate child protection-focused corporate social responsibility strategies; and/or provide other incentives for those participating.
- (17) Ensure that all stakeholders pay specific attention to unregulated tourism to prevent domestic and international travellers from sexually exploiting children and adolescents.
- (18) Cooperate in the establishment of an international travel notification system, such as the Interpol 'green notice' system, in accordance with applicable law and human rights standards.
- (19) Ensure investigation and, where sufficient evidence exists, that appropriate charges are brought and vigorously pursued against the State's nationals who are reported or alleged to have sexually exploited a child in a foreign country.

- (20) Prohibit the production and dissemination of material advertising the sexual exploitation of children in tourism; and alert travellers to criminal sanctions that will apply in cases of sexual exploitation of children.

- (21) Monitor new and emerging tourist destinations and establish proactive measures to work with private sector partners involved in the development of tourism services on measures to prevent the sexual exploitation of children and adolescents, including the use of socially and environmentally responsible strategies that promote equitable development.

Trafficking and the sexual exploitation of children and adolescents

- (22) Mobilize communities, including children and adolescents with a view to engaging them in dialogue on and a critical review of social norms and practices and economic and social conditions that make children vulnerable to trafficking, and establish procedures that involve them in developing strategies and programmes where they participate, where appropriate, in the planning, implementation and monitoring of such programmes.
- (23) Pilot and adapt or replicate successful models of community-based prevention and rehabilitation and reintegration programmes for child victims of trafficking.
- (24) Establish policies and programmes that address not only cross-border but also internal trafficking of children and that include, among other elements, a standard operating procedure for the safe repatriation and return of children based on the child's view and on a careful assessment of the needs and risks to the child of returning to her/his place of origin to ensure that the best interests of the child are taken into account.

- (25) Continue strengthening cross-border and internal cooperation of law enforcement officials, for example by establishing coordinating units with a mandate to issue clear guidelines for child centered investigation of cases of trafficking of children and for treating trafficked children not as criminals but as victims in need of protection.
- (26) Take legislative and other measures to ensure that a guardian is appointed without delay for every unaccompanied trafficked child, that an effective system of registration and documentation of all trafficked children is established, and that every trafficked child is provided with not only short-term protection but also with the necessary economic and psycho-social support for full and long-lasting recovery and social reintegration (in line with the UNICEF

Guidelines on the Protection of Child Victims of Trafficking and UNHCR Guidelines on Formal Determination of the Best Interests of the Child).

- (27) Undertake and/or support, with the involvement of civil society and children, the regular evaluation of programmes and policies to prevent and stop the trafficking of children and of legislation that may have a conducive impact on trafficking, for example laws on marriage, free education, adoption and migration, birth registration, accordance of citizenship, refugee or other status.

III – Legal Frameworks and Enforcement of the Law

- (28) Define, prohibit and criminalize, in accordance with existing international human rights standards, all acts of sexual exploitation of children and adolescents in their jurisdiction, irrespective of any set age of consent or marriage or cultural practice, even when the adult is unaware of the child's age.
- (29) Establish effective extraterritorial jurisdiction, abolishing the requirement of double criminality for offences of sexual exploitation of children and adolescents, and facilitate mutual legal assistance, in order to achieve effective prosecution of perpetrators and appropriate sanctions. Make all acts of sexual exploitation of children and adolescents an extraditable offence in existing or newly established extradition treaties.
- (30) Designate a lead law enforcement agency, where appropriate to national circumstances, to proactively enforce extraterritorial laws related to sexual exploitation of children and adolescents.
- (31) Ensure that child victims of sexual exploitation are not criminalized or punished for their acts directly related to their exploitation, but are given the status of victim in law and are treated accordingly.
- (32) Establish special gender sensitive units/ children's desks within police forces, involving when appropriate other professionals like health care and social workers and teachers, to address sexual crimes against children, and provide specialized training to judicial and law enforcement personnel.
- (33) Address corruption in law enforcement and the judiciary, as well as other authorities with a duty of care to children, recognizing corruption as a major obstacle to effective law enforcement and protection for children.
- (34) Establish and implement international, regional and national legal mechanisms and programmes for addressing sex offender behaviour and preventing recidivism, including through risk assessment and offender management programmes, the provision of voluntary extended and comprehensive rehabilitation services (in addition to but not in lieu of criminal sanctions

as appropriate), safe reintegration of convicted offenders and the collection and sharing of good practices and establish where appropriate sex offenders registers.

IV – Integrated Cross-Sectoral Policies and National Plans of Action General

- (35) Develop and implement comprehensive National Plans of Action on the sexual exploitation of children and adolescents, or include these in existing relevant planning frameworks, such as National Development Plans and ensure that these Plans are based in a cross-sectoral approach which brings all stakeholders together in a coherent and comprehensive framework for action. These Plans should incorporate gender-sensitive strategies, social protection measures and operational plans, with adequate monitoring and evaluation targeted resources and designated responsible actors, including civil society organizations for implementation of initiatives to prevent and stop the sexual exploitation of children and adolescents and provide support for child victims of sexual exploitation.
- (36) Promote and support multi-sectoral policies and programmes, including community-based programmes, within the framework of a comprehensive national child protection system to address phenomena that contribute to the sexual exploitation of children and adolescents including, for example, discrimination (including on the basis of sex), harmful traditional practices, child marriage and social norms that condone sexual exploitation.
- (37) Promote and fund meaningful child and youth participation at all levels in the design, monitoring and evaluation of policies and programmes, in campaigns and through peer-to-peer youth programmes, aimed at raising

awareness and preventing the sexual exploitation and trafficking of children and adolescents.

- (38) Initiate and support the collection and sharing of reliable information and cross-border cooperation, and contribute to databases on victims and perpetrators, to enhance assistance to children and address the demand for sex with children, in accordance with applicable laws.

Prevention

- (39) Ensure that all children born on their territory are registered immediately and for free after their birth and pay special attention to not yet registered children and children at risk and in marginalized situations.
- (40) Strengthen the role of educational institutions and staff to detect, denounce and help address sexual abuse and exploitation of children in all forms and sources.
- (41) Emphasize prevention of sexual exploitation of children and adolescents, through e.g. awareness raising and educational campaigns, support for parents and eradication of poverty while reinforcing or establishing multi-sectoral referral mechanisms to provide comprehensive support and services to children who have been victimized in sexual exploitation.
- (42) Support children to gain deeper knowledge of their own rights to be free from sexual exploitation, and the options available to help them to address abuse, so that they are empowered, with the partnership of adults, to end sexual exploitation.
- (43) Engage children in meaningful and critical examination of changing contemporary values and norms and their potential to increase vulnerability

to sexual exploitation; and promote education to enhance children's understanding of these issues in relation to sexual exploitation.

- (44) Undertake research on contemporary patterns of socialization of boys and men across different contexts to identify factors that promote and strengthen boys' and men's respect for the rights of girls and women and engage them in action initiatives that inhibit and discourage them from engaging in sexual exploitation of children and adolescents.

Protection of the child

- (45) Increase efforts to address the sexual exploitation of children and adolescents through the development of comprehensive and integrated national child protection systems, including the necessary budget allocations and based on identifications of settings where children are most at risk that aim to protect children from all forms of violence and abuse.
- (46) Establish by 2013 an effective and accessible system for reporting, follow up and support for child victims of suspected or actual incidents of sexual exploitation, for example by instituting mandatory reporting for people in positions of responsibility for the welfare of children.
- (47) Develop or enhance accessibility of existing telephone or web-based help lines, in particular for children in care and justice institutions, to encourage children and require care givers to confidentially report sexual exploitation and seek referral to appropriate services, and ensure that the operators of such reporting mechanisms are adequately trained and supervised.
- (48) Strengthen existing national child protection services or establish new

ones in order to provide all child victims of sexual exploitation, girls and boys, without discrimination, with the necessary economic and psycho-social support for their full physical and psychological recovery and social reintegration, and when appropriate, family reunification and interventions that support and strengthen families to mitigate the risk of further exploitation; such services to be provided by well trained multi-disciplinary teams of professionals.

- (49) Ensure that these services are accessible, appropriately resourced, comprehensive, child- and gender-sensitive, and reach all children without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex (or orientation), and social origin and including children with disabilities, from ethnic minorities, indigenous or Aboriginal children, refugee or asylum-seeking and children in domestic service or living on the streets and children displaced by conflict or emergency situations.
- (50) Develop programs that provide children of sex workers and children living in brothels with support and protection.
- (51) Promote and defend the privacy of the child victims and child perpetrators of sexual exploitation, taking into account relevant national laws and procedures, to protect their identity in investigatory or court proceedings or from disclosure by the media and ensure that these proceedings are child friendly and allow the child to participate in a meaningful way in the process of bringing the perpetrator to justice.
- (52) Ensure that children and adolescents exhibiting acts of sexual violence harmful to others receive appropriate care and attention as a first option through gender-sensitive and child-focused measures and programmes that balance their best interest with

due regard for the safety of others, and ensure compliance with the principle that depriving children of liberty should be pursued only as a measure of last resort, and ensure that those responsible for the care of such children are equipped with relevant and culturally appropriate training and skills.

V – International Cooperation

- (53) Take all necessary steps to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts of sexual exploitation of children and adolescents; and for the assistance of child victims in their physical and psychological recovery, social reintegration and, as appropriate, repatriation.
- (54) Establish and/or improve by 2013 concrete mechanisms and/or processes to facilitate coordination at national, regional and international levels for enhanced cooperation among government ministries, funding bodies, UN agencies, NGOs, the private sector, workers' and employers' organizations, the media, children's organizations and other representatives of civil society with a view to enabling and supporting concrete action to prevent and stop the sexual exploitation of children and adolescents.
- (55) Strengthen and improve the effectiveness of existing regional mechanisms for exchange, coordination and monitoring of progress on child protection including against sexual exploitation in order to review progress and strengthen follow-up on the implementation of the recommendations made.
- (56) Provide, when in a position to do so, financial, technical and other assistance through existing multilateral, regional, bilateral and other programmes for addressing the sexual exploitation of children and adolescents; and explore the potential of a fund for child and youth initiatives in this area.
- (57) Develop, where appropriate with the support of UN agencies, NGOs, civil society organizations and the private sector, workers' and employers' organizations, policies and programmes to promote and support corporate social responsibility of enterprises operating inter alia in tourism, travel, transport and financial services, and of communication, media, Internet services, advertising and entertainment sectors; so that child-rights focused policies, standards and codes of conduct are implemented throughout the supply chain and include an independent monitoring mechanism.
- (58) Support and contribute to the Interpol international child abuse images database and nominate a responsible national focal point person or unit to collect and update promptly national data on sexual exploitation of children and adolescents, and systematically share this information with Interpol in order to support cross-border (international) law enforcement action and strengthen its effectiveness, and adopt multilateral agreements especially for police investigation work.
- (59) Undertake national and international coordinated measures to curb and stop the involvement of organized crime

in commercial sexual exploitation of children and bring persons and/or legal entities responsible for this form of organized crime to justice.

VI – Social Responsibility Initiatives

We encourage the private sector, employers' and workers' organizations, to proactively engage in all efforts to prevent and stop the sexual exploitation of children and adolescents, and to use their knowhow, human and financial resources, networks, structures and leveraging power to:

- (60) Integrate child protection, including the prevention of sexual exploitation of children, into new or existing corporate social responsibility policies of enterprises operating inter alia in tourism, travel, transport, agriculture and financial services, and of communication, media, Internet services, advertising and entertainment sectors, and ensure appropriate implementation of such policies and widespread public awareness.
- (61) Incorporate the prevention and protection of children from sexual exploitation in human resources policies, such as Codes of Conduct and other corporate social responsibility mechanisms throughout the supply chain.
- (62) Join efforts with Governments, UN agencies, national and international NGOs, and other stakeholders to prevent the production and dissemination of child pornography, including virtual images and the sexually exploitative representation of children, and stop the use of the Internet and

new technologies for the grooming of children into online and off-line abuse; undertake actions to trace and stop the flow of financial transactions for sexual exploitation of children through the services of financial institutions; support efforts to address the demand for sexual exploitation of children in prostitution and the strengthening of services for children victims and their families, including the establishment of accessible telephone or web-based help lines; and provide support for educational and awareness-raising campaigns targeting children, parents, teachers, youth organizations and others working with and for children, on the risks of sexual exploitation of children, sexually exploitative use of the Internet, mobile phones and other new technologies as well as on protective measures.

VII – Monitoring

- (63) Establish by 2013 independent children's rights institutions such as children's ombudspersons or equivalents or focal points on children's rights in existing human rights institutions or general ombudsperson offices, highlighting the importance for States Parties to the Convention on the Rights of the Child of General Comment No 2 of the Committee on the Rights of the Child; these bodies should play a key role in the independent monitoring of actions taken for the prevention of sexual exploitation of children and adolescents, protection of children from such exploitation and the restoration of the rights of sexually exploited children, in advocating for effective legal frameworks and enforcement and

in ensuring, where necessary, that child victims have effective remedies and redress, including the possibility of filing complaints before these institutions.

We encourage the Committee on the Rights of the Child to:

- (64) Persevere with reviewing progress of States Parties' fulfilment of their obligations to uphold the right of children to protection from sexual exploitation and pay special attention to the recommendations in the Rio Call for Action in its examination of reports under the Convention on the Rights of the Child and its Optional Protocols.
- (65) Adopt as a matter of priority a General Comment on the right of the child to protection from sexual exploitation, trafficking for sexual purposes, and the abduction and sale of children, including detailed guidance to States on the development, implementation and enforcement of national legislation and policies in this regard.
- (66) Continue to work with the Office of the High Commissioner for Human Rights in protecting child rights, and raising awareness of relevant international and regional human rights mechanisms.

We encourage other United Nations human rights treaty bodies, special procedures of the Human Rights Council and special representatives of the United Nations Secretary-General, as well as regional human rights mechanisms, to:

- (67) Pay particular attention to combating the sexual exploitation of children and adolescents, within their respective mandates and during their examination of State Parties' reports, country visits, in their thematic work and/or other activities.

We urge the Human Rights Council to:

- (68) Ensure that the Universal Periodic Review process includes rigorous examination of States' fulfilment of their obligations to children, including preventing and stopping the sexual exploitation of children and adolescents and to respectfully the rights of child victims of such exploitation.

We urge the yet-to-be-appointed Special Representative of the Secretary-General on Violence against Children, the Special Representative of the Secretary-General for Children and Armed Conflict, the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography and the Special Rapporteur on Trafficking in Persons, especially in Women and Children, together with other appropriate mandate holders and in collaboration with the Committee on the Rights of the Child, to:

- (69) Work together to avoid duplication and to maximise their impact in preventing and stopping the sexual exploitation of children and adolescents and, through their work, map experiences in the area of prevention and response to sexual exploitation of children and assess their effectiveness.

We encourage UN agencies, NGOs and human rights institutions to:

- (70) Support and provide information on the extent of and responses to sexual exploitation of children and adolescents to these bodies.
- (71) Work with the media to enhance their role in education and empowerment, and in protecting children from sexual exploitation, and to mitigate the harmful potential of the media, including

through the sexualization of children in advertising.

We call on international financial institutions such as the World Bank and the International Monetary Fund to:

- (72) Review their current macro-economic and poverty reduction strategies with a view to counteracting any negative social impact on children and their families, including loan conditionality which essentially limits social services and access to rights and minimizing the risk for children to sexual exploitation.

We call on religious communities to:

- (73) Reject, in the light of their consensus about the inherent dignity of every person, including children, all forms of violence against children including sexual exploitation of children and adolescents and establish, in that regard, multi-religious cooperation and partnership with other key stakeholders such as governments, children's organizations, UN agencies, NGOs, media and the private sector using their moral authority, social influence and leadership to guide communities in ending sexual exploitation of children and adolescents.

C. Call for Action

(1) We commit ourselves to the most effective follow-up to this Call for Action:

- At the national level, inter alia, by biennial public reporting on the measures taken for the implementation of the Rio Declaration and Call for Action and promoting/initiating discussions on the progress made and the remaining challenges to named responsible mechanisms for monitoring implementation while also integrating such requirements into State reporting to the Committee on the Rights of the Child.
- At the international level, by encouraging and supporting coordinated actions by the relevant human rights treaty bodies, special procedures of the Human Rights Council and Special Representatives of the Secretary-General of the United Nations with a view to maintaining awareness of the Rio Declaration and Call for Action and promoting its implementation.

- (2) Encourage the private sector to join the United Nations Global Compact and communicate their implementation progress with regard to addressing the sexual exploitation of children and adolescents and supporting the realization of this platform for coordinated corporate efforts and sharing of best practices.

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