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UN Special Rapporteur on the sale and sexual exploitation of children, including child  
prostitution, child pornography and other child sexual abuse material  
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**Re: Addressing the vulnerabilities of children to sale and sexual exploitation in the  
framework of the Sustainable Development Goals**

Dear Special Rapporteur Singhateh,

We respectfully submit this brief to the Office of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, in response to the call for submissions on addressing the vulnerabilities of children to sale and sexual exploitation in the framework of the UN Sustainable Development Goals (SDGs), to be presented to the 77th session of the UN General Assembly in October 2022.

**Equality Now** is an international human rights NGO with ECOSOC status with the mission to achieve legal and systemic change that addresses violence and discrimination against all women and girls around the world. Founded in 1992, Equality Now is a global organization with partners and members in every region. Ending sexual violence, ending sexual exploitation, ending harmful practices and achieving legal equality are the main areas of Equality Now's work.

We are writing to share concerns, gaps, challenges and good practices in addressing the protection of victims and survivors of sexual exploitation and violence. This brief details our concerns regarding **the manifestations of the sale and trafficking of children and sexual exploitation of children, particularly of adolescent girls, online**. The roots of sexual exploitation and abuse of children can be found in vulnerabilities that arise from sex and gender-based discrimination, intersecting inequalities (such as poverty, quality of education, age, ethnicity, and migrant status), and harmful cultural beliefs and social norms. In addition to being human rights violations in terms of international several international treaties, including the

Convention on the Rights of the Child<sup>1</sup> and the ILO Worst Forms of Child Labour Convention<sup>2</sup>, these drivers are addressed across the different SDGs, and exploitation of children is specifically addressed in targets 16.2 (end abuse, exploitation and trafficking of children), 8.7 (end human trafficking), 5.2 (elimination all forms of violence against all women and girls, including trafficking and sexual and other types of exploitation) and 5.3 (eliminate all harmful practices).

## Prevalence and Forms of Sexual Exploitation of Children Online

Very limited and inconsistent regulation of online service providers and platforms, and anonymity, enables exploiters to easily contact potential victims. Social media and online gaming platforms are increasingly being used by predators to meet, groom, and abuse children and adolescents.<sup>3</sup> Steve Grocki, the Chief of the Criminal Division's Child Exploitation and Obscenity Section, in the US Department of Justice, informed us that, "*TOR [The Onion Router (TOR), a free and open-source software for enabling anonymous communication] and the Darkweb is what concerns me most because it enables offenders to exchange best practices.*"<sup>4</sup>

With the widespread and increased use of the internet during the COVID-19 pandemic, old crimes of child abuse and exploitation are taking additional new forms and being perpetrated online more easily. The National Center for Missing and Exploited Children (NCMEC), processes on average 60 000 reports of child sexual abuse online every day from all over the world<sup>5</sup> and attributes, in part, the increase in child sexual abuse material (CSAM) to technological developments. During 2020 over a million media files were exchanged via INHOPE<sup>6</sup>, while Europol took down a CSAM abuse site on the dark web with more than 400 000 users<sup>7</sup>. NCMEC reported an increase of more than 100% in reports between 2019 and 2020.<sup>8</sup> According to the [Disrupting Harm in Kenya: Evidence on online child sexual exploitation and abuse](#) Report, approximately 350 000 children during 2020 in Kenya were offered money or gifts in return for sexual images or videos of themselves and had their sexual images shared with others without their consent.<sup>9</sup> These statistics demonstrate the scope and scale of online sexual exploitation and abuse of children across the globe.

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<sup>1</sup> Article 34 of the Convention on the Rights of the Child.

<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

<sup>2</sup> Article 3 of the International Labour Organization Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

[https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C182](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182)

<sup>3</sup> Equality Now. The Role of Technology in sexual exploitation.

[https://www.equalitynow.org/tech\\_sexual\\_exploitation/](https://www.equalitynow.org/tech_sexual_exploitation/)

<sup>4</sup> Equality Now (2021) Expert Interview - Steve

<https://www.equalitynow.org/stories/steve-grocki-expert-interview-united-states/>

<sup>5</sup> We Protect (2021). Global Threat Assessment. <https://www.weprotect.org/global-threat-assessment-21/#report>

<sup>6</sup> INHOPE (2021). Annual Report 2020

<https://inhope.org/media/pages/the-facts/download-our-whitepa-pers/c16bc4d839-1620144551/inhope-annual-report-2020.pdf>

<sup>7</sup> Europol (2021). 4 arrested in takedown of dark web child abuse platform with some half a million users

<https://www.europol.europa.eu/newsroom/news/4-arrested-in-takedown-of-dark-web-child-abuse-platform-some-half-a-million-users>

<sup>8</sup> NCMEC (2021). By the Numbers <https://www.missingkids.org/gethelpnow/cybertipline>

<sup>9</sup> Disrupting Harm in Kenya: Evidence on online child sexual exploitation and abuse.

<https://www.end-violence.org/sites/default/files/2021-10/DH%20Kenya%20Report.pdf>

In our 2021 Report on [Ending Online Sexual Exploitation and Abuse of women and girls](#),<sup>10</sup> we provide a comprehensive analysis of laws and policies related to online sexual exploitation and abuse (OSEA), alongside in-depth discussions with survivors, activists, and lawyers actively engaging with survivors of OSEA. We found there are many forms of online child sexual exploitation and abuse (OCSEA) including online grooming, CSAM, livestreaming of child sexual exploitation and abuse and online sex trafficking. These forms do not always happen in isolation of each other and abusers often move their victims between the online and physical spaces.<sup>11</sup> For instance, Cassie a survivor of CSAM, in the UK, interviewed for our Report, informed us that at the age of 13 she chatted to someone whom she thought was a young woman and was convinced (groomed) by her into sending sexually explicit images of herself, resulting in her being raped by a man in his mid fifties purporting to be the model agent sent by the young woman Cassie had spoken to online.

Louise, another survivor of CSAM in the UK, recounted that when she was 14 she “*met a 34 year-old on TeenChat, and within a week, he’d driven two hours from where he lived to see me. I knew it was grooming, but I was lonely and vulnerable. It felt like our relationship was consensual. We’d speak every day, do stuff over Skype and the phone, and see each other at least once a month. It lasted until I was turning 16 when it became obvious I was getting too old for him, and he was getting bored.*”<sup>12</sup>

Sarah<sup>13</sup>, a survivor of online sex trafficking and online grooming of a minor, interviewed for our Report, met a man on Facebook when she was 15 years old. They chatted “*and connected over music and books. Soon we were speaking all the time over Facebook Messenger, often late into the night. Things carried on for a few years, we started speaking on the phone but never saw each other in person. It was shortly after my 18th birthday that we finally arranged to meet. J pulled up in his car and I knew something wasn’t right because I’d always thought he was around the same age as me but he looked closer to 40. He took me to a house where there were other people and they forced me to drink shots of alcohol and take cocaine. Then I was made to have sex with J and another woman. Someone else filmed it and they said it was my audition tape. I was terrified.*”

One child can be exploited in a number of ways by a single offender, and often what starts online ends up with sexual violations in the physical space which can continue to occur into adulthood. Survivors are also at risk of repeated abuse by having the recordings of their abuse shared time and time again.

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<sup>10</sup> Equality Now (2021). Ending Online Sexual Exploitation and Abuse of Women and Girls: A Call for International Standards.

<https://equalitynow.storage.googleapis.com/wp-content/uploads/2021/11/13160619/Ending-OSEA-Report.pdf> (“Equality Now Report”)

<sup>11</sup> Ibid Equality Now Report at page 14

<sup>12</sup> Equality Now (2021) Survivor Stories - Louise <https://www.equalitynow.org/stories/louise-united-kingdom/>

<sup>13</sup> Equality Now (2021) Survivor Stories - Sarah <https://www.equalitynow.org/stories/sarah-cooper-united-states/>

## Gaps in the law

CSAM is extensively, but not consistently, addressed by international and domestic law. It is common that the legal provisions that protect children from sexual abuse can be read to provide protection from CSAM as they often prohibit a wide range of actions that constitute sexual exploitation of children. For example, Nigeria's Cybercrimes Act<sup>14</sup> criminalizes recruiting, inducing, coercing, exposing, or causing a child to participate in sexual performances or profiting from or otherwise exploiting a child for such purposes. Further, it prohibits the use of any computer system or network for the production, provision, distribution, transmission, or procurement of CSAM. However, there are some shortcomings. Definitions are not consistent across countries. For instance, countries have different laws on whether artificially generated images constitute CSAM. This is an area of growing concern with the growing rise in artificially generated sexual abuse images also known as deepfakes. Among our Report's five focus countries (India, Nigeria, Kenya, UK, and the US), only the UK has specific provisions criminalizing the possession, procurement, production, and distribution of pseudo-photographs.<sup>15</sup>

Inconsistencies across countries can also be seen in laws protecting children from live streaming of sexual exploitation and abuse. In the US, the law relating to CSAM<sup>16</sup> criminalizes coercing a minor to engage in sexually explicit conduct "for the purpose of transmitting a live visual depiction of such conduct." Meanwhile in Kenya there is no specific provision providing for protection from live streaming of child sexual exploitation and abuse. Kenya's Children Act<sup>17</sup> and its proposed amendments<sup>18</sup> list some ways in which children may be exploited sexually but does not specifically prohibit the live streaming of that exploitation. Such gaps need to be addressed to ensure consistent protection of children from OCSEA, regardless of the form it takes and the country in which it is perpetrated.

## Over reliance on voluntary measures

We also found that there is an over reliance on digital service providers' self-regulatory codes which presently lack mechanisms for independent monitoring, oversight and enforcement. Often, voluntary codes do not provide for sanctions for companies in breach. Where they do, they are frequently not enforced. Self-regulation has proven not to provide sufficiently robust protection for children. It appears to benefit more the private interests of digital service providers and platforms by allowing them to conduct business efficiently, without providing sufficient protection for children. Where tensions exist between public and private interests, self-regulation is ineffective and voluntary codes and measures may be seen as public relations exercises rather than genuine attempts to improve conditions. States need to play a more active role in developing and implementing accountable regulatory frameworks for the technology sector and online human interactions.

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<sup>14</sup> Cybercrime (Prohibition, Prevention, Etc) Act, 2015

<sup>15</sup> Op cite note 7 at page 27

<sup>16</sup> 18 U.S.C. § 2251

<sup>17</sup> The Children Act, 2001 (Kenya)

<sup>18</sup> The Children Act (Bill) 2021. (Kenya)

[http://kenyalaw.org/kl/fileadmin/pdfdownloads/bills/2021/TheChildrenBill\\_2021\\_-NationalAssembly.pdf](http://kenyalaw.org/kl/fileadmin/pdfdownloads/bills/2021/TheChildrenBill_2021_-NationalAssembly.pdf)

## Under reporting of online child sexual exploitation and abuse (OCSEA)

It is estimated that large numbers of incidents go unreported.<sup>19</sup> Many States have reporting mechanisms for CSAM, which include child hotlines or reporting portals<sup>20</sup> and, in collaboration with digital service providers and civil society organizations, there are also automated tools such as Microsoft's PhotoDNA and Facebook's PDQ which are used to crawl through to identify and remove known content.<sup>21</sup> However, gaps remain.

Firstly, there are challenges in the use and uptake of the reporting mechanisms because victims may not be aware of these facilities, they lack faith in the reporting and the criminal justice system, and they fear being blamed and shamed.<sup>22</sup> Dr. Debarati Halder, a legal expert in India, interviewed for our Report, stated that “[s]ome families feel reluctant to take matters to the police and courts. Problems include slow reporting, vanishing digital footprints, and the withdrawal of cases for fear of further trouble. Social stigma and victim blaming by families and communities are also challenges but I have seen several families defending their victimized children.”<sup>23</sup> Another expert from Nigeria, Sarah Kuponiyi, agreed and stated that “[m]ost people get discouraged with the justice system and rather than go through the stress of reporting, they would rather keep things to themselves.”<sup>24</sup> Similarly, Mohamed Daghar, an expert we also interviewed from ENACT, told us that, “One of the most difficult things is dealing with police - ask any Kenyan! Reporting a crime is extremely time-consuming and bureaucratic. Some people also shy away from reporting because of victim blaming – the police can ridicule you and have the case turned against you.” Modupe, a victim of child sexual exploitation online in Nigeria, recounted how when she went to the police station to report the abuse she was ridiculed and laughed at by police officers.<sup>25</sup>

Secondly, we found that automated tools, although helpful, have some challenges. They are not always able to identify and remove all abusive material. In the first instance, most of them are designed to identify and remove known sexual abuse material, that is, the sexual abuse material must have been already reported and cached/stored by the digital service provider. This means that any new or unidentified material may not be detected.

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<sup>19</sup> ECPAT (2020). Summary Paper on Online Child Sexual Exploitation.

<https://ecpat.org/wp-content/uploads/2021/05/ECPAT-Summary-paper-on-Online-Child-Sexual-Exploitation-2020.pdf>

<sup>20</sup> UNICEF (2021). Ending Online Child Sexual Exploitation and Abuse

Lessons learned and promising practices in low- and middle-income countries.

<https://www.unicef.org/media/113731/file/Ending%20Online%20Sexual%20Exploitation%20and%20Abuse.pdf>

<sup>21</sup> Independent Enquiry Child Sexual Abuse (2020). The Internet: Investigation Report.

<https://www.iicsa.org.uk/key-documents/17805/view/internet-investigation-report-march-2020.pdf>

<sup>22</sup> UNICEF (2021). Ending Online Child Sexual Exploitation and Abuse

Lessons learned and promising practices in low- and middle-income countries.

<https://www.unicef.org/media/113731/file/Ending%20Online%20Sexual%20Exploitation%20and%20Abuse.pdf>

<sup>23</sup> Equality Now (2021) Expert Interview - Dr. Halder

<https://www.equalitynow.org/stories/dr-debarati-halder-expert-interview-india/>

<sup>24</sup> Equality Now (2021) Expert Interview - Sarah Kuponiyi

<https://www.equalitynow.org/stories/sarah-kuponiyi-expert-interview-nigeria/>

<sup>25</sup> Equality Now (2021) Expert Interview - Mohamad.

<https://www.equalitynow.org/stories/mohamed-daghar-expert-interview-kenya/>

Further, we found that more is required in identifying and removing abusive material depicting adolescent girls. Automated tools do not always identify material depicting adolescent girls, who may have similar physical features to adult females.<sup>26</sup> It is known that human reviewers are used to assist in the detection of CSAM online, in addition to the automated tools. However, because of the large volumes of images they would need to review — for instance, an estimated 5 000 images can be involved in one police case<sup>27</sup> — it is extremely taxing on the human mind to review that many images, let alone differentiate between images of girls who have reached puberty and images of young adult women (who may have consented to having their images shared). The protection of adolescent girls in this regard requires specific attention in law and in practice.

Lastly, we found that automated tools have difficulties in identifying altered images and deepfakes.<sup>28</sup> Companies like Meta are investing large sums of money to improve the ability to identify and remove altered images in response to the growing problem, however, more needs to be done to curb this problem.<sup>29</sup> The challenges in reporting and monitoring of OCSEA contribute to the vicious cycle of abuse.

### **Challenges with takedown notice policies<sup>30</sup>**

Our research found that not all service providers and platforms have easy-to-access or use takedown notice procedures<sup>31</sup> or contact details for victims to send takedown requests. This means that victims/survivors may never have the abuse content removed, further perpetuating the exploitation as it can continue to be viewed, shared, and even sold. Children and young people are repeatedly victimized as these crimes are captured in permanent digital images that are perpetually reshared online resulting in long-term impact that often lasts into adulthood.

### **Sex trafficking of children**

There is limited accountability regarding trafficking for sexual exploitation of children. The scale varies across different States but in general many are not doing enough to hold perpetrators of trafficking for sexual exploitation accountable nor ensuring justice for survivors.<sup>32</sup>

In Malawi we have been supporting our local partners efforts' to secure justice for girls who have been trafficked for sexual exploitation, specifically calling on the government to implement the Trafficking in Persons Act and related child protection laws. Children's vulnerability to sex trafficking and sexual exploitation is also compounded by poverty and

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<sup>26</sup> Op cite note 7

<sup>27</sup> [https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/659360/EPRS\\_BRI\(2020\)659360\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/659360/EPRS_BRI(2020)659360_EN.pdf)

<sup>28</sup> Op cite note 7 at page 62

<sup>29</sup> Technology Reviews (2021). Deepfake revenge porn coming ban.

<https://www.technologyreview.com/2021/02/12/1018222/deepfake-revenge-porn-coming-ban/>

<sup>30</sup> Op cite note 7 at page 61

<sup>31</sup> Inhope (2020).

<https://inhope.org/media/pages/articles/a-deep-dive-into-notice-and-takedown/1494479061-1595837802/inhope-hotline-notice-and-takedown-procedure-deep-dive.pdf>

<sup>32</sup> UNODC (2020). Global Trafficking in Persons Report.

[https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP\\_2020\\_15jan\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf)

limited choices for children and their families. In the case of Maggie for example, who was trafficked within Malawi, under false promises of employment, and sexually exploited and abused when she was 16 years old, the perpetrator has still not been held accountable. The matter has been at the pre-trial stage since 2018 when it was first reported, and to date there has been no progress. This is one example of a pervasive problem in Malawi, and certainly across many countries, where accountability for sex trafficking is lacking.

The Malawi government's failure to prosecute the case and ensure justice for survivors like Maggie, was also highlighted when Malawi came under review at the UPR in 2020. Some of the recommendations from Member States and adopted by the government, focused on the need for the Government of Malawi to prioritise the prosecution of sex trafficking cases, and ensure that cases were completed within a reasonable time, as well as provide training to judges, prosecutors, and the security sector.<sup>33</sup>

Recruiters are increasingly adopting new modes of recruitment to exploit vulnerabilities that put children at risk of trafficking including for sexual exploitation. As highlighted above, the trafficking of children for sexual exploitation is exacerbated by the reliance on the internet and digital tools to groom and recruit children.<sup>34</sup> In a recent case in Kenya, *Republic v Asif Amirali Alibhai Jetha*<sup>35</sup>, the accused who was sentenced to 60 years imprisonment for amongst others trafficking in persons contrary to the Counter Trafficking in Persons Act had recruited his Nepalese victims, among them two girls using digital tools.

States should implement their international and national legal obligations including the SDG targets highlighted above, to address vulnerabilities that lead to sex trafficking and sexual exploitation. This would ensure that perpetrators are held accountable and survivors access justice.

## Conclusion

**States should adopt practical measures to address the vulnerabilities in institutional, family and online settings to ensure no child is left behind with respect to protection against sale and sexual exploitation. We respectfully request that the Special Rapporteur recommend to UN Member States to:**

- Review and update international and regional laws and instruments to ensure they are aligned to the reality of the digital age, and protect children from all forms of OCSEA.
- Adopt international standards that:
  - clarify the role, responsibility, and accountability of digital service providers and platforms, in preventing, detecting, and reporting OCSEA on their platforms

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<sup>33</sup> <https://malawi.un.org/en/122906-report-working-group-universal-periodic-review-upr-malawi-feb-2021>

<sup>34</sup> UNODC (2021) Thematic Briefing: The impact of the COVID-19 pandemic on trafficking in persons [https://www.unodc.org/documents/Advocacy-Section/HTMSS\\_Thematic\\_Brief\\_on\\_COVID-19.pdf](https://www.unodc.org/documents/Advocacy-Section/HTMSS_Thematic_Brief_on_COVID-19.pdf)

<sup>35</sup> Criminal case No 395 of 2019

- provide a framework on international cooperation that seeks to address the multi-jurisdictional nature of online sexual exploitation and abuse of children and provide guidance in specific areas such as investigations and evidence gathering from digital service providers across the world
- Adopt and implement national laws addressing child sexual abuse and exploitation, online and offline, that:
  - are aligned with global standards where they exist
  - require visibility and simplicity of reporting mechanisms on digital service providers and platforms
  - place legal duties requiring collaboration between digital service providers and law enforcement
  - prohibits sex trafficking of children through the use of digital technologies

Build awareness and understanding among key institutions including law enforcement, the judiciary, human rights institutions and child protection services, on:

- the nature of all forms of child sexual exploitation and abuse, online and offline, and the laws and policies in place to support victims and hold perpetrators accountable.
- the intersections between online and offline sexual exploitation and abuse of children
- the vulnerabilities that adolescents at a higher risk of sexual exploitation and abuse