

# THE SALE & SEXUAL EXPLOITATION OF CHILDREN: **DIGITAL TECHNOLOGY**



## The sale and sexual exploitation of children in the context of digital technology<sup>1</sup>

### I. The key issues

As more and more people gain access to Information and Communication Technologies (ICT) in all parts of the world, there are implications concerning the sale and sexual exploitation of children. Popular ICTs such as mobile phones and the internet have become enablers and/or facilitators of sexual crimes against children, including the production and dissemination of child sexual abuse materials<sup>2</sup>; the facilitation of child prostitution<sup>3</sup>, sexual exploitation, the transfer of organs, and illegal adoptions; the sale of children for forced labour<sup>4</sup>; and the solicitation of children for sexual purposes (“grooming”).<sup>5</sup>

Although difficult to estimate with precision, the use of digital technology and the internet to perpetrate abuse against children has led to the proliferation in the number of images and web pages in circulation. In 2019, the We Protect Global Alliance reported that 18.4 million referrals of child sexual abuse material were made by US technology companies to the National Center for Missing and Exploited Children (NCMEC) in the previous year.<sup>6</sup> Also in 2019, EUROPOL reported that over 46 million unique images or videos related to child sexual abuse existed in its repository.<sup>7</sup> Given the clandestine nature of the problem, it is likely that these figures do not capture the full extent of the problem. Not only is the dissemination of digitalized images difficult to track, many children may choose not to report sexual abuse due to fear of social stigma, exclusion and alienation from the community.<sup>8</sup> At points, children may even be unaware of the fact that they may have been exploited or abused.

Many forms of the sale and sexual exploitation of children have been made easier by the global spread of technology. In part, this is due to a rise in websites that facilitate the sale and sexual exploitation of children, increasing the scale of the problem and easing accessibility for perpetrators. Moreover, technological advancements have allowed new forms of abuse to emerge. One particularly insidious form of ICT-enabled child sexual exploitation constitutes the live streaming of sexual abuse, providing pay-per-view interactive content for perpetrators, moving the issue beyond national borders and scaling up the potential for abuse. Live streaming

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<sup>1</sup> This report presents highlights of the key issues discussed at a two-day expert consultation organized by the Special Rapporteur on the sale and sexual exploitation of children and UNICEF Office of Research – Innocenti, in Florence on September 24 and 25, 2019. The brief draws both on published literature as well as presentations made at the consultation. More information on the consultation is available at <https://www.unicef-irc.org/article/1928-un-special-rapporteur-holds-expert-consultation-on-prevention-of-the-sale-sexual.html>

<sup>2</sup> UNICEF, Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, UNICEF Innocenti, Florence, 2014, p8.

<sup>3</sup> Ibid., p9.

<sup>4</sup> Ibid., p10.

<sup>5</sup> Ibid., p10.

<sup>6</sup> We Protect Global Alliance, Global Threat Assessment 2019 - Working together to end the sexual exploitation of children online, London, 2019, p6.

<https://static1.squarespace.com/static/5630f48de4b00a75476ecf0a/t/5deecb0fc4c5ef23016423cf/1575930642519/FINAL++Global+Threat+Assessment.pdf>

<sup>7</sup> EUROPOL, Internet Organised Crime Threat Assessment, 2019, p30.

<https://www.europol.europa.eu/activities-services/main-reports/internet-organised-crime-threat-assessment-iocta-2019>

<sup>8</sup> UNICEF Innocenti Research Centre, *Child Safety Online: Global challenges and strategies*, Florence, December 2011, p13. [https://www.unicef-irc.org/publications/pdf/ict\\_eng.pdf](https://www.unicef-irc.org/publications/pdf/ict_eng.pdf)

as a crime can be difficult to detect because it does not always leave behind image or video evidence: the abuse occurs in real time and, unless the perpetrator records the session, it may disappear without trace.

Another area in which ICTs enable offenders is the sharing of images, whereby more advanced technologies enable offenders to better cover their tracks through the use of encrypted communication channels or platforms; by connecting through Virtual Private Networks (VPNs); or by posting on the dark web, which is generally inaccessible to common browsers. In addition, the anonymity that some mainstream websites offer to users for legitimate purposes can also be used by offenders to carry out criminal activities more effectively.

Approaches to addressing the issue need to consider children's own experiences and perspectives of digital technology and its use. The environment in which children grow up is changing and the way in which they engage with their peers is constantly evolving, largely mediated through the use of technology.<sup>9</sup> The International Telecommunication Union (ITU) has estimated that the population of internet users is becoming increasingly younger: 41 per cent are below 15 years of age and 90 per cent are between 15 and 24 years of age.<sup>10</sup>

For the most part, digital technologies have positive impacts on children in a range of areas: they contribute to important skills development and have transformed the world of communication and employment. However, new forms of social exchange among both children and adults – such as the sharing of digital sexual messages, images or videos – exacerbate the risk of situations becoming exploitative or abusive. Self-generated sexual content that was once shared consensually can easily spread beyond the intended recipient and have life-long consequences for the child. At the same time, it should be recognized that although consensual sharing of sexual content is risky, it is in some countries becoming a normal part of how young people explore their sexuality, flirt, date, and express themselves. It is not the generation of content per se that is problematic as children have a right to self-expression; rather, the problem is constituted by the non-consensual sharing of such images by a third party. Thus, whilst sharing sexual messages constitutes a consensual way to engage socially and sexually with others, the non-consensual sharing of sexual content represents a crime that requires urgent legislation.<sup>11</sup>

Addressing the root causes of children's vulnerability is extremely important in order to ensure a holistic approach is taken to understanding children's issues.<sup>12</sup> Research with street children exploited through prostitution in East Asia for example show how social media is used to initiate contact with potential clients, often women. In this respect, it is not the use of technology that puts children at risk; it is simply a tool they use while being exploited.

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<sup>9</sup> Caffo, E. 2019, Presentation made at the *Consultation on the Mandate of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material*, 24-25 September 2019, Florence.

<sup>10</sup> Licciardello, C. 2019, Presentation made at the *Consultation on the Mandate of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material*, 24-25 September 2019, Florence.

<sup>11</sup> Kardefelt-Winther, D. 2019, Presentation made at the *Consultation on the Mandate of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material*, 24-25 September 2019, Florence.

<sup>12</sup> UNICEF East Asia and the Pacific Regional Office and the Centre for Justice and Crime Prevention, *Our Lives Online: Use of social media by children and adolescents in East Asia – opportunities, risks and harms*, UNICEF, Bangkok, 2020.

## II. Building a rights-based protective framework

Considering that online spaces have become new places for social interaction for an increasing number of children, ICT-facilitated social practices – such as consensual sexting – are likely to be more accepted by the upcoming generation, suggesting a shift in social norms that needs to be better understood. Exploring ways for young people to engage in such practices safely and with reduced risk is important, through means of legislation, education and technological innovation. Protective approaches need to recognise these key shifts and uphold children’s rights to privacy, expression and dignity as key principles.<sup>13</sup>

ICTs should be primarily viewed as tools for the empowerment of children, but more needs to be done to ensure that governance of digital spaces includes a child-centred, age-sensitive, and gender-responsive approach that truly reflects the needs of children and adolescents as internet users.<sup>14</sup> The internet has not been designed keeping children in mind, but increasingly they are the citizens of this space.

A further consideration is to see the offline and online experiences of children as interconnected and not discrete. Though the debate around the relationship between offline and online violence remains ongoing, it is increasingly accepted that technology-facilitated violence often occurs concurrently with other forms of violence that children experience in other spaces. While technology has added new dimensions to where and how violence is perpetrated, online violence most likely shares commonalities with other forms of violence in terms of its root causes, such as poverty, norms, or gender inequality.<sup>15</sup> A priority for the violence prevention community should be to understand better the connections between children’s online and offline experiences of violence, preparing holistic solutions that tackle all forms of violence together.

The tendency to ‘silo’ online violence as distinct from related offline manifestations can have unfortunate impacts on institutional structures, by placing responsibility for the issue with ministries responsible for technology-related matters rather than in those responsible for child protection. Increasingly, children do not recognize a divide between their online and offline lives: our response should take this into account, integrating their voices and experiences into our future action.

To date, there are many legislative challenges related to the regulation of the sale and sexual exploitation of children facilitated by ICTs. There is no standalone international legal instrument aimed at the criminalization of ICT-related abuses of children. Even though the Optional Protocol on the sale of children, child prostitution and child pornography (2000) contains provisions which tackle specific forms of abuse and sexual exploitation, the rise of ICTs as a facilitator of child sexual abuse and exploitation has complicated the interpretation and implementation of this instrument. For instance, article 3, paragraph 1(c) of the Optional Protocol requires states to criminalize producing, distributing, disseminating, importing, exporting, offering, selling, or possessing child sexual abuse materials. As highlighted by the United Nations Special Rapporteur on the Sale and Sexual Exploitation of Children in her 2014 report, however, “new technologies have transformed what is meant by possession, since the growth in Internet speeds means that

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<sup>13</sup> United Nations, ‘Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression’, A/69/335, August 2014

<sup>14</sup> Livingstone S., Carr J., Byrne J., ‘One in Three: Internet Governance and Children’s Rights. Office of Research – Innocenti, Discussion Paper 2016-01’, UNICEF IRC, Florence, January 2016, p6.

<sup>15</sup> Kardefelt-Winther, D., Maternowska, C. Addressing violence against children online and offline. *Nat Hum Behav* (2019). <https://doi.org/10.1038/s41562-019-0791-3>



it is no longer necessary to download images because they can be viewed online”<sup>16</sup>. This calls for a greater focus on updating and revising legislative norms and frameworks to take stock of the rapidly changing contexts influenced by digital technology.

With regard to the regulation of the production and possession of child sexual abuse material at the national level, for example, minors in certain countries who engage in the consensual exchange of sexual images have been arrested and listed in national sex offender registries, resulting in potential harm to their prospects in life and damage to their mental health.<sup>17</sup> However, while it is illegal in principle in many countries to possess sexually explicit images of a minor, this can be different in practice and criminal sanctions are not imposed if the depicted person consented to the image being taken and the two persons are approximately equal in age and mental development.<sup>18</sup> At the same time, some countries do not yet have legal protection in place when images are shared non-consensually, which seems a clear shortcoming.

The lack of clarity regarding the international legislative framework related to ICT-facilitated sale and exploitation of children can lead to issues with incorporation into national legal systems. Challenges include: the lack of adequate national legislation; existing detection and reporting mechanisms; the investigation and prosecution of offenders; reparation and rehabilitation of victims; prevention and protection programmes; and international cooperation and corporate social responsibility. As illustrated by the Global Cyber Security Index<sup>19</sup>, even where legal provisions, technical measures, capacity building exercises and international cooperation efforts are in place; these do not necessarily translate into effective implementation and transparent practice based on a human rights approach.<sup>20</sup>

### III. Priorities reinforced by expert participants

There are many urgent steps that need to be put in place to inform national, regional and global actions to address children’s vulnerability to exploitation and abuse using ICTs. Building on the recommendations made by the Special Rapporteur in her thematic report on ICTs,<sup>21</sup> a number of priorities were identified by the experts who participated at the meeting. These priorities also have informed the Special Rapporteur’s latest report to member states and the international community.<sup>22</sup>

First, **more and better evidence** on the role of ICTs in facilitating or enabling the sale and sexual exploitation of children should be generated to better understand the scope and nature of the

<sup>16</sup> UNICEF, Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, UNICEF Innocenti, Florence, 2014, p8.

<sup>17</sup> Kardefelt-Winther, D. 2019, Presentation made at the *Consultation on the Mandate of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material*, 24-25 September 2019, Florence.

Vaaranen-Valkonen, N. 2019, Presentation made at the *Consultation on the Mandate of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material*, 24-25 September 2019, Florence.

<sup>18</sup> Haukaas, K. ‘Online Sexual Exploitation of Children and Young People’, NCIS Norway, Norway, March 2019.

<sup>19</sup> International Telecommunication Union, 2018. Global Cybersecurity Index (GCI), ITU Publications, 2018.

<sup>20</sup> Licciardello, C., 2019, Presentation made at the *Consultation on the Mandate of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material*, 24-25 September 2019, Florence.

<sup>21</sup> A\_HRC\_28\_56\_2014

<sup>22</sup> A\_HRC\_43\_40\_2020

crime. For instance, this is crucial in the context of legislative processes and to inform law-makers about the reality of ICT-facilitated sale and sexual exploitation.<sup>23</sup> More and better evidence would allow for a better understanding of the fast-growing digital space and make clear how online exploitation is connected to the child's real-life situation. For example, emerging evidence suggests that community norms and extreme poverty might drive the sale and exploitation of children through live streaming.<sup>24</sup> However, in other contexts, children coming from wealthy families were also found to be victims of on-line abuse and exploitation.<sup>25</sup> Critically, better evidence may help to clarify which parts of the problem stem from technology (if any) and when the issue is the same human problem that drives violence against children elsewhere.

Second, **clear terminology** concerning ICT-facilitated sale and sexual exploitation of children is also needed. In May 2019, the Committee on the Rights of the Child adopted the Guidelines regarding the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.<sup>26</sup> This instrument provides a number of recommendations in relation to the definitions of sexual crimes committed against children (both online and offline) and provides recommendations related to the interpretation of the Optional Protocol. Thus, the Guidelines should set a standard of how to interpret the Optional Protocol. Additionally, the Guidelines could draw a clear distinction between criminal exploitative actions and emerging ICT-facilitated social exchanges – such as the consensual exchange of sexual images – which are likely to increase in popularity.

Third, **new and improved legislation** is required to help end the sale and sexual exploitation of children. The protection of children must be balanced with a recognition of the positive potential of access to digital technology. Moreover, these provisions should be inclusive of children's voices and, as much as possible, balance children's right to privacy and protection with their rights to participation in the digital space and their fundamental right to freedom of expression.<sup>27</sup>

It is important, however, to emphasise the importance of **balance in legislative approaches**. Laws should not encourage internet censorship and restrict the use of technology by young people in the effort to protect them from harm. It is critical that child protection concerns are not used as an excuse by States to restrict access or monitor people's private communications. At the same time, privacy concerns need to be balanced with children's right to protection. This is important to consider in relation to the development of stronger encryption features on popular

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<sup>23</sup> Kardefelt-Winther, D. 2019, Presentation made at the *Consultation on the Mandate of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material*, 24-25 September 2019, Florence.

Vaaranen-Valkonen, N. 2019, Presentation made at the *Consultation on the Mandate of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material*, 24-25 September 2019, Florence.

<sup>24</sup> UNICEF, forthcoming, National Study on Online Sexual Abuse and Exploitation of Children in the Philippines, (Manila: UNICEF)

<sup>25</sup> Grillo-Rivera, M. 2019 Presentation made at the *Consultation on the Mandate of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material*, 24-25 September 2019, Florence.

<sup>26</sup> United Nations, 2019 'Guidelines regarding the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography', CRC/C/156, September 2019.

<sup>27</sup> Kardefelt-Winther, D. 2019, Presentation made at the *Consultation on the Mandate of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material*, 24-25 September 2019, Florence.

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websites and apps, which – while it can protect the privacy rights of children and contribute to some child protection goals can also make them more vulnerable by inadvertently protecting perpetrators from being identified and held accountable.<sup>28</sup>

Legislation at the national level which mirrors **international standards and norms** should be strengthened and implemented to combat the sexual exploitation of children, including sexual exploitation involving ICTs. Specifically, states must ratify all relevant international instruments and integrate them into their national legal systems. The list includes the Optional Protocol on the sale of children, child prostitution and child pornography (2000); the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000); the International Labour Organization Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour; and the Convention on Protection of Children and Cooperation in respect of Intercountry Adoption (1993).<sup>29</sup>

Finally, **states** clearly bear the primary responsibility for protecting their citizens from harm and abuse and respecting, protecting and fulfilling their human rights. However, the ICT-facilitated sale and exploitation of children is an issue involving many sectors and across national borders and thus requires a multi-sectoral response and an approach based on international collaboration and alignment.

Policy makers, industry, law enforcement authorities, the social workforce, private actors and grassroots organisations should all be involved in the effort to end crimes linked to the sale and sexual exploitation of children. Unfortunately, the role of industry remains difficult to define and industry is sometimes also difficult to engage. The Guiding Principles on Business and Human Rights (2011)<sup>30</sup> represent a useful set of provisions to regulate this area but these provisions only constitute a soft legal instrument, meaning that they are not legally binding.

To better involve the industry, their respective roles and responsibilities need to be clearly articulated in order to coordinate effective action with other stakeholders. For crime areas requiring **multi-stakeholder collaboration**, it is particularly important to determine which stakeholder responds to what part of a crime.<sup>31</sup> Lastly, the skills and knowledge of the different sectors and their workforces operating in this context should be nurtured with proper training and through a strategic use of financial and human resources across different sectors.<sup>32</sup>

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<sup>28</sup> United Nations, 2014 'Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression', A/69/335, August 2014.

<sup>29</sup> Ibid., p12.

<sup>30</sup> UN Office of the High Commissioner for Human Rights, 2011 'Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework', HR/PUB/11/4, New York; Geneva: UN, 2011.

<sup>31</sup> United Nations 2016. 'Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression', Note by the Secretariat, U.N. Doc. A/HRC/32/38, 11 May 2016.

<sup>32</sup> Kardefelt-Winther, D. 2019, Presentation made at the *Consultation on the Mandate of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material*, 24-25 September 2019, Florence.

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