



“Current Legal & Regulatory Framework in Africa : Progress and Challenges”

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*African Regional Conference on Online Protection:
Empowering the future digital citizens,
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Marie-laure Lemineur
Combating Sexual Exploitation of Children
Online Programme.
ECPAT International, Bangkok, Thailand.

Agenda



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I. Regional context – snapshot

II. Legal and regulatory frameworks:

A. International and regional instruments

B. Recommendations



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1.





CONNECTIVITY...

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2005.....2014



- ❖ 17 Millions
 - ❖ 172 Millions
- Internet users



- ❖ 87 Millions
 - ❖ 629 Millions
- Mobile-cellular
phone
subscriptions

SOURCE: ITU, 2014

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BORDERLESS TYPE OF RISKS AND HARM AFFECTING CHILDREN IN AFRICA...

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✓ **Unsafe use of ICTs...CAM, grooming and sexting.....*some figures:***

- ❖ 54% had seen other children represented in pornographic materials (2013-EI)
- ❖ 10% approached online and asked to share sexualized images of themselves (2013-EI)
- ❖ 14% had met someone offline after a first contact online (2013-EI)
- ❖ 12.1 % of SA children have taken their relationship off line (CJCP)
- ❖ 22% of SA teen girls and 20% of SA boys had sent self-produced nude or semi-nude photos (2011-WASPA)



ACCESS...Cyber cafés

- ❖ By far the location where children most access the Internet
- ❖ 30 % of children in Kenya – seen pornography late hours
- ❖ Absence of national policy frameworks on cyber cafés operations



II.

Legal and Regulatory Frameworks

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A. INTERNATIONAL AND REGIONAL INSTRUMENTS (1/2)

❖ **Convention on the Rights of the Child**

(1989/1990)

All African States are State Parties but **Somalia (S)** and **South Sudan**

❖ **OPSC** (2000/2002)

- ① **Ghana**
- ② **Liberia**
- ③ **Kenya**
- ④ **Cameroon**
- ⑤ **Zambia**
- ⑥ **Somalia**
- ⑦ **South Soudan**



❖ CoE Cybercrime Convention (2001/2004)

- ① **Mauritius** (A, 2014)
- ② **South Africa** (S, 2001)

❖ CoE Lanzarote Convention (2007/2010)

No African States
Morroco

❖ ECOWAS Directive on Fighting Cyber Crime(2011)

❖ AU Convention on Cyber Security & Personal Data Protection (June 2014)



B. RECOMMENDATIONS

The offence (child pornography):

1. Definition
2. Criminalized conducts



B.1 Definition of child pornography

PROGRESS:

Some African States define child pornography in **full compliance with OPSC standards**:

- ① South Africa
- ② Madagascar
- ③ Uganda
- ④ Morocco
- ⑤ Burkina Faso



GAP 1 : No specific definition of child pornography in several African countries' legislation:

- ① Ethiopia
- ② Tanzania
- ③ Zambia
- ④ Mozambique
- ⑤ Gambia
- ⑥ Egypt
- ⑦ Tunisia



GAP 2: Offensive or immoral materials

- ① Gambia
- ② Ethiopia
- ③ Tanzania
- ④ Kenya



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❖ **RECOMMENDATION 1:** Define what constitutes child pornography according to the standards of the OPSC and other instruments to which countries are State Parties.



❖ **RECOMMENDATION 2:**

References to indecent/immoral materials should be amended and replaced by a proper definition of what constitutes child pornography



B.2 CRIMINALIZATION OF CONDUCTS - Child pornography 1/2

PROGRESS

1. **All** OPSC conducts criminalized:

- ① Kenya
- ② Morocco
- ③ Burkina Faso

2. **Some** OPSC conducts criminalized:

- ① Uganda
- ② South Africa
- ③ Ghana
- ④ Nigeria
- ⑤ Gambia
- ⑥ Cameroon
- ⑦ Ivory Coast



3. **Beyond** the OPSC... criminalizing **MERE POSSESSION:**

- ① South Africa
- ② Ghana
- ③ Nigeria
- ④ Cameroon
- ⑤ Senegal
- ⑥ Morocco
- ⑦ Burkina Fasoamong others



4. **Beyond** the OPSC... criminalizing **GROOMING**:

- ① South Africa
- ② Nigeria
- ③ Burkina Faso
- ④ Cameroon
- ⑤ Morocco



5. Beyond the OPSC... Obligations of ISPs to report when they are aware of CAM:

- ① South Africa
- ② Ivory Coast
- ③ Bukina Faso



❖ **RECOMMENDATION 3:**

Amend legislation where needed to impose a legal obligation for ISPs to report if aware of CAM in their systems



❖ **RECOMMENDATION 4: To sign and ratify the African Union Cyber Crime Convention**



OTHERS RELEVANT ISSUES

REPRESSION OF CRIMES:

Jurisdiction/Extradition/Double criminality

THE RIGHTS OF THE VICTIMS OF CAM



MANY THANKS !

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