



IT'S A PENALTY

CommonProtect

A review of the legal systems protecting children
from sexual exploitation and abuse across
the Commonwealth

EXECUTIVE SUMMARY

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About It's a Penalty

It's a Penalty is a UK-based NGO working globally to end abuse, exploitation and human trafficking.

This report is an output from It's a Penalty's advocacy programme, CommonProtect, which focuses on delivering improved protection for children from sexual exploitation and abuse (CSEA) throughout the Commonwealth of Nations.

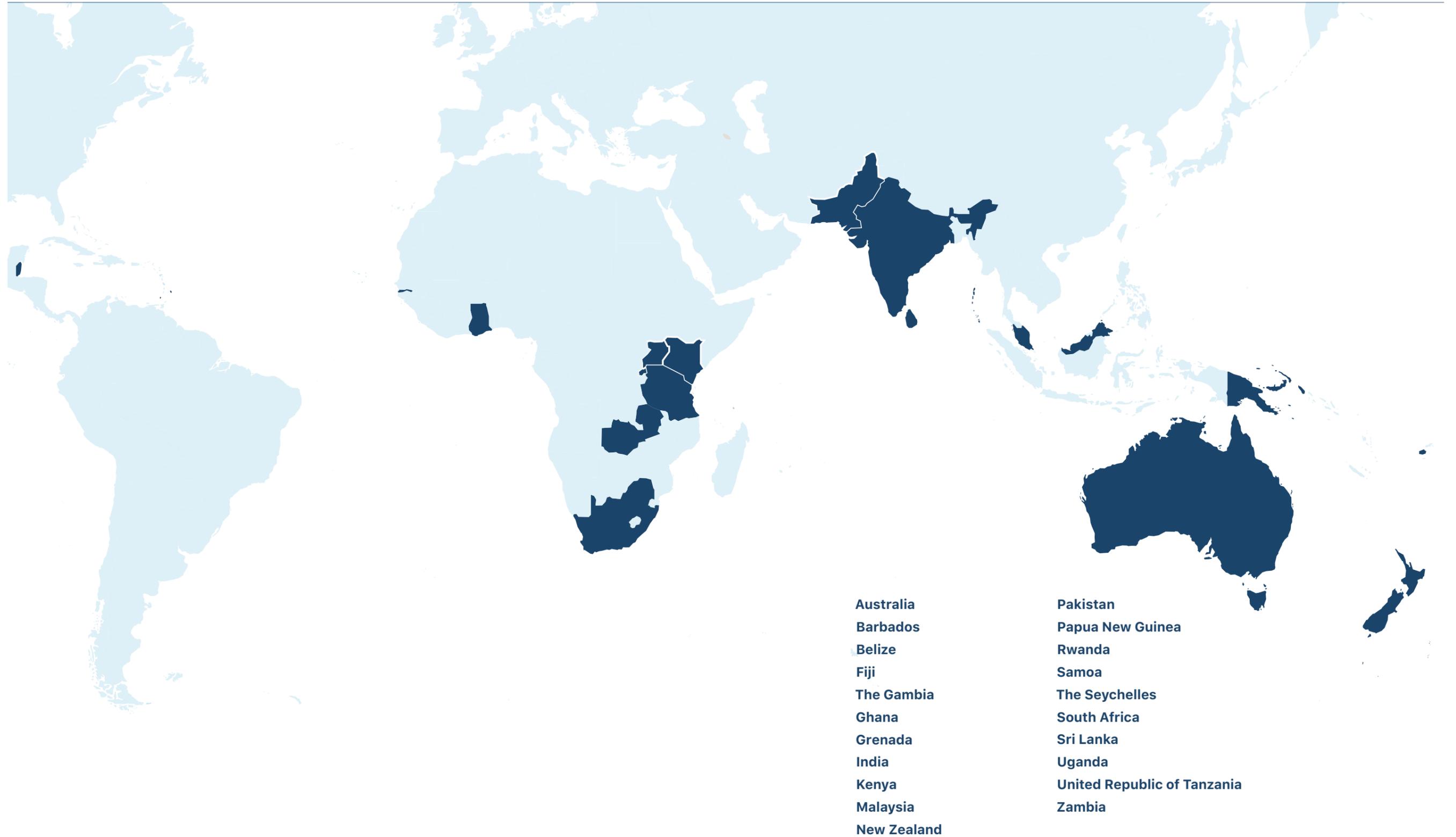
Working in collaboration with governments, civil society organisations, child rights champions and Commonwealth institutions, CommonProtect is the Commonwealth-wide movement to end impunity for child sexual exploitation and abuse, improve access to justice for survivors, and ensure better child protection. CommonProtect's ultimate goal is for there to be a comprehensive legal framework in place in each Commonwealth country which criminalises CSEA in every form, no matter where the offender is from or where in the world the offence takes place.

It's a Penalty has a history of working in the Commonwealth, including running awareness-raising campaigns during the Commonwealth Games, and has strong working relationships with many Commonwealth institutions and organisations.

For more information about It's a Penalty, please visit www.itsapenalty.org



Scope of the Report



Executive Summary

The sexual exploitation and abuse of children is a threat from which no child, community or country is immune. Despite significant work being done by governments and the global child protection community to tackle child sexual exploitation and abuse (CSEA), millions of children across the Commonwealth of Nations (the Commonwealth) remain at significant risk.

This serves as the Executive Summary of the report CommonProtect: A review of the legal systems protecting children from sexual exploitation and abuse across the Commonwealth. We encourage readers to refer to the [full report](#) to read detailed country-specific analyses and recommendations. This report analyses the protection of children from CSEA across 21 Commonwealth Member States from four regions: Africa, Asia, the Americas and the Pacific. These countries were identified based on several criteria, including but not limited to: ensuring an even regional representation; the progress made thus far in child protection; the apparent need for improved child protection legislation or systems; the findings from It's a Penalty's 2018 research report on extraterritorial legislation in the Commonwealth; and our ability to connect with lawyers and child protection experts in-country to complete the research.

To determine whether, and the extent to which, children are currently adequately protected against CSEA throughout the Commonwealth, this report analyses the criminalisation of CSEA, gaps in the prosecution of CSEA offences, gaps in the protection of children, and efforts made towards preventing CSEA. We have worked with legal experts, law enforcement agencies and child rights' advocates from each country to provide concrete and actionable recommendations that can be implemented to improve the protection of children from CSEA.

We are incredibly grateful to all of the partners who have made CommonProtect and this research possible. In particular, special thanks are owed to the Thomson Reuters Foundation and its TrustLaw programme, CMS, Clayton Utz, the Commonwealth Lawyers Association, and Sysdoc, as well as all of the contributing lawyers and researchers in 21 countries

across the Commonwealth, and the contributions of spotlight pieces featured in the full report from the Lanzarote Committee Secretariat, the Commonwealth Human Rights Initiative and Walk Free, the Commonwealth Organisation for Social Work (COSW), ECPAT International, Human Dignity Trust, ICMEC, the International Federation for Red Cross and Red Crescent Societies (IFRC), WeProtect Global Alliance, UNICEF UK, and Michael Salter from the University of New South Wales.

The findings in this report show that there is still a long way to go towards ensuring that every child in the Commonwealth is protected from CSEA, offenders are prosecuted, and survivors have access to justice.

Every child in the Commonwealth has the right to be protected from all forms of violence, as enshrined in the United Nations' Convention on the Rights of the Child (UNCRC).¹ Additionally, through the United Nations' Sustainable Development Goals, all Commonwealth member states have made a commitment to ending CSEA and achieving Agenda 2030: Sustainable Development Goal (SDG) 16.2 calls explicitly for the ending of abuse, exploitation, trafficking and all forms of violence against and torture of children. Other SDG targets address specific forms of violence and harm, such as child marriage and female genital mutilation (target 5.3), and child labour and child trafficking (target 8.7).²

The Commonwealth, therefore, has an important obligation to uphold in protecting children from CSEA. We hope that this report serves as a springboard for Commonwealth-wide action. By working together, we can build a Commonwealth where all children are protected from sexual exploitation and abuse.

Commonwealth-Wide Trends

- Familial abuse and abuse by perpetrators known to the child
- Sexual exploitation of children in travel and tourism (SECTT)
- Harmful traditional practices (child marriage, FGM and witchcraft)
- Child trafficking for sexual exploitation and forced labour
- Online CSEA and child sexual abuse material (CSAM)
- Cultural and societal attitudes stigmatising survivors
- Limited and incomplete data on CSEA offences

Risk Factors

- Under-reporting of CSEA offences
- Pervasive discriminatory gender norms and acceptance of violence
- Widespread poverty
- Large refugee and migrant populations
- Ability for offenders to travel overseas
- Increasing access to technology
- HIV/AIDS prevalence
- Limited resources to prevent, investigate and prosecute CSEA



What is child sexual exploitation and abuse (CSEA)?

Child sexual abuse refers to any activity that involves a child for the sexual gratification of another person, or any sexual activity before the child has reached the age of consent. This includes assault, rape, physical sexual contact, grooming as a precursor to sexual activity, and exposure to sexual language and imagery³.

Child sexual exploitation is when a child or someone else receives a benefit (not always monetary) in return for child sexual abuse. This form of violence is often associated with organised crime, and commonly includes children being groomed or trafficked for sexual activity; persuaded or forced into commercial sexual exploitation or exploitation in prostitution (formerly known as 'child prostitution'); or involved in the creation and distribution of child sexual abuse material (CSAM) (formerly known as 'child pornography').⁴

CSEA is a global and Commonwealth-wide issue. It is estimated that one in eight children are sexually abused worldwide, which amounts to 12.7% of the world's children.⁵ The impact on every child who experiences sexual exploitation and abuse can be long-lasting and irrevocable. Rapid advances in technology, as well as the recent Covid-19 pandemic, have led to the emergence of new forms of exploitation and abuse, and have left children worldwide more vulnerable. Between 2020 and 2021, increases in online CSEA content were reported worldwide—the lowest reported country increase was 40%, whilst the highest was a staggering 265%.⁶

CSEA can occur in any setting and takes many different forms. Most often, children are abused at home or at the perpetrator's home, and in over 89% of cases, the perpetrator is known to the child.⁷ This contributes to the under-reporting of CSEA—estimates show that only 1% of CSEA cases are brought to the attention of child protection services each year.⁸ The sexual exploitation of children in the travel and tourism sector (SECTT) is a global issue, in that children are sexually exploited by both domestic and foreign offenders who misuse travel and tourism infrastructure in order to perpetrate CSEA crimes.⁹

CSEA is not a static phenomenon.¹⁰ As the world progresses and changes, and global attention and research is increasingly drawn to child protection issues, new manifestations of CSEA are sure to emerge and be reported on.¹¹ Given this, it is imperative that efforts to protect children from sexual exploitation and abuse similarly evolve and adapt.

Why the Commonwealth?

The Commonwealth is a voluntary association of 54 independent and equal countries, with a population of over 2.5 billion people.¹² The Commonwealth was established with the intention that countries formerly united under British rule could use this bond to come together and work alongside each other to define and achieve shared goals.¹³ The Commonwealth fosters collaboration between its member states, civil society and other organisations to create change, guided by the values and principles contained in the Commonwealth Charter.¹⁴ Similar legal and political systems, and the use of English as a common language, facilitate learning-and-sharing and collective action across the Commonwealth.

This approach of bringing people together to work collectively across the Commonwealth is successful, and more recently issues such as child marriage, modern slavery and LGBTQIA+ discrimination are being addressed through a Commonwealth lens by a variety of organisations.¹⁵

The Commonwealth is a ready-made—if underutilised—framework for the advancement of child protection around the world.¹⁶ Its network offers an excellent opportunity for effective international cooperation and common action between its member states and intergovernmental organisations, as well as its associated and accredited organisations, and civil society. Furthermore, events such as the Commonwealth Heads of Government Meeting (CHOGM), ministerial meetings, and the Commonwealth Games provide platforms for global impact, discourse and change on important issues.

The findings throughout this report demonstrate that all Commonwealth countries can take steps to better protect children from CSEA, whether through legal reform, improved implementation and enforcement, more comprehensive and fully-resourced child protection systems, or increased awareness and education—or all of the above. The joining of forces is key. Throughout the Commonwealth, governments, Commonwealth-accredited organisations, civil society, parliamentarians, law enforcement and criminal justice professionals, social workers, corporate stakeholders (including social media platforms, technology companies and internet service providers), and survivors all have a significant part to play in protecting children from CSEA.

Definitions

One of the first steps to be taken to protect children against CSEA under the law is to clearly define children as any person under the age of 18.¹⁷

The Council of Europe's Convention for Protection of Children against Sexual Exploitation and Sexual Abuse (the Lanzarote Convention) defines a child as any person under the age of 18.¹⁸ Whilst none of the countries in the report have currently acceded to the Lanzarote Convention, it is a useful benchmark against which legal protections against CSEA can be assessed. Ten of the countries studied do not clearly define a child as under the age of 18.¹⁸ In some countries, the definition of a child is very low, meaning that children as young as 11 may be treated as adults under the law. In other countries, the definition of a child varies throughout the law, leading to inconsistencies in its application.¹⁹

According to our analysis, no country's legislation is fully in line with the provisions of the Lanzarote Convention.

The legal age of sexual consent refers to the age at which a person can consent to engage in sexual activity. This is important to ensure that adult perpetrators cannot claim in defence that sexual activity with younger children was consensual, as children under the age of consent are deemed legally unable to grant consent. This report has found that five countries define the age of consent as 18 years old, 12 countries define it as 16 years old and four define it as under 16 years old.²⁰ In some countries, the age of consent is not clearly defined. Without a clearly defined age of consent, children are left vulnerable to CSEA. Furthermore, in many Commonwealth countries, a close-in-age defence has not been enacted, and therefore children engaging in consensual sexual activity with each other are at risk of being criminalised.





Criminalisation/ Legislation

A common issue in legislation is the tendency to exclude male survivors by referring only to female survivors or using other gendered language. Such gendered language may also exclude those who do not identify with either gender. In some countries, certain laws only apply to girls, and therefore exclude boys and children of other gender identities from protection against offences. Laws against homosexuality also contribute to poorer protections for children, particularly boys, who are abused by offenders of the same sex. Overall, 13 of the 21 countries studied have provisions in their laws that exclude boys in various contexts.²¹

Our study covers countries in the Commonwealth whose legal systems have their roots in British colonial-era law. Many of the laws governing sexual offences today reflect ways of thinking at that time, e.g. 'indecent acts', which criminalised homosexual activity.²² Outdated terms originating from colonial Britain can have an important impact; 'indecent acts' can result in conflation of the difference between consensual and non-consensual sex in homosexual relationships and so criminalise survivors; 'defilement' can confuse the correct definition of rape and victimise female survivors; and 'child pornography/prostitution' implies that the survivor was a willing party to the exploitation. Combined with a pervasive culture of shame and parental desire to ensure that their children are perceived as "clean" by the wider community, this terminology often discourages the reporting of abuse. Outdated terminology was found in the legislation of 19 out of 21 countries.²³

A statute of limitation sets a time limit after an event by which legal proceedings must be initiated. A statute of limitation in the case of CSEA offences can have a devastating impact, as survivors may take months or even years to come forward, whether due to shame and societal stigma, memory loss, or being too young at the time of the event to fully understand the nature of the crime.²⁴ Out of 21 countries studied, four have implemented a statute of limitations applicable to CSEA crimes.²⁵ The length of statutes of limitation in countries studied varies from three months for some CSEA crimes to 20 years.

In many countries, the trafficking of children is linked to the worst forms of child labour, including commercial sexual exploitation. Overall, out of 21 countries analysed, 18 countries have not sufficiently addressed all forms of human trafficking, as classified by the US State Department's 2021 Trafficking in Persons Report (Samoa and Grenada were not classified by the US State Department's 2021 Trafficking in Persons Report).²⁶ Furthermore, some of the studied countries have recently been downgraded due to their failure to implement provisions against trafficking and prosecute perpetrators. Only Australia was classified as having sufficiently addressed its trafficking challenges.

Throughout the Commonwealth, harmful traditional practices exist that exacerbate the risks of CSEA.²⁷ Child marriage, as well as early and forced marriage, is considered a form of, and a pathway to, CSEA. Out of 21 countries studied, 15 insufficiently criminalise child marriage.²⁸ Most of the countries that do not sufficiently criminalise the practice contain contradictory laws, e.g. marriage is prohibited under the age of 18 under common law, but is permitted with parental consent under traditional or religious law. Female genital mutilation (FGM) is explicitly illegal in only six of the 21 countries studied, with no loopholes present.²⁹

Recent leaps in technology have made child online safety a pressing issue. The Internet Watch Foundation reported a 77% increase in 'self-generated' child sexual material from 2019 to 2020, a trend which has only been growing since the Covid-19 pandemic.³⁰ The legal frameworks of nine of the 21 countries studied are not advanced enough to deal with this growing problem.³¹ Even where legal frameworks exist, a lot more needs to be done to tackle the issue on a practical level in all 21 countries.

Extraterritorial legislation is a key element in the fight against CSEA globally, as it ensures that legal authorities can hold their citizens accountable for crimes committed abroad. There are promising signs of this being implemented in Commonwealth countries: 17 of the countries studied have provisions in their law for extraterritoriality, but only nine countries have extraterritorial jurisdiction over CSEA offences with no limiting factors in place.³² Four countries have no extraterritorial jurisdiction in place for CSEA offences.³³

Prosecution

Weak implementation and enforcement significantly limit the functioning of the criminal justice system, even when comprehensive and effective legislation addressing CSEA does exist.³⁴ A common problem in the prosecution of CSEA crimes is at the policing stage: 18 of the 21 countries were evidenced as having police-level issues, such as a lack of resources or sufficient training of personnel to underpin the proper investigation and prosecution of such crimes.³⁵ Under-resourcing limits the investigation of CSEA offences throughout the Commonwealth, with several police departments described as “under-skilled” or incapable of gathering sufficient evidence to secure convictions. Furthermore, awareness and understanding of CSEA, particularly online CSEA and CSAM, is weak amongst law enforcement in many countries.

For many survivors of CSEA, interaction with the police and criminal justice system, including their participation in the court process, can lead to additional traumatisation.³⁶ Only nine countries have provisions in the legal process for child-friendly justice.³⁷ This can include the use of recorded video evidence rather than in-person testimony, CCTV and similar techniques to block child survivors from seeing the accused in court, the protection of survivors’ identity in media reporting, and advocates providing support whilst the child is giving evidence.³⁸ Even where provisions are in place, the implementation of child-friendly justice throughout all of the countries studied is limited.

Across the Commonwealth, many countries’ legal frameworks for child protection are effective in theory, but inaccessible in practice. Many survivors still face barriers in their search for justice, recovery and reintegration, resulting in low prosecution rates and dissatisfaction with the criminal justice system.³⁹ The financial cost of pursuing a case in court imposes a barrier to justice for CSEA survivors from low-income backgrounds, who are often at a greater risk of being exploited or abused. Twelve of the 21 countries studied face the problem of public mistrust in the criminal justice system. For example, corruption is repeatedly cited as a reason for a lack of trust in the authorities. This severely hinders the prosecution of CSEA crimes as survivors and their families are unwilling to come forward. Furthermore, negative police attitudes towards and treatment of survivors, family pressure, and delays and backlogs of court cases also contribute to survivors’ unwillingness to take cases to court.

Backlogs of cases in the criminal justice system were evidenced in nine of the countries studied.⁴⁰ As a result of this unwillingness, 11 countries studied noted that survivors and families often opted for community justice mechanisms rather than the formal legal system.⁴¹ However, resorting to community justice mechanisms can result in children—girls in particular as well as other marginalised groups—being discriminated against as they often do not adhere to international human rights standards.⁴²

Protection

In all 21 countries studied, it was noted that CSEA is under-reported. Shame, fears around family reputation and the perpetrator being known to the survivor are common reasons for this and are present in every country analysed.

To protect children from CSEA, a robust and well-staffed social care system is needed. It was noted that the social service systems in 11 countries were under-resourced and overburdened.⁴³ In many countries, NGOs and civil society organisations are filling the gaps in providing support and services for survivors, but most are similarly under-funded and limited in their capacity.

It has been noted that when disaster strikes a community, children are among the most vulnerable to harm, including CSEA.⁴⁴ Having analysed the disaster preparedness policies in each country, it was found that seven countries have no disaster preparedness policies in place.⁴⁵

This is concerning, particularly for Commonwealth countries that are becoming more prone to natural disasters as a result of climate change. Eleven countries have disaster preparedness policies in place, but these do not specifically address protection from CSEA. Only one country (Rwanda) has disaster preparedness policies that sufficiently address CSEA.

Another common problem identified is the lack of the proper collection and dissemination of data surrounding CSEA. Throughout the Commonwealth, funding is urgently needed to establish national data collection and monitoring mechanisms.⁴⁶ Only Australia and Kenya do not appear to have an issue with the proper collection and dissemination of data, whilst the remaining 19 countries are lacking in this area.



Prevention

Most countries do seek to address violence against children, including CSEA, in their child protection strategies and policies. Only five appeared not to prioritise the issue.⁴⁷ However, political action to prevent CSEA appears low, with most countries focusing on the prosecution of offences after they have taken place.

Keeping a register of sex offenders is seen as a key element in the protection of children and the prevention of CSEA, as it can serve as a database from which governments can take steps to prevent reoffending. Only ten of the countries studied have implemented a national sex offenders’ registry.⁴⁸ Some countries go even further and place restrictions upon those on the register. For example, in Sri Lanka, registered sex offenders are suspended from government jobs. New Zealand, which is a source country for travellers who commit CSEA abroad, is presently considering an amendment to its legislation that will require CSEA offenders, as well as other sex offenders, to provide additional information to police before travelling overseas.

Across the Commonwealth, awareness and educational programmes have been implemented to tackle CSEA. These programmes may tackle children’s knowledge of their rights or what constitutes abuse, parents’ and caregivers’ knowledge of indicators of abuse and general sex education to combat harmful norms around consent and gender roles. Evidence of programmes to raise awareness about CSEA and related issues has been found in 17 of the 21 countries studied.⁴⁹ In some countries, NGOs have played a key role in such campaigning. Despite awareness-raising and educational efforts throughout the Commonwealth, knowledge about CSEA remains low and many children remain vulnerable due to limited understanding. There is more to be done to ensure that children and their families are fully aware of CSEA and able to prevent it.



Conclusion

The sexual exploitation and abuse of children is a widespread and multi-faceted world-wide issue. No Commonwealth country is immune to CSEA. The Covid-19 pandemic has made action on CSEA especially urgent, not only due to rising incidences but also in response to its changing nature and emerging forms as the continuum of online and offline child exploitation and abuse becomes more apparent. The consequences of the pandemic for children in the Commonwealth have been severe and long-lasting.

Whilst positive steps have been taken to address the issue across the Commonwealth, as evidenced throughout this report, it is clear that more can be done to protect children from these forms of violence. In many Commonwealth countries, millions of children do not have the full protection of the law against sexual exploitation and abuse, whether through limited definitions, the exclusion of boys, inadequate criminalisation, limitation periods and a lack of extraterritorial jurisdiction over CSEA offences. Children's access to justice is hampered by low enforcement and prosecution rates, societal stigma, under-reporting, a lack of child-friendly justice, and limited resources dedicated to protective services. More needs to be done to ensure that children feel they can come forward about their experiences, without fear of shame, societal stigma or unwanted repercussions.

To fulfil their commitments to international and regional human rights instruments, such as the UNCRC, Commonwealth member governments should consider working to implement this report's recommendations. Not only should legal change be brought about to better protect children from CSEA, but the improvement of enforcement, reporting, prosecution, protection and prevention are also key.

As an intergovernmental association of 54 nations, the Commonwealth should come together as a whole to prioritise and address CSEA, alongside other key stakeholders in child protection. Presently, children are not adequately represented in Commonwealth discussions and their safety from these forms of violence does not have a sufficient focus. Furthermore, the cross-border and transnational nature of many forms of CSEA, especially offences committed online, requires that Commonwealth governments and other child protection stakeholders collaborate and work alongside each other. As a global problem, CSEA requires international solutions.

Governments, Commonwealth-accredited organisations, civil society, parliamentarians, law enforcement and criminal justice professionals, social workers, and survivors all have significant parts to play. Together, we can build a Commonwealth where all children are protected from sexual exploitation and abuse.

Priority Recommendations

Legal

- The term “child” should be clearly and consistently defined across all legislation as a person under the age of 18.
- All forms of CSEA must be criminalised, including child sexual abuse, child sexual exploitation, child marriage and other harmful traditional practices such as female genital mutilation (FGM), online CSEA and the production, dissemination and possession of child sexual abuse material (CSAM), the livestreaming of online CSEA, the trafficking of children, grooming and sexual harassment, attempted CSEA, sexual exploitation in the context of travel and tourism and other emerging forms of CSEA.
- The “best interests of the child” principle should be enshrined in law and be of paramount importance in all decisions and matters affecting children, including the protection of children from CSEA.
- The protection of children from CSEA must not vary according to their gender. Boys must be afforded the same protections as girls and definitions of CSEA should be gender neutral. Survivors of abuse by offenders of the same sex must be able to come forward, and therefore homosexuality should not be criminalised. Gender-based violence and patriarchal and discriminatory social norms which make girls more susceptible to abuse must be addressed.
- Definitions of CSEA must be clear, and the terminology used to describe offences should not be moralistic or imply the consent of a child who is incapable of consenting to such acts. The terminology used must not serve to undermine the crimes committed or further victimise children. Terminology in legislation should comply with the Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse.⁵⁰
- Survivors and those reporting crimes should not be prosecuted for any crimes committed during the exploitation, such as immigration offences or charges related to prostitution.
- Commonwealth countries should consider acceding to the Council of Europe’s Lanzarote Convention for the Protection of Children against Sexual Exploitation and Sexual Abuse.⁵¹ Countries should ensure that their domestic legislation aligns with all provisions of the Convention and strengthen legal and protective measures to address CSEA.
- Relevant regional and international instruments, including the Optional Protocol,⁵² the Palermo Protocol,⁵³ the Budapest Convention,⁵⁴ the African Charter on the Rights and Welfare of the Child,⁵⁵ and others related to CSEA should be ratified and implemented in domestic law.
- Commonwealth governments can also join the Global Partnership to End Violence Against Children and the WeProtect Global Alliance, and scale up the implementation and enforcement of laws that prohibit all forms of violence against children, particularly online and technology-facilitated CSEA.
- The age of consent should be clearly defined for all children. It should be high enough to ensure that children are protected from abuse but low enough to avoid the over-criminalisation of children’s behaviour.
- Legislation and the judiciary should take into consideration the age difference and possible balance of power in determining the validity of consent where a child is under the age of consent. A close-in-age defence should be implemented into national legislation for sexual activity taking place between children, where the age gap between the children is no more than two, three or four years, depending on context.
- Sufficiently stringent penalties should be set out in the legislation for all forms of CSEA, including online CSEA, and should be handed down where appropriate to act as a deterrent to offenders and to ensure that survivors, their families and the community feel that justice has been served. Legislation should include aggravating circumstances that result in a more severe sentence, such as where the offender is a repeat offender, the survivor is a child with disabilities, or the offender has a position of authority or influence over the child.
- Where they still exist, limitation periods on the prosecution of sexual offences against children should be removed, so that survivors can report such offences when they feel ready to come forward, even if they are adults at the time of reporting.
- Legislation should provide the right for CSEA survivors to receive support in their recovery and rehabilitation, including access to re-integration services, and seek compensation in national courts from convicted offenders and through state-managed funds.
- Legislation should contain a presumption that the survivor is a child, so that survivors are not subjected to intrusive cross-examination regarding their appearance and the possibility of evidence being brought regarding prior sexual behaviour.
- No defence should be available to perpetrators that they believed (whether reasonably or not) the survivor to be over the age of consent, nor should it be a defence that the offender was married to the child at the time of the abuse.
- Extraterritorial jurisdiction must be applied to all CSEA offences, covering both foreign children and offenders resident in the jurisdiction, with no condition of double criminality.
- CSEA offences should be listed as extraditable offences. The extradition of CSEA offenders should not depend on political will and diplomatic relations, but should be rigorously and uniformly applied.

Prosecution

- Children who are brave enough to report offences should be taken seriously and the allegations investigated thoroughly by law enforcement. Negative attitudes held by law enforcement should be addressed through sensitivity training. Child-friendly interviewing practices must be implemented to mitigate the risks of re-traumatisation.
- Interdisciplinary collaboration and information-sharing must take place between law enforcement, the judiciary, mental health and healthcare professionals, and social workers to improve the investigation and prosecution rates of CSEA offences, as well as support survivors interacting with the criminal justice system.
- The continuous development of skills and training should be provided to the relevant stakeholders in the Criminal Justice Sector, such as the police, judiciary, child counsellors and other stakeholders, which emphasises the best interests of the child.
- Delays in court proceedings, which often act either as a deterrent to reporting or lead to charges being dropped, should be mitigated by creating specialised child-friendly courts where they do not exist, ensuring that all cases involving children are tried in an appropriate forum, and dedicating resources to improving the delivery of child-friendly justice in CSEA cases.
- 24/7 reporting mechanisms (e.g. hotlines) should be established for children and those who suspect CSEA is taking place to report CSEA confidentially to trained social workers who are able to refer such reports to the police should the child wish to make a report. The availability of these hotlines should be widely publicised, including in schools. The hotline should also be able to arrange any practical assistance the child may need, including safe transport to a police station or a child-friendly temporary place of shelter.
- Clear and comprehensive procedures should be introduced regarding obtaining video evidence and presenting such evidence in court, as well as other measures to avoid children having to come into contact with perpetrators and risk re-traumatisation. Measures should also be adopted to ensure the anonymity and confidentiality of survivors from initial reporting up until and after they reach majority.
- Children's testimony should be accepted as evidence without the need for corroboration, and children should be supported in providing evidence. Justice systems need to address the use of unfair tactics and traumatising cross-examination techniques that seek to undermine the credibility of the child's testimony in CSEA cases.
- Countries should invest in developing the use of forensic evidence, including DNA, to support prosecutions of CSEA offences, with the understanding that this is not a prerequisite for a successful conviction.
- Information-sharing should take place between countries with successful evidence collection techniques and those with insufficient evidence-gathering to improve investigation and prosecution techniques.
- Local, regional and international cooperation should be bolstered to prevent and counteract CSEA, especially with countries-of-origin of child trafficking survivors, as well as cross-border FGM and child marriage survivors.

Protection

- The protection of children from CSEA should be of critical importance to governments in the Commonwealth. There is a need for increased political will to tackle CSEA and related issues.
- The collection, disaggregation and dissemination of data on CSEA and related issues is a priority. Governments should therefore establish rigorous reporting and data collection mechanisms, as well as analyse risks posed to children, in order to inform child protection policy and practice.
- Governments should dedicate more financial and human resources to addressing CSEA, as well as seek foreign aid for CSEA with appropriate controls in place to ensure that funds are used as intended.
- Government departments and agencies, healthcare and social workers, civil society, the private sector, and faith and community organisations all have a role to play in protecting children, and must work together to ensure no child is left behind. Financial and human resources, including training and skills' development, should be provided to such actors to support the delivery of their work.
- Child protection stakeholders, including those in law enforcement and the judiciary, must work to address all forms of CSEA, including familial sexual abuse, organised abuse, and sexual abuse and exploitation resulting from traditional or cultural practices, such as FGM and child marriage.
- Governments should adopt and implement national child protection policies to serve as a yardstick against which to measure child protection efforts, with such policies being regularly updated to reflect new trends and forms of CSEA, including online, and novel methods of protecting children. In developing such policies, key child protection stakeholders must be consulted.
- Protection measures must be established for CSEA survivors to ensure their safety from the offender throughout reporting, prosecution, recovery and reintegration.
- Specialist, effective and affordable mental healthcare should be provided to survivors and their families, as well as measures to address other common psychosocial needs, including temporary housing where appropriate. Access to free or subsidised mental healthcare should be offered within vulnerable communities with high incidences of CSEA, to both child and adult survivors, to try to break the cycle of abuse.
- Mandatory reporting laws should be enacted, directed at anyone who has a reasonable suspicion of CSEA, including parents/caregivers and frontline professionals who work with children, such as healthcare workers and teachers, with adequate penalties imposed for those who fail to report.
- The protection of children from harm, including CSEA and trafficking, should be integrated into disaster risk management and response. Countries should have a disaster management law in place that includes child protection, as well as policies that address the risks faced by children during disasters.

Prevention

- Countries should extend preventive or rehabilitative support to those at risk of committing CSEA, including early intervention, confidential counselling and treatment.
- Where one does not exist, a coordinated National Sex Offender Register should be developed and introduced, with data accessible by law enforcement, employers, members of the public and Interpol. Information should be shared internationally and regionally, with coordination between government agencies and overseas partners.
- Measures should be put in place, including background checks for employment, to limit CSEA offenders' contact with children. Travel restrictions should also be applied to CSEA offenders to mitigate the risks of them abusing and exploiting children when overseas.
- Governments should enact legislation ensuring that social media platforms, technology companies and internet service providers are proactive in regulating the sharing of child sexual abuse material (CSAM) content and preventing CSEA online. Such actors should be obliged to provide this information to law enforcement and child protection agencies.
- Police task forces should be created and initially staffed with specialists in online forensics who are able to infiltrate CSEA networks on the dark web and gather evidence to support prosecutions. In turn, specialists should deliver training to investigators to empower them to undertake detailed investigations of online CSEA without their assistance in the future.
- Greater international cooperation should take place between national police forces and Interpol in order to disrupt online CSEA and CSAM networks operating across borders and globally.
- Online safety agencies need to proactively monitor and seek the removal of CSAM where it has been detected to support to CSAM abuse survivors. The ongoing circulation of this content directly undermines their safety.



Cultural/Education

- The root causes and risk factors of CSEA and their interrelated nature need to be better understood and addressed. These include poverty, limited education (particularly for girls), access to mental healthcare, harmful cultural or religious beliefs, and vulnerabilities and barriers to help for children with disabilities, and those from marginalised communities and ethnic minorities.
- The voices of survivors must be amplified in all efforts to raise awareness and educate about CSEA and its devastating impact on lives.
- All children should be provided with age-appropriate, comprehensive sexuality education, including training on boundaries and how to tell someone about abuse or feelings of unease, even if the perpetrator is someone they know or who asks the child to keep it a secret. A safe environment should be created to allow children to disclose CSEA without fear of what might happen.
- Educational initiatives should be implemented to increase the awareness of parents/caregivers of children's rights. This should include how to recognise CSEA, the risks posed to children's safety online and protective steps to take, how to report a suspected case, and the support available for survivors and their families.
- Community sensitisation and awareness campaigns, utilising materials and methods appropriate to the community, should address negative cultural and social norms and the paramount importance of children's rights, regardless of gender and certain cultural or religious traditions. Trusted community and religious leaders should engage with communities, particularly those located in remote or rural areas who otherwise lack access to information and services. Such campaigns should also focus on the forms of CSEA most prevalent in the country as well as emerging forms of CSEA. They should encourage families and communities to have open and frank discussions about CSEA in order to address stigmatisation, identify incidences of CSEA, and increase reporting.

Endnotes

1 United Nations (1990). Convention on the Rights of the Child. Available at: <https://downloads.unicef.org.uk/wp-content/uploads/2016/08/unicef-convention-rights-child-uncrc.pdf>

2 United Nations (2015). Transforming our World: The 2030 Agenda for Sustainable Development. Available at: <https://sdgs.un.org/sites/default/files/publications/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf>

3 The Economist Intelligence Unit (2020). Out of the Shadows: Shining Light on the Response to Child Sexual Abuse and Exploitation. Available at: https://outoftheshadows.eiu.com/wp-content/uploads/2020/02/Out-of-the-Shadows_whitepaper_60-countries_2020-1.pdf

4 The Economist Intelligence Unit (2020). Out of the Shadows: Shining Light on the Response to Child Sexual Abuse and Exploitation. Available at: https://outoftheshadows.eiu.com/wp-content/uploads/2020/02/Out-of-the-Shadows_whitepaper_60-countries_2020-1.pdf

5 Stoltenborgh, M., van Ijzendoorn, M. H., Euser, E. M. and Bakermans-Kranenburg, M. J. (2011). 'A global perspective on child sexual abuse: meta-analysis of prevalence around the world', *Child Maltreat* 16:2, pp. 79–101.

6 WeProtect Global Alliance (2021). Global Threat Assessment 2021, p. 23. Available at: <https://www.weprotect.org/wp-content/uploads/Global-Threat-Assessment-2021.pdf>

7 Finkelhor, D. and Shattuck, A. (2012). 'Characteristics of Crimes against Juveniles', University of New Hampshire: Crimes Against Children Research Center, May, p. 5. Available at: https://www.academia.edu/9728770/Characteristics_of_crimes_against_juveniles

8 Gilbert, R., Widom, C. S., Browne, K., Fergusson, D., Webb, E. and Janson, S. (2009). 'Burden and consequences of child maltreatment in high-income countries', *The Lancet* 373:9657, pp. 68–81.

9 ECPAT International. (2016). Offenders on the Move: Global Study on Sexual Exploitation of Children in Travel and Tourism. Available at: <https://www.ecpat.org.uk/Handlers/Download.ashx?IDMF=2ead9526-6b4f-402a-aa23-821c0274ddfe>

10 Jones, A. and Trotman Jemmott, E. (2009). 'Child Sexual Abuse in the Eastern Caribbean: The Report of a Study carried Out Across the Eastern Caribbean During the Period October 2008 to June 2009', Action for Children, U.K.; University

of Huddersfield and UNICEF Eastern Caribbean. Available at: <http://eprints.hud.ac.uk/id/eprint/9617>

11 UNICEF (2017). A Familiar Face: Violence in the lives of children and adolescents. Available at: <https://data.unicef.org/resources/a-familiar-face/>; Savage, C. (2015). 'School sex crime reports in UK top 5,500 in three years', BBC News, 6 September. Available at: <https://www.bbc.co.uk/news/education-34138287>

12 The Commonwealth (2022). 'About Us'. Available at: <https://thecommonwealth.org/about-us#:~:text=The%20Commonwealth%20is%20a%20voluntary,states%2C%20including%20many%20island%20nations>

13 Woolf, L. and Dwyer, E. (2020). 'Managing backlash against women's and LGBT+ rights movements in the Commonwealth', The Royal Commonwealth Society, The Equality & Justice Alliance, and Edge Effect, p. 11. Available at: https://www.edgeeffect.org/wp-content/uploads/2020/04/EdgeEffect_Backlash_Full-Report.pdf

14 The Commonwealth (2022). 'Commonwealth Charter', The Commonwealth. Available at: <https://thecommonwealth.org/charter>

15 Human Dignity Trust (2021). 'Changing Laws, Changing Lives: Assessing Sexual Offences Laws in the Commonwealth.' Available at: <https://www.humandignitytrust.org/reform/>; Walk Free & CHRI (2020). Eradicating Modern Slavery: An assessment of Commonwealth governments' progress on achieving SDG Target 8.7. Available at: [https://www.humanrightsinitiative.org/publication/eradicating-modern-slavery; Commonwealth Lawyers Association \(2018\). The Role of the Law in Eliminating Child Marriage in the Commonwealth. Available at: http://www.commonwealthlawyers.com/wp-content/uploads/2019/05/CLA-Role-of-the-Law-in-Eliminating-Child-Marriage-T-Braun-2018-FINAL.pdf](https://www.humanrightsinitiative.org/publication/eradicating-modern-slavery; Commonwealth Lawyers Association (2018). The Role of the Law in Eliminating Child Marriage in the Commonwealth. Available at: http://www.commonwealthlawyers.com/wp-content/uploads/2019/05/CLA-Role-of-the-Law-in-Eliminating-Child-Marriage-T-Braun-2018-FINAL.pdf)

16 Mills, C. and Walker, N. (2020). 'Research Briefing: The Commonwealth in 2020', UK Parliament, House of Commons Library, 6 March. Available at: <https://commonslibrary.parliament.uk/research-briefings/cdp-2020-0052/#:~:text=There%20are%20now%2054%20countries,reach%20%2413%20trillion%20in%202020>

17 Council of Europe (2010). Convention for Protection of Children against Sexual Exploitation and Sexual Abuse. Available at: <https://rm.coe.int/protection-of-children-against-sexual-exploitation-and-sexual-abuse/1680794e97>

18 Australia, Belize, The Gambia, Ghana, India, Rwanda, South Africa, United Republic of Tanzania, Uganda, and Zambia.

19 Barbados, Fiji, Grenada, Kenya, Malaysia, New Zealand, Pakistan, Papua New Guinea, Samoa, Seychelles, and Sri Lanka.

20 18: the Gambia, India, Kenya, Rwanda, and Uganda; 16: Australia, Barbados, Belize, Fiji, Ghana, Grenada, Malaysia, New Zealand, Papua New Guinea, Samoa, South Africa, and Zambia; under 16: Pakistan, the Seychelles, Sri Lanka, and the United Republic of Tanzania.

21 Barbados, Ghana, Grenada, India, Kenya, Malaysia, Pakistan, Samoa, the Seychelles, Sri Lanka, the United Republic of Tanzania, Uganda, and Zambia.

22 Braun, T. (2014). 'Dark Side of the Moon: The Legacy of British Sexual Offences Laws in the Commonwealth'. Available at: https://www.humandignitytrust.org/wp-content/uploads/resources/British_colonial_sexual_offences_legacy-Tea_Braun.pdf

23 Barbados, Belize, Fiji, the Gambia, Ghana, Grenada, India, Kenya, Malaysia, New Zealand, Pakistan, Papua New Guinea, Rwanda, Samoa, South Africa, the United Republic of Tanzania, Uganda, and Zambia. Not evidenced in the Seychelles.

24 Oak Foundation, the Equality Institute and Together for Girls (2019). Evidence Review: What Works to Prevent Sexual Violence Against Children, p. 43. Available at: <https://www.togetherforgirls.org/wp-content/uploads/2019-11-15-What-Works-to-Prevent-Sexual-Violence-Against-Children-Evidence-Review.pdf>

25 Grenada, Papua New Guinea, Rwanda, and Sri Lanka.

26 Barbados, Belize, Fiji, the Gambia, Ghana, India, Kenya, Malaysia, New Zealand, Pakistan, Papua New Guinea, Rwanda, the Seychelles, South Africa, the United Republic of Tanzania, Uganda, and Zambia.

27 ECPAT (2020). Summary Paper on Child, Early and Forced Marriages as a Form of, or Pathway to Sexual Exploitation of Children. Available at: <https://ecpat.org/wp-content/uploads/2021/05/ECPAT-Summary-paper-on-child-early-and-forced-marriages-as-a-form-of-or-pathway-to-sexual-exploitation-of-children-2020.pdf>

28 Barbados, Belize, the Gambia, Grenada, India, Malaysia, Pakistan, Papua New Guinea, Samoa, the Seychelles, South Africa, Sri Lanka, the United Republic of Tanzania, Uganda, and Zambia.

29 Ghana, Kenya, New Zealand, Rwanda, South Africa, and Zambia.

30 WeProtect (2021). Global Threat Assessment. Available at: <https://www.weprotect.org/global-threat-assessment-21/>

31 Barbados, the Gambia, Ghana, Kenya, the Seychelles, Sri Lanka, the United Republic of Tanzania, Uganda, and Zambia.

32 Australia, Barbados, the Gambia, Kenya, Malaysia, New Zealand, Samoa, Sri Lanka, and South Africa.

33 Ghana, Papua New Guinea, the Seychelles, and Uganda.

34 Walk Free & CHRI (2020). Eradicating Modern Slavery: An assessment of Commonwealth governments' progress on achieving SDG Target 8.7. Available at: <https://cdn.walkfree.org/content/uploads/2020/10/12034833/Walk-Free-Eradicating-Modern-Slavery.pdf>

35 Barbados, Belize, Fiji, the Gambia, Ghana, Grenada, India, Malaysia, New Zealand, Pakistan, Papua New Guinea, Rwanda, the Seychelles, South Africa, Sri Lanka, the United Republic of Tanzania, Uganda, and Zambia.

36 Quas, J. A., and Goodman, G. S. (2012). 'Consequences of criminal court involvement for child victims', *Psychology, Public Policy, and Law* 18:3, pp. 392–414.

37 Barbados, Belize, India, Malaysia, New Zealand, Rwanda, Sri Lanka, the United Republic of Tanzania, and Uganda.

38 Nabasitu, D. (2018). Examining Measures Facilitating Participation of Female Child Victims in the Prosecution of Sexual Abuse Cases in Uganda's Criminal Justice System, Centre for Criminal Justice & Human Rights, p. 31. Available at: <https://www.ucc.ie/en/media/academic/law/ccjhr/publicationsseptember2018/>

39 Australia, Belize, the Gambia, Ghana, India, Kenya, New Zealand, Papua New Guinea, Samoa, South Africa, Sri Lanka, and the United Republic of Tanzania.

40 Barbados, Belize, Grenada, Kenya, New Zealand, Papua New Guinea, Sri Lanka, the United Republic of Tanzania, and Uganda.

41 Barbados, Belize, Ghana, Kenya, Malaysia, Pakistan, Rwanda, Samoa, the Seychelles, the United Republic of Tanzania, and Zambia.

42 The United Nations Development Programme (2006). Doing Justice: How informal justice systems can contribute, p. 5. Available at: <https://www.un.org/ruleoflaw/files/JUNDP%20DoingJusticeEwaWojkowska130307.pdf>

43 The Gambia, Ghana, India, Kenya, Malaysia, Rwanda, Samoa, the Seychelles, South Africa, Sri Lanka, the United Republic of Tanzania.

44 Oak Foundation, the Equality Institute and Together for Girls (2019). Evidence Review: What Works to Prevent Sexual Violence Against Children, p. 61. Available at: <https://www.togetherforgirls.org/wp-content/uploads/2019-11-15-What-Works-to-Prevent-Sexual-Violence-Against-Children-Evidence-Review.pdf>

45 Barbados, Fiji, Grenada, Kenya, Papua New Guinea, the Seychelles, and Uganda.

46 Walk Free & CHRI (2020). Eradicating Modern Slavery: An assessment of Commonwealth governments' progress on achieving SDG Target 8.7. Available at: <https://www.humanrightsinitiative.org/publication/eradicating-modern-slavery>

47 Fiji, Malaysia, Papua New Guinea, the Seychelles, and the United Republic of Tanzania.

48 Australia, the Gambia, India, Kenya, Malaysia, New Zealand, Samoa, the Seychelles, South Africa, and the United Republic of Tanzania.

49 Australia, Belize, the Gambia, Ghana, Grenada, India, Kenya, New Zealand, Pakistan, Rwanda, Samoa, the Seychelles, South Africa, Sri Lanka, the United Republic of Tanzania, Uganda, and Zambia.

50 Interagency Working Group in Luxembourg (2016). 'Terminology Guidelines for The Protection Of Children From Sexual Exploitation And Sexual Abuse', 28 January. Available at: <https://ecpat.org/luxembourg-guidelines/>

51 Council of Europe (2010). Convention for Protection of Children against Sexual Exploitation and Sexual Abuse. Available at: <https://rm.coe.int/protection-of-children-against-sexual-exploitation-and-sexual-abuse/1680794e97>

52 United Nations (2000). Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Available at: https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtmsg_no=IV-11-c&chapter=4&clang=en

53 United Nations (2003). Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Available at: <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>

54 Council of Europe (2001). Convention on Cybercrime. Available at: <https://www.coe.int/en/web/>

conventions/full-list/-/conventions/treaty/185?module=signatures-by-treaty&treatynum=185

55 African Union (1990). African Charter on the Rights and Welfare of the Child. Available at: https://au.int/sites/default/files/treaties/36804-treaty-african_charter_on_rights_welfare_of_the_child.pdf



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