

ONLINE SEXUAL EXPLOITATION AND ABUSE IN NIGERIA

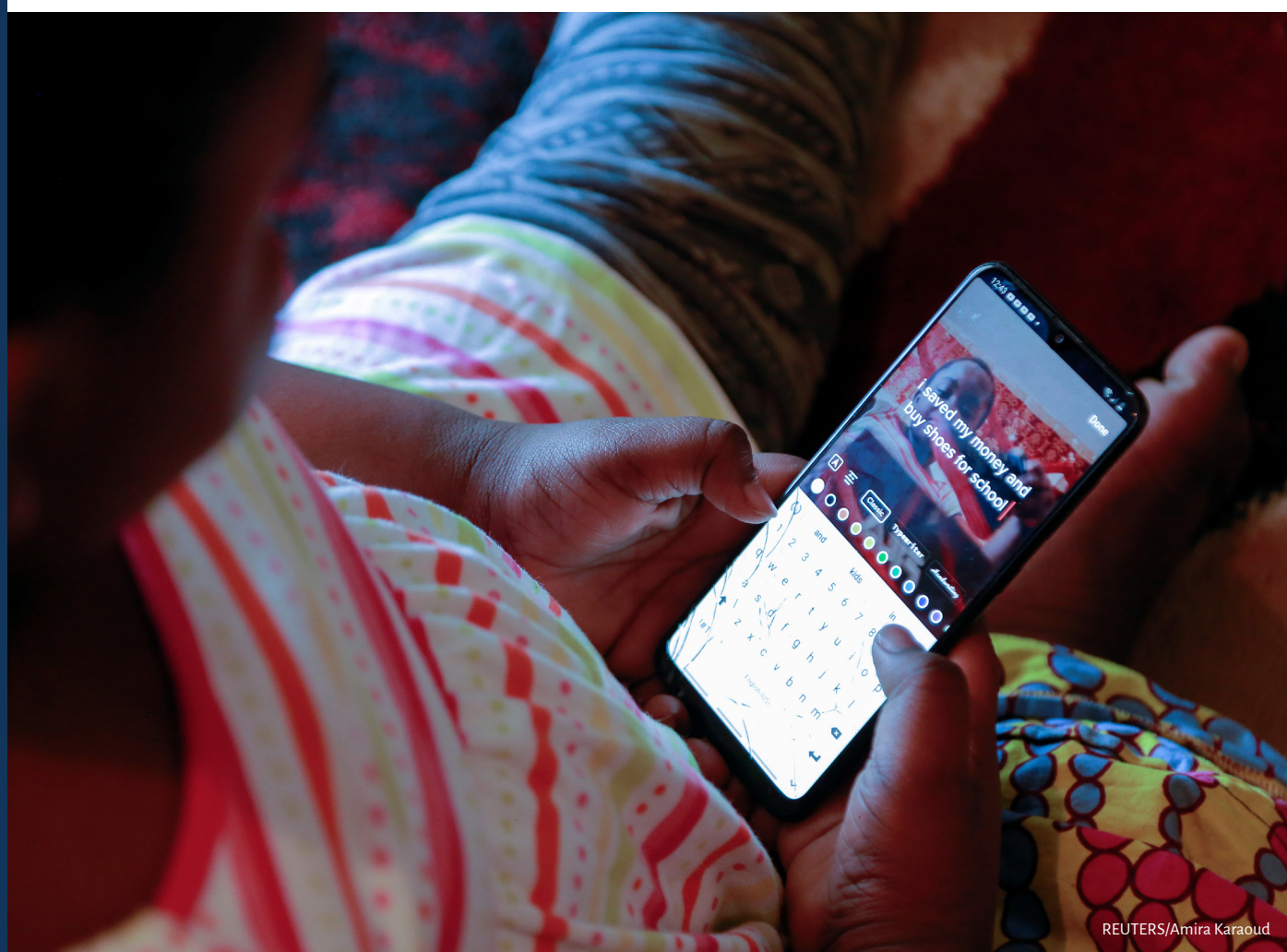


As one of Africa's leaders on internet uptake with more than half of Nigeria's population subscribing to the internet, Nigeria's laws are of particular importance in protecting users against online sexual exploitation and abuse (OSEA).¹ Internet misuse has resulted in the creation of new forms of sexual exploitation and abuse, which manifest as online grooming, image-based sexual abuse, and online sexual coercion and extortion, making it easier for perpetrators to identify and gain access to victims, particularly women and girls, through digital platforms.² While Nigeria has some OSEA laws in place, a lack of consistent legislation and internationally adopted laws make obtaining legal recourse extremely challenging.

In addition, reporting of OSEA remains a challenge due to stigma, being shamed, and other socio-cultural factors that inhibit women and girls from discussing incidences. There has been outrage regarding the lack of appropriate response by the Nigerian authorities, particularly in instances where violations are filmed and shared widely.³ Empowering women and girls to report incidences, and prosecuting those violations would allow survivors a greater voice in addressing OSEA on a national level.

Note: The information in this factsheet is largely derived from the report titled *Ending Online Sexual Exploitation and Abuse: A Call for International Standards*, published during November 2021. Please refer to the report for further information on these laws as well as a full list of recommendations. <https://www.equalitynow.org/endosea>.

- 1 Nigerian Communications Commission. (2020). Industry Statistics & Report on Internet Subscriber Data. <https://www.ncc.gov.ng/statistics-reports/industry-overview#viewgraphs-tables-5>
- 2 https://www.researchgate.net/profile/Olusesan-Makinde/publication/313116089_Gender-Based_Violence_following_Social_Media_Acquaintance_in_Nigeria/links/5890c6d292851cda25689ea9/Gender-Based-Violence-following-Social-Media-Acquaintance-in-Nigeria.pdf
- 3 <https://www.un.org/africarenewal/web-features/social-media-stimulates-nigerian-debate-sexual-violence>



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LEGAL LANDSCAPE



Overview of International and Regional Treaties

Nigeria is a party to a number of international and regional treaties that provide for the rights of women and girls and for protection from sexual exploitation and abuse. Internationally, Nigeria has ratified:

- The UN Convention on the Rights of the Child (CRC), including the Optional Protocol to the CRC on the sale of children, child prostitution, and child pornography.
- The UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime (Palermo Protocol).
- The International Labour Organization Convention (ILO) Concerning the Prohibition and Immediate

Action for the Elimination of the Worst Forms of Child Labour (Worst Forms of Child Labour Convention).

Regionally, Nigeria is party to:

- The African Union (AU) Africa Charter on Human and Peoples Rights.
- The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol).

These instruments obligate governments to put in place measures to address sexual violence, exploitation, and abuse.

Overview of Existing Laws Covering OSEA

Nationally, Nigeria has also developed and implemented laws that address aspects of OSEA. The main ones include:

- The Cybercrimes (Prohibition, Prevention, etc.) Act (the Cybercrimes Act), which criminalizes several acts of online child sexual exploitation and abuse such as producing, possessing, and distributing child sexual abuse material (CSAM) through the internet, and grooming or soliciting a child for the purposes of engaging in sexual activities. The Act also requires digital service providers and platforms to report CSAM on their platforms to law enforcement.
- The Criminal Code, which criminalizes extortion, including potential extension to cases of online

sexual coercion and extortion if the crime fulfils the necessary elements. The main element is an intention to extort a person. It also prohibits knowingly sending or attempting to send by post an indecent or obscene print.

- Trafficking in Persons (Prohibition) Enforcement and Administration Act, which criminalizes all forms of human trafficking and expressly outlaws the procurement, recruitment, importation, and exportation of persons for the purposes of prostitution. Arguably, it can be broadly applied to online sex trafficking.



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GAPS IN LAW

Nigeria's efforts to combat OSEA are notable, but there are still areas that need improvement in order to protect survivors.



Online Grooming and Solicitation for Sexual Exploitation and Abuse

The Cybercrimes Act, in section 23 (3) criminalizes the act of intentionally proposing, grooming, or soliciting “through any computer system or network to meet a child for the purpose of engaging in sexual activities with the child.” The law does not consider the grooming that would have taken place before demonstration of the intention to meet the child, nor does it account for the fact that offenders do not have to meet a child in person to abuse them. The Act also does not protect adults who may also be vulnerable to online grooming or exploited children once they become adults, given the long-term nature of online grooming.

Child Sexual Abuse Material (CSAM)

The Cybercrimes Act establishes the crime of CSAM and in section 23 prohibits producing, procuring, offering, distributing, possessing, and disseminating CSAM through the internet. The Act also requires digital service providers and platforms to report CSAM on their platforms to law enforcement. It also includes grooming or soliciting a child for the purposes of engaging in sexual activities with a child or participating in sexually abusive performances with a child.

Notwithstanding, the Cybercrimes Act requires proof of intent, which makes proving the offense more complicated. It also does not account for the fact that offenders do not have to meet a child in person to abuse the child. The Cybercrimes Act should prohibit crimes that take place without the offender intending to or meeting the child.

Like other countries, one of the challenges that Nigeria faces is detecting adolescent girls in CSAM on the internet. Automated tools that detect CSAM online and human reviewers cannot always be certain that images of girls who have reached puberty are not images of adults. The laws that address CSAM should include specific protections for adolescent girls.

Online Sexual Coercion and Extortion

There are no laws that specifically provide for online sexual coercion and extortion. Instead, the cyberstalking provisions in section 24 of the Cybercrimes Act, in so far as they apply to extortion could arguably be applied.

The Criminal Code in section 376 generally provides for extortion. Again, this is not specific to online sexual coercion and extortion and could be broadly applied. The challenge is that the section requires intent to prove extortion causing the same problem and making it exceedingly difficult to prove the crime. A law specific to this form of OSEA would be able to take into account the sexual nature of the offense, which is not addressed in current laws enforced against offenders.

Live-Streaming of Sexual Exploitation and Abuse

Nigeria's Cybercrimes Act 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, which can be interpreted to also apply to cases of live-streaming. It is worth noting that the current law provides protection only to children, and does not mention protection to adults who may also be subjected to this form of abuse and exploitation.

In addition, a significant challenge for abuse involving adolescent girls is that the tools used to detect images and videos are not always able to determine the age of victims. This means older girls subject to abuse are likely to fall through the cracks. There are also no specific provisions to address the use of deepfakes in live-streaming.

Online Sex Trafficking

The Trafficking in Persons (Prohibition) Enforcement and Administration Act, criminalizes all forms of human trafficking and expressly outlaws the procurement, recruitment, importation, and exportation of persons for the purposes of prostitution. The Act contains provisions specifically relating to the procurement or recruitment of children. In addition, the Child Rights Act provides for the protection of the rights of children and criminalizes the buying, selling, and use of children for the purposes of begging, prostitution, and producing CSAM. Notwithstanding, the Acts do not specifically mention the online aspects of the sex trafficking.



Image-based Sexual Abuse

The Cybercrimes Act does not specifically prohibit sending an indecent or obscene image online except for images depicting children. Including language that prohibits distributing sexual and intimate images online without consent would assist in combatting image-based sexual abuse.

KEY RECOMMENDATIONS

The Nigerian government should:

- Enact and implement laws that address the root causes of OSEA, in particular gender, sex-based discrimination and intersecting inequalities, and the proliferation of misogyny and abuse of power online.
- Ensure that laws and policies that address all forms and aspects of OSEA are enacted and implemented. They should align with international standards, where they exist, including providing for protection of vulnerable people. Laws should also consider the gendered, technological, and multi-jurisdictional nature and dimensions of OSEA.
- Mandate digital service providers and platforms to implement clear policies and procedures relating to posting, sharing and publication of OSEA material on their platforms, and mandate penalties when they fail to comply with the law.
- Strengthen national institutions through provision of adequate resources to investigate and prosecute OSEA cases.
- Support survivors' access to the legal system, including through providing adequate funding to key institutions including law enforcement, child protection services, and women's rights departments, and civil society organizations with a goal of supporting investigation and prosecution of cases and support of survivors of OSEA.
- Support civil society initiatives to raise understanding of OSEA including information on how to identify violations and report to law enforcement and digital service providers and platforms.
- Promote and support efforts for a global response to OSEA including development of mechanisms to enhance international cooperation.



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