



This briefing paper has been compiled using information included in the *Out of the Shadows Index*<sup>1</sup> and the *Landscape of Sexual Exploitation of Children in South Africa*.<sup>2</sup>

## What is the Out of the Shadows Index?

The **Out of the Shadows Index**, developed by the Economist Intelligence Unit, measures how nations are addressing child sexual exploitation and abuse. Data released for the first 60 countries demonstrate that governments, the private sector and civil society need to do more to protect children from sexual violence and meet the commitments they made to Target 16.2 of the UN's Sustainable Development Goals.

The **Index** was calculated by assessing legislation, policies and responses by governments. It covers issues that underpin child sexual exploitation and abuse, including education, reproductive health, victim support, law enforcement and risks from the online world.

The **Index** also addresses environmental factors such as safety and stability, social protections, and whether gender and other norms suppress open discussion about sex and sexual abuse. It also measures engagement of tech and travel businesses in fighting child sexual exploitation and abuse. There is an overall country score, as well as numerous sub-category scores using data from as many as 34 indicators and 132 sub-indicators.

## What is the Landscape of Sexual Exploitation of Children in South Africa?

The **Landscape of Sexual Exploitation of Children in South Africa** is the result of a research collaboration led by ECPAT International to describe the context for sexual exploitation of children in South Africa. The project was a collaboration with the Youth Research Unit (YRU) of the Bureau of Market Research (BMR), (Pty) Ltd at the University of South Africa and University of Western Cape and was guided by an advisory committee of further experts from government, law enforcement and civil society. The final report presents results from: literature review; analysis of legislation; interviews and focus group discussions with law enforcement and welfare professionals in Gauteng and KwaZulu-Natal provinces.

# SOUTH AFRICA

SCORE **58.1**

**16 out of 60 countries** scored by the Out of the Shadows Index



South Africa ranked 16 out of the 60 countries scored by the **Out of the Shadows Index** on the country's response to child sexual exploitation and abuse, with a score of 58.1. Within Sub-Saharan Africa, South Africa was the top performer among 16 countries surveyed, ranking just ahead of Uganda (57.3) and Tanzania (56.5).

South Africa's position on the **Index's** ranking, is explained by a strong legal framework to protect children from sexual exploitation and abuse, a committed technology sector and knowledgeable frontline support workers.<sup>3</sup>

However, much remains to be done to ensure that South African children live free from sexual exploitation and abuse. For example, limited training and support for professionals working with child victims as well as few opportunities for multi-sectoral collaborations, have been reportedly hampering efforts to tackle child sexual exploitation and abuse in the country.<sup>4</sup>

## DEFINING SEXUAL EXPLOITATION OF CHILDREN

A child is a victim of sexual exploitation when they take part in a sexual activity in exchange for something that either they or third parties receive. Different forms of sexual exploitation of children (SEC) include exploitation of children in prostitution, online child sexual exploitation, sale and trafficking of children for sexual purposes, sexual exploitation of children in the context of travel and tourism and some forms of child, early and forced marriage.<sup>5</sup>

## ENVIRONMENT

57 / 100

The **Out of the Shadows Index** reports South Africa as having a relatively stable environment,<sup>6</sup> but South African children are still highly impacted by a context of violence, poverty and inequality, which can leave them with considerable risks of becoming victims of sexual exploitation.<sup>7</sup> In 2016, the Optimus Foundation published a study on sexual victimisation of children in South Africa: respondents to the survey included female and male 15 to 17-year old adolescents recruited from schools (4,086) and households (5,631).<sup>8</sup> 35.4% of the school student sample reported some form of sexual abuse.<sup>9</sup>

### Livelihoods

*The Government of South Africa has made huge progress to reverse structural inequalities, poverty, and the systemic segregation of apartheid through policies and action on equal education, access to health services, social development, social security, public transport and housing.<sup>10</sup>*

*Despite policy and progress, South Africa is still considered one of the most unequal countries in the world.<sup>11</sup> It scored just 37/100 for the **Index's** indicator on income inequality. In its latest country brief on poverty and equity (October 2019), the World Bank reported that in 2014, 55% of the South African population lived below the national poverty line and that poverty is consistently highest amongst the category of children.<sup>12</sup> In 2016, UNICEF recorded that 56% of children in South Africa were living in families whose incomes or consumption levels fall below the national monetary poverty threshold.<sup>13</sup>*

*Professionals interviewed for the **Landscape of Sexual Exploitation of Children in South Africa** report confirmed that poverty is often associated with SEC in the country.*

***“There is such a problem with poverty in this country. People are so desperate for jobs [that] they get exploited”***

*(Participant 8, KZN)<sup>14</sup>*

### Perceptions of violence

*South Africa scored just 4/100 for the **Index's** indicator which measures how perceptions of violence in a society can influence the community's attitude towards sexual exploitation and abuse of children.*

*According to the latest statistics (April 2018 – March 2019) provided by the South African Police Service together with Statistics South Africa, murder rates increased by 3.4% compared to 2017/2018, with 21,022 murders committed in South Africa in the analysed period.<sup>15</sup> Sexual violence in South Africa is high with the number of reported rapes increasing to 41,583 cases per year compared to 40,035 in 2017/2018 (3.9% increase).<sup>16</sup> Children accounted for 1,014 of the murder victims and 18,586 of the rape victims.<sup>17</sup>*

*Numerous data sources show that violence is widely experienced by South African children in different forms and settings, including in schools, families, and communities. For instance, although corporal punishment at school has been banned in South Africa since 1997,<sup>18</sup> 5.7% of students reported experiencing it at school in 2018, with highest prevalence within Free State (12.1%) and Eastern Cape (11.5%) schools.<sup>19</sup> School cultures that permit institutional violence discourage abused and exploited children from seeking help, and can even create circumstances for sexual exploitation to occur. When children have fear at school, this culture annuls the protective mechanism that positive school environments can have in reducing children's vulnerabilities, including to sexual exploitation.<sup>20</sup>*

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South Africa implements school-based behaviour change programming that addresses young people's attitudes towards violence

South Africa enforces law on corporal punishment and provides teacher training on pedagogic methods (such as positive discipline) to be used instead

South Africa has ratified all the major international conventions relevant to the fight against SEC and is party to a number of international and regional frameworks. South Africa has gradually developed and adopted comprehensive and quality national laws addressing SEC in compliance with these. In particular, the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 (Sexual Offences Act)<sup>21</sup> contains detailed and expansive provisions prohibiting different forms of SEC, whilst the Prevention and Combating of Trafficking in Persons Act No 7 of 2013 (PACOTIP) is an attempt to consolidate the regulatory framework to combat trafficking, including of children for sexual purposes, and fill gaps left by common law and statutory law. The Cybercrimes Bill 2017 was passed in November 2018 by the Portfolio Committee for Justice and Correctional Services and sent to the National Assembly for debate.<sup>22</sup> The Bill proposes several amendments to existing legislation, such as aligning the South African legal definition of child sexual abuse material with those provided by the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) and the Council of Europe Convention on Cybercrime (Budapest Convention).<sup>23</sup> According to media reports and national stakeholders, it is aimed to be adopted by the end of 2019.<sup>24</sup> In early October 2019, the South African President signed the Film and Publications Amendment Act 11 of 2019, which includes provisions aimed at protecting children from harmful content and sexual exploitation online.<sup>25</sup>

However, limitations still exist in legislation. The applicability to children of the provisions established to protect victims of trafficking is unclear and inconsistencies exist in different laws about the legal age of marriage, as discussed below. Additionally, professionals working to support victims of SEC reported in the **Landscape of Sexual Exploitation of Children in South Africa** that SEC definitions in national legislation, are often too broad and can result in cases not being prosecuted or lost. *“Like somebody said; the definition ‘it is as open and wide as God’s grace’ That is why we have so many knowledge deficits” (Participant 5, Gauteng).*<sup>26</sup>

### Child marriage

*Child marriage has been established as both a channel to and form of sexual exploitation of children, for example through enabling the sexual availability of a child, shielding sexual violence within the union, or creating impossible power dynamics for the child to exercise autonomy.<sup>27</sup> South Africa received a score of 50/100 in the **Out of the Shadows** indicator for child marriage. This can be attributed to the fact that South African legislation still allows for the practice to occur.*

*Indeed, inconsistencies and loopholes exist through the Children’s Act 38 of 2005, the Marriage Act 25 of 1961 and the Recognition of Customary Marriage Act 120 of 1998, which allow marriage before the age of 18 years under different circumstances. Remarkably, according to the Marriage Act 25 of 1961, the minimum legal age for marriage in South Africa remains 18 years old for boys and 15 years old for girls.<sup>28</sup> Moreover, an exception can be granted by the Minister or any authorised officer for younger ages.<sup>29</sup> Similarly, the Recognition of Customary Marriages Act 120 of 1998 although prescribing the marriageable age of boys and girls at 18 years and the need for spouses to consent to be married,<sup>30</sup> provides for exceptions to the marriageable age.<sup>31</sup>*

*A connected phenomenon is the tribal custom of Ukuthwala, or bride kidnapping. While in the past this was often condoned because it was mostly used ceremonially, Ukuthwala is now seriously considered a risk factor for SEC, because it increasingly involves the kidnapping, rape and forced marriage of underage girls.<sup>32</sup> As confirmed by professionals, the practice of Ukuthwala is a form of child trafficking<sup>33</sup> and therefore penalized under the PACOTIP.<sup>34</sup> Despite a draft bill prohibiting forced marriages and child marriages in circulation since 2015,<sup>35</sup> as of October 2019 no legislative reform on this issue has yet occurred.*

Although South Africa does not have a national plan of action specifically addressing the sexual exploitation of children, a number of policies and frameworks, which partially address the issue, have been developed. However, professionals report that there is weak monitoring, and substantial issues with practical implementation, coordination and cooperation between government departments who have responsibilities. “We have enough [policies and legislation], if we can’t even meet the requirements of what we have available, what will be the point of developing more policies and legislation?” (Participant 8, KZN).<sup>36</sup>

### National plans, policies and institutions

South Africa has adopted four national planning documents to implement its policy for the protection of children. The National Plan of Action for Children 2012-2017 promoted the rights of children and their protection.<sup>37</sup> It is understood that revision and development of a new plan is currently underway. In 2017, the Government adopted and published Phase IV (2017-2021) of the Child Labour Programme of Action for South Africa,<sup>38</sup> which gathers policies related to the prevention and elimination of child labour.

The National Policy Framework on Trafficking in Persons, drafted in 2009 and revised in late 2018,<sup>39</sup> is awaiting final approval by the Minister of Justice and Constitutional Development. In 2012, the first draft of the National Policy Framework on the Management of Sexual Offences was published,<sup>40</sup> as required by the Criminal Law (Sexual Offences Related Matters) Act.<sup>41</sup> Very little public information and data could be found regarding the implementation, effectiveness and monitoring of these plans and policies. This partially explains the score of 40/100 for the national plans and policies **Index** indicator.

### Resources for legal and enforcement professionals

The Government has undertaken a number of positive preventive measures and awareness activities to address SEC, in particular through trafficking and online. An example is the establishment of a Cybercrime Unit of the South African Police Service’s Family Violence, Child Protection and Sexual Offences Investigations, formed to tackle cases of cybercrime such as crimes related to online child sexual exploitation.<sup>42</sup> In addition, trafficking of children is addressed by the South African Police Service’s Human Trafficking Desk which monitors and evaluates police efforts to investigate human trafficking crimes and to train investigators.<sup>43</sup>

In 2016, in response to South Africa’s periodic report, the Committee on the Rights of the Child recommended that South Africa provide more training on SEC to police officers placed in relevant units.<sup>44</sup> However sector professionals emphasised this was still a largely unaddressed, and pressing need. They noted a particular need for training to improve police investigation practices to avoid exposing children to secondary trauma.<sup>45</sup> Limited training for officers is illustrated by the 0/100 score attributed to South Africa for the **Index** indicator related to the availability of guidelines and information supporting law enforcement in dealing with cases of child sexual exploitation and abuse.

South Africa develops a National Action Plan specifically focusing on SEC, or updates and monitors implementation of other relevant National Action Plans

South Africa increases funding to the Cybercrime Unit and the Human Trafficking Desk of the South Africa Police Service

Training for all police on SEC is developed and funded and delivered via specialist units to spread knowledge on SEC across the force

The efforts of South African civil society in preventing, raising awareness and providing support to young people on SEC are praiseworthy. Similarly, the commitment of some companies in the technology and travel and tourism sectors is creditable, but further efforts are needed, as explained below. Welfare workers note big funding shortfalls, burnout of workers providing services and limited opportunities for facilitating opportunities for multi-sectoral teams and referral networks.<sup>46</sup> A score of 0/100 indicates very limited positive action from the media industry.

## Private sector engagement

South Africa is one of the only two Sub-Saharan African countries, along with Uganda, out of the 16 assessed by the **Index**, to have a leading mobile telecoms association identifying sexual violence against children in its annual report or code of conduct as a clear priority in its scope of work.<sup>47</sup> This explains the score of 100/100 for the technology industry engagement indicator. Vodacom, one of the biggest mobile communications company in South Africa, supports Childline South Africa by ensuring that calls to the NGO's toll-free crisis telephone counselling are free for its customers and routing the calls to multiple Childline locations.<sup>48</sup>

In travel and tourism, South Africa scored 100/100 for the two indicators related to commitment to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism (The Code); a global initiative which trains workers in the tourism industry to recognise and respond to sexual abuse and exploitation of children.<sup>49</sup> As of October 2019, 33 companies based and/or operating in South Africa were member of The Code.<sup>50</sup> However, in terms of its response to sexual exploitation and abuse of children, the South African travel and tourism sector scored 0/100, due to an overall omission to include these issues as clear priorities in their work, annual reports and organisational codes of conduct. Although tourism is an essential part of South Africa's economic development, with over 5.8 million tourists visiting the country between January and July 2019,<sup>51</sup> without vigilance, tourism operations can result in higher risk of child sexual exploitation as tourists come with discretionary spending in sometimes unregulated forms of accommodation and transportation.<sup>52</sup>

Professional law enforcement and welfare workers highlighted the role that the media (including social media) could potentially play in increasing awareness and knowledge on SEC amongst the wider public.<sup>53</sup> This also includes ethical reporting of SEC cases and use of correct and appropriate terminology.<sup>54</sup>

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## Endnotes

- 1 The Economist Intelligence Unit. (2019). *Out of the Shadows: Shining light on the response to child sexual abuse and exploitation*.
- 2 ECPAT International. (2019). *Landscape of Sexual Exploitation of Children in South Africa*. Bangkok: ECPAT International.
- 3 The Economist Intelligence Unit. (2019). *Out of the Shadows: Shining light on the response to child sexual abuse and exploitation*; The Economist Intelligence Unit. (2019, May 22). 'Out of the Shadows Index' highlights need for increased government and business response to sexual violence against children. Latest edition of the Economist Intelligence Unit's index increases coverage of countries in Sub-Saharan Africa.
- 4 ECPAT International. (2019). *Landscape of Sexual Exploitation of Children in South Africa*. 50. Bangkok: ECPAT International.
- 5 Terminology and definitions surrounding the topic of sexual exploitation of children used in this briefing paper are consistent with the recommendations of the Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse. Interagency Working Group. (2016, January 28). *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, adopted by the Interagency Working Group in Luxembourg*. Bangkok: ECPAT. International.
- 6 The Economist Intelligence Unit. (2019). *Out of the Shadows: Shining light on the response to child sexual abuse and exploitation*.
- 7 ECPAT International. (2016, March). *Power, impunity and anonymity. Understanding the forces driving the demand for sexual exploitation of children*. Bangkok: ECPAT International.
- 8 UBS Optimus Foundation. (2016, May). *Optimus Study South Africa Report, sexual victimisation of children in South Africa*. 11. Zurich: UBS Optimus Foundation.
- 9 *Ibid.*
- 10 The World Bank. (2018, March) *Overcoming Poverty and Inequalities in South Africa. An Assessment of Drivers, Constraints and Opportunities Report*. XIV. Washington DC: The World Bank.
- 11 *Ibid.*, 42. Washington DC: The World Bank; World Inequality Lab. (2018). *World Inequality Report 2018*.
- 12 The World Bank. (2019, October). *Poverty & Equity Brief South Africa*.
- 13 UNICEF. (2017, December). *The State of the world's children 2017*. 204. New York: UNICEF.
- 14 ECPAT International. (2019). *Landscape of Sexual Exploitation of Children in South Africa*. 49. Bangkok: ECPAT International.
- 15 South African Police Service. (2019). *Crime situation in Republic of South Africa twelve months April to March 2018\_19*. 5.; See also: Statistics South Africa. (2019, October 3). *Victims of crime report 2018/2019* [Media release].
- 16 *Ibid.*
- 17 *Ibid.*, 116.
- 18 *Abolition of Corporal Punishment Act No. 33 of 1997*.
- 19 Statistics South Africa. (2019, May 28). *General Household Survey 2018*. 17. Pretoria: Statistics South Africa.
- 20 Landgren, K. (2005). *The Protective Environment: Development Support for Child Protection*. Human Rights Quarterly, 27, 214-228.
- 21 *Criminal Law Amendment (Sexual Offences and Related Matters) Act No. 32 of 2007*.
- 22 Go Legal. (2019, March 1). *Cybercrime legislation on South Africa's Horizon: Is your organization ready?*
- 23 Portfolio Committee on Justice and Correctional Services. (2018). *Cybercrimes Bill*.
- 24 The Daily Swig. (2019, February 8). *South Africa welcomes new cybercrime legislation*; South African Institute of International Affairs (SAIIA). (2019, June 12). *New bill offers robust game plan against cybercrime in South Africa*.
- 25 *Films and Publications Amendment Act 2019*.
- 26 ECPAT International. (2019). *Landscape of Sexual Exploitation of Children in South Africa*. 36. Bangkok: ECPAT International.
- 27 ECPAT International and Plan International.(2015). *Thematic Report. Unrecognised Sexual Abuse and Exploitation of Children in Child, Early and Forced Marriage*. Bangkok: ECPAT International.
- 28 *Marriage Act 25 of 1961*.
- 29 *Ibid.*
- 30 *Recognition of Customary Marriages Act 1998*, Section 3(1)(a).
- 31 *Ibid.*, Section 3(4)(a).
- 32 Department of Justice and Constitutional Development. (2015). *Ukuthwala*.
- 33 ECPAT International. (2019). *Landscape of Sexual Exploitation of Children in South Africa*. 24. Bangkok: ECPAT International.
- 34 *Prevention and Combating of Trafficking in Persons Act 7 2013*, section 4.
- 35 South Africa Law Reform Commission. (2015, October). *Revised discussion paper 138. Project 138: The practice of Ukuthwala*.
- 36 ECPAT International. (2019). *Landscape of Sexual Exploitation of Children in South Africa*. 29. Bangkok: ECPAT International.
- 37 Department Women, Children and People with Disabilities. (2012). *National Plan of Action for Children in South Africa 2012-2017*. 13. Pretoria: Department Women, Children and People with Disabilities.
- 38 South African Government. (2018, August 17). *Keynote address by the Minister of Labour, Mildred Oliphant, on the occasion of the National day against child labour held in Wesselsbron in the Free State province*. [Press release].
- 39 UNODC. (2018, October 29). *GLO.ACT supports workshop on the Validation of the National Policy Framework (NPF) against Trafficking in Persons*. [Press release].
- 40 Department of Justice and Constitutional Development. (2012, June). *National Policy Framework Management of Sexual Offence Matters*. 10. Pretoria: Department of Justice and Constitutional Development.
- 41 *Criminal Law (Sexual Offences Related Matters) Act 2007*, section 62-65.
- 42 See e.g. Ministry of Police and the South African Police Service. (2018, July 29). *Joint statement: FCS secures hefty sentences for perpetrators who committed crimes against women and children*.
- 43 United States Department of Labour, Bureau of International Labour Affairs. (2018). *2018 Findings on the Worst Forms of Child Labour. South Africa*. Washington DC: Bureau of International Labour Affairs.
- 44 Committee on the Rights of the Child. (2016, October 26). *Concluding observations on the initial report submitted by South Africa under article 12 (1) 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/OPSC/ZAF/CO/1. Para 14-15. Geneva: Committee on the Rights of the Child.
- 45 ECPAT International. (2019). *Landscape of Sexual Exploitation of Children in South Africa*. 47. Bangkok: ECPAT International.
- 46 *Ibid.*, 50.
- 47 The Economist Intelligence Unit. (2019, May 22). 'Out of the Shadows Index' highlights need for increased government and business response to sexual violence against children. Latest edition of the Economist Intelligence Unit's index increases coverage of countries in Sub-Saharan Africa.
- 48 GSAM and Childhelp International. (2018). *Child helplines and mobile operators: working together to protect children's rights*, 11.
- 49 The Code. (n.d.). *About*.
- 50 The Code (n.d.). *Members – South Africa*.
- 51 Statistics South Africa. (2019, September 23). *Tourism and migration. July 2019*.
- 52 ECPAT International. (2016, May). *Global Study on Sexual Exploitation of Children in Travel and Tourism*. Bangkok: ECPAT International.
- 53 ECPAT International. (2019). *Landscape of Sexual Exploitation of Children in South Africa*. 30. Bangkok: ECPAT International.
- 54 See. Interagency Working Group. (2016, January 28). *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, adopted by the Interagency Working Group in Luxembourg*. Bangkok: ECPAT. International.