

Disrupting Harm

Evidence from 13 countries on the context, threats, and children's perspectives of online child sexual exploitation and abuse.

Detailed Analysis of Access to Justice and Legal Remedies in Namibia
Interviews with Justice Actors

Last updated 8/6/21

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This report is a summary of preliminary data collected for this research project. The perspectives contained herein represent the individuals interviewed and surveyed. Support from the Fund to End Violence Against Children does not constitute endorsement.

Introduction

Disrupting Harm: evidence to understand online child sexual exploitation and abuse (OCSEA), is a unique and collaborative research partnership between ECPAT International, INTERPOL, and UNICEF Office of Research – Innocenti. Leveraging their specific expertise, each partner sheds light on separate but interconnected areas: context, threats and children’s perspectives on online child sexual exploitation.

- Context by ECPAT International through portraying laws & policies in action;
- Threat by INTERPOL through the collection of crime and other data;
- Children’s voices by UNICEF Office of Research - Innocenti through surveys with children and their caregivers.

The countries of focus in Southern and Eastern Africa region are: Ethiopia, Kenya, Mozambique, Namibia, South Africa, Tanzania, and Uganda. The countries of focus in the Southeast Asian region are: Cambodia, Indonesia, Malaysia, Philippines, Thailand, and Vietnam.

Research took place between 2019 and 2021. Up to nine separate research activities were undertaken in each country by the three project partners. Preliminary analysis for each activity was first conducted before the results across all the nine activities were consolidated into each national country report. These can be found here.

In Namibia, the interview sample consisted of 10 individuals from three provinces (Gauteng, the Western Cape and KZN). They included professionals from the criminal justice community (police, prosecutors and magistrates), academia, NGOs, and other government offices. The interviews were conducted primarily in-person, though two were conducted online. The majority of the interviews were conducted in-person due to Internet connectivity difficulties eliminating the online option.

ID Number	Organisation	Position
RA4-J-NA-01-A	Legal Assistance Centre	Coordinator Gender Research and Advocacy
RA4-J -NA-02-A	University of Namibia	
RA4-J -NA-03-A	Office of the First Lady	Technical Director
RA4-J -NA-04-A	Namibian Police	Inspector
RA4-J -NA-05-A	Ombudsman Namibia	Children's Advocate
RA4-J -NA-06-A	Office of the Prosecutor General	Deputy Prosecutor General

RA4-J -NA-07-A	Office of the Prosecutor General	
RA4-J -NA-08-A	Tjombe-Elago Incorporated	Legal Practitioner
RA4-J -NA-09-A	NamRights	Executive Director
RA4-J-NA-10-A	NAMPOL	Detective Chief Inspector

Access to the Justice System

Services provided to victims of OCSEA during the criminal justice process

The services provided to victims of OCSEA during the criminal justice process can be broken down into two areas. First, two respondents mentioned support services for child victims, such as psycho-social counseling (RA4-J-NA-03-A, Technical Director, Office of the First Lady), provision of a support person for the child to assist her or him as they make their way through the criminal justice system (RA4-J-NA-07-A, Office of the Prosecutor General), medical assistance, or removing the child from the home to a place of safety.

Second, several respondents spoke of assistance to child victims within the legal system during the criminal justice process. This includes protection orders, trial preparation, child-friendly courtrooms, participating in proceedings from behind screens, audio-video equipment to facilitate close circuit television (CCTV), and measures to protect the victim's identity (RA4-J-NA-03-A, RA4-J-NA-07-A, and RA4-J-NA-09-A).

The gap between what is available in theory and what is available in reality was noted and will be discussed in greater detail below. It must also be noted, however, that there are no specific services exclusively for OCSEA victims. Services rendered to OCSEA victims are the same as those available to all child abuse and exploitation victims.

"If the crime is committed on an online platform or offline it does not matter, the support should be the same" (RA4-J-NA-05-A, Children's Advocate, Ombudsman Namibia).

The lack of OCSEA victims and their families trying to access services was also noted, perhaps being due to the fact that: *"invariably the parents are probably feeling guilty because they should have made sure that their children are not exposed to these sorts of things"* (RA4-J-NA-08-A, Legal Practitioner, Tjombelago Incorporated).

Three additional respondents spoke of services for OCSEA victims, but none noted anything exclusive for OCSEA. (RA4-J-NA-03-A, RA4-J-NA-04-A and RA4-J-NA-07-A).

How OCSEA cases come to the attention of criminal justice actors

The information gathered from the interviews showed that reporting OCSEA crimes is difficult, and that victims and relatives are often reluctant to report for a variety of reasons. It appears particularly difficult for child victims to report, and reporting is hence dependent on an adult.

Parents, teachers and caregivers were noted as the most likely source of contact being made with the police, with the Office of the Ombudsman also mentioned (RA4-J-NA-05-A, Children's Advocate, Ombudsman Namibia).

“It is very rare that a child reports a criminal case” (RA4-J-NA-05-A, Children’s Advocate, Ombudsman Namibia).

“Most of the child online abuse victims do not come themselves - it is very rare that they report those cases. At the end of the day, they are trapped by threats. The only time when we find out about the case is when they try to attempt suicide or it is picked up by Interpol. But it is very rare for them to report to the parents because of the threats from the perpetrator” (RA4-J-NA-04-A, Inspector, Namibian Police).

When asked if the children even knew how to report, the response was: *“It is a possibility that even the parents or guardians do not know how to report, because we still do not have legislation”* (RA4-J-NA-04-A, Inspector, Namibian Police).

Other reports of children becoming suicidal were also found. *“There is one who was suicidal because even when moving around she felt like this man [the offender] was here or had people everywhere”* (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

One respondent raised the possibility of parents learning about exploitation from another child’s parents, when one child tells another child, who then tells their parents (RA4-J-NA-10-A, Detective Chief Inspector, NAMPOL).

Further, instances of parents or teachers walking in on inappropriate online contact or finding an incriminating email were noted (RA4-J-NA-07-A, Office of the Prosecutor General). The possibility of an NGO learning of the abuse/exploitation and reporting was also noted (RA4-J-NA-09-A, Executive Director, NamRights), as was teachers seeking help for their students (RA4-J-NA-02-A, University of Namibia).

In one case, a university professor was approached by a teacher when the police failed to initially take the OCSEA case seriously. *“The police thought the cases reported were a joke, then the office of the first lady got them in order”* (RA4-J-NA-02-A, University of Namibia).

One participant stated the importance of awareness campaigns in reporting. *“Most of the cases received are the results of the Be Free campaign, where we engage with young people in Namibia... young people come and say what you have described is something that I am going through”* (RA4-J-NA-03-A, Technical Director, Office of the First Lady).

Another noted that some cases start as a result of media coverage of a crime, prompting the prosecutor or police to begin an investigation (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

Furthermore, one respondent shared the following: *“Because of Facebook, the girls have reported it is normal for them to receive pictures of males’ private parts on WhatsApp, because they [the perpetrators] take their numbers from Facebook. The girls have accepted it and see it as a normal situation to be targeted by men online”* (RA4-J-NA-02-A, University of Namibia). This normalisation of and desensitisation to inappropriate or even criminal behaviour online, also contributes to making reporting less likely.

There are many barriers to reporting of OCSEA crimes. Interview respondents have described a situation where children do not want to tell adults about OCSEA they may have suffered, due to fear of victim-blaming, embarrassment and fear. Disclosure usually occurs when *“a child would rather face the outside world, to face the punishment from parents or whoever, face the stigmatisation rather than continue the abuse”* (RA4-J-NA-07-A, Office of the Prosecutor General). This may indicate that only the most serious cases are being reported by children themselves, when it becomes unbearable for the child to be victimised.

Adults may also be reluctant to report and interview respondents mentioned that teachers do not want to report OCSEA due to fear of repercussions and potential involvement in the criminal justice system as a witness. Parents and other family members do not want to report, especially where the offender is known to the family and may even be in a position to give the family financial support (RA4-J-NA-07-A, Office of the Prosecutor General).

“For the cases I am dealing with, most have not been comfortable to lay charges on the case. Most are comfortable with psycho-social support” (RA4-J-NA-03-A, Technical Director, Office of the First Lady).

“One of the people was going through revenge porn - someone at school posted in the WhatsApp group. We intervened and asked the school [to intervene], as the spread [of the video] was not fast because the video was circulated in a close group. The individuals were engaged and a conversation was had with them about the role of the bystander reinforcing violence and what role can you play to be able to stop that. We provided counselling services to the survivors and information was disclosed to the family members. Families had to go through conflict resolution and family mediation” (RA4-J-NA-03-A, Technical Director, Office of the First Lady).

With this culture of silence, reporting becomes the exception, not the rule. This cultural pressure to stay silent represents a significant obstacle to children’s access to justice.

Participation in the Justice Process

Description of how children participate in the criminal justice process

Children's contact with the criminal justice system usually comes when they give their initial statement of what happened to them to the police. If their case goes forward, depending on the quality and quantity of admissible evidence, they may or may not get court preparation, depending on the resources available in their jurisdiction. When the case goes to trial, they may have child-friendly facilities, such as courtrooms, screens or intermediaries, or they may not, again depending on resources and training available in their jurisdiction. Concurrent with the criminal justice process, they may receive medical treatment or psycho-social support, depending on the facts of the case, the child's/child's family's desire to use those services and available resources. The way in which OCSEA victims specifically participate is no different from how all other child sexual abuse and exploitation victims participate.

"Sometimes they are victims. They participate sometimes, unfortunately, as offenders themselves. Sometimes they witness crimes being committed and must come testify as witnesses" (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

In terms of which children are particularly targeted for OCSEA, one respondent noted that, based on their personal experience, OCSEA cases tended to reflect certain dynamics.

"They all seem to come from broken families. Some of their parents are still together, but there is violence in the family, meaning that the parents don't have much time for the children. By way of example, one of them was being exploited in the house, while the parents were also there. This man would literally command her, send a message on Facebook with instructions, and she would follow them. But she never told the parents. Difficulties in the family, [where children] did not have many relations or interaction with their parents" (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

The respondent continued: *"There is another one [case] in Kunene where in my view, these girls were targeted because they come from poor backgrounds. So, because of that vulnerability, this white man would come, pick them up and take them to wherever and make them undress and take photos of them which we believe he was selling in the dark web"*. However, the respondent stressed that these cases cannot lead to a generalisation of experiences and was hesitant to put forward a typical victim profile without proper research (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

Description of what criminal justice professionals see as the hardest part for children taking part in criminal cases against their abusers

Many issues contribute to difficulties in OCSEA cases. Specifically, cultural issues such as misplaced shame and victim-blaming, in addition to simple fear of the offender caused difficulties in such cases. Three respondents noted the issue of blame, both blame by adults for what happened (RA4-J-NA-03-A and RA4-

J-NA-08-A), as well as the child mistakenly blaming him/herself (RA4-J-NA-04-A, Inspector, Namibian Police).

Victim-blaming was noted as a serious problem. When asked about difficulties for children in the system, one respondent stated: *“victim-blaming because of the generational divide. There is a lot of punitive action against young people from their parents, for example, statements like ‘you shouldn’t be on social media or Facebook.’ A lot of blame is directed to the child not the perpetrator”* (RA4-J-NA-03-A, Technical Director, Office of the First Lady).

Two respondents highlighted issues of shame (RA4-J-NA-03-A, RA4-J-NA-05-A) and two noted fear, both fear of being exposed as a victim (RA4-J-NA-02-A, University of Namibia) and also fear of telling what they went through (RA4-J-NA-09-A, Executive Director, NamRights).

“The children are being threatened by the offender(s) and it is difficult for the child to go to the parents to tell them what is happening. In most cases you learn through the third party. In most cases, the children do not know what they are involved in, and later when they realise that is a criminal activity, they do not know the consequences and do not know how to get out of the situation” (RA4-J-NA-10-A, Detective Chief Inspector, NAMPOL).

“They normally have fear of telling what they have gone through” (RA4-J-NA-09-A, Executive Director, NamRights).

“A lot of children, if they do report, in fact, they are seen to be the culprits by, you know, their mother, parents or the school or whatever” (RA4-J-NA-08-A, Legal Practitioner, Tjombe-Elago Incorporated).

“Children get the blame” (RA4-J-NA-08-A, Legal Practitioner, Tjombe-Elago Incorporated).

Another noted the internalisation of this blame by children. *“Sometimes they blame themselves for what they have done”* (RA4-J-NA-04-A, Inspector, Namibian Police).

One respondent stated that the reporting itself is the most difficult, and pointed out an interesting dynamic. *“Lifeline [an NGO] is seen as for children, not teenagers, they don’t think they can call there.”* They continued, *“With online cases, the hardest for the girls it was facing their parents, that something like this is occurring, fear of exposure. Facebook saw a lot of blackmail, for example one girl’s images [nude photos and videos] were sent to the family in South Africa. Sometimes the girls were told that they were prostitutes because they have brought it upon themselves”* (RA4-J-NA-02-A, University of Namibia).

One respondent remarked that: *“getting a child to speak up... that’s the biggest challenge in any case, either online or off”* (RA4-J-NA-07-A, Office of the Prosecutor General).

It is interesting that teenagers were reported as seeing Lifeline as being for “children” and not teens. It would be helpful to ensure that all NGOs that work with young people make certain they communicate that their services are available and responsive to problems that teenagers are having too.

It was noted that by parents not understanding the impact of their actions, it *“inhibits young people from speaking on what is happening to them online because they do not want to lose their access and privileges of technology”* (RA4-J-NA-03-A, Technical Director, Office of the First Lady).

It was also raised that discussing sexual abuse or exploitation was difficult for child victims. *“It’s very awkward to talk about these things because they [children] are being punished or beaten if they talk about sexual matters. Grown-ups do not have the self-confidence to speak about sexual experiences. How do we expect a child to talk about these things in open court, before very important people such as judges and prosecutors? To speak about sex in court-that’s the hardest thing”* (RA4-J-NA-07-A, Office of the Prosecutor General).

Finally, aspects of the trial process itself were raised as a difficulty.

“Facing their abusers in court. The court environment in itself is not very friendly. How the people are dressed/robed and the language that is used not only to children, but adults as well. The fact that they tell their story and have to be interrogated on that story. Cross-examination is very difficult. These are the most challenging” (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

It is interesting to note that this respondent, a prosecutor, is well positioned to see the criminal justice system first-hand, and noted these difficulties, as opposed to those who know the theoretical support children can receive, but not whether it is carried out in fact.

Description of what is done by different criminal justice professionals (police, judges, prosecutors, lawyers, or other relevant staff) to make the process easier for children

There are some child-friendly courtrooms, which include close circuit television (CCTV) so children don’t see the perpetrator as they testify (RA4-J-NA-05-A, Children’s Advocate, Ombudsman Namibia).

The presence of a support person has also greatly assisted child victims and witnesses. Further, the presence of same sex prosecutors (female prosecutors for girls and male prosecutors for boys) to make the terminology and discomfort when discussing sexual matters less embarrassing has also helped. (RA4-J-NA-08-A, Legal Practitioner, Tjombe-Elago Incorporated).

However, another respondent stated that while there may be excellent facilities, they may not always be used. One example given was the need for a special light bulb replacement resulting in the facility not being used (RA4-J-NA-01-A, Coordinator Gender Research and Advocacy, Legal Assistance Centre).

This phenomenon of failing to ensure a “state-of-the-art” facility can not only be built, but be used readily on a day-to-day, continuing basis is common. As was stated *“The donors gave funds for nice facilities but they were not being used or explained to the child”* (RA4-J-NA-01-A, Coordinator Gender Research and Advocacy, Legal Assistance Centre). While many donors are happy to contribute to building a facility, the on-going need for upkeep and potential logistical problems that may arise are often overlooked.

One respondent stated that another asset is *“The vulnerable witness provisions about questions put to the child through an intermediary, having a supporting individual for trial. We have terrific procedures. We need to make sure the procedures on paper are put into practice. Part of the problem is not clear who's responsible [for implementation]. There is a gap in service provision with that issue”* (RA4-J-NA-01-A, Coordinator Gender Research and Advocacy, Legal Assistance Centre). The problem was echoed by another respondent who voiced similar concerns regarding the lack of resources necessary to bring theory into reality (RA4-J-NA-05-A, Children's Advocate, Ombudsman Namibia).

Specialised training of judges and prosecutors was also noted as making the process easier for children.

“Prosecutors that are trained on how to deal with the vulnerable witnesses and judges that are trained to deal with it too” (RA4-J-NA-08-A, Legal Practitioner, Tjombe-Elago Incorporated).

“Prosecutors and judges are generally well trained and are dealing with child witnesses” (RA4-J-NA-05-A, Children's Advocate, Ombudsman Namibia).

Testifying in the child’s native language was seen as helpful (RA4-J-NA-08-A, Legal Practitioner, Tjombe-Elago Incorporated) as was professionals being trained in using child-friendly language (RA4-J-NA-05-A, Children’s Advocate, Ombudsman Namibia).

In discussing what made the criminal justice process easier for child victims, one respondent stated: *“Use of proper language, depending on the age of the child”* (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

Having social workers to help communicate with children, support persons to give the children comfort and inform the court if the child is in distress and being allowed to testify from another room with intermediaries or from behind screens if CCTV isn’t available, were all cited (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

However, as *“not all courts are victim-friendly”* it was pointed out that *“the law [still] allows for any other measure to be taken when victim-friendly courts are not available”* (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General). This individual noted from first-hand experience that in some cases judges have agreed to dispense with the formal clothing used in court and also let a child testify while seated at a table, to make the process less intimidating. In another case, in Keetmanshoop, there

wasn't a victim-friendly court, and the child was terrified to give evidence with the defendant in the same room. So, before the child came in, the court staff and magistrate arranged for the child to give evidence in one room, while the defendant in the adjacent room, so he could hear her testimony but not see her. The child was spared seeing the defendant, and she gave her evidence.

As the participant summed up, *"The law allows for those kinds of measures"* (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

This ability to work within the system without specialised child-friendly equipment or structures was noted by another criminal justice professional, noting the relaxing of dress code, sitting at a table rather than giving evidence from the stand, and using child-friendly language as examples (RA4-J-NA-07-A, Office of the Prosecutor General). Adapting basic courtrooms to facilitate children's evidence being given without further traumatising the child is possible, given the will of the magistrates and prosecutors to do so.

It must be noted that while this information was given within the context of interviews addressing OCSEA, the above-noted measures are available for all child abuse victims.

Description of what is done by different criminal justice professionals (police, judges, prosecutors, lawyers, or other relevant staff) to make the process harder for children *"Children don't know criminal law"* (RA4-J-NA-08-A, Legal Practitioner, Tjombe-Elago Incorporated).

The average adult is ignorant of the criminal justice system and its processes. Hence, a child has even less hope of understanding the complexities of what is admissible evidence, burdens of proof, hearsay exclusions, etc. Unless children are supported and helped to understand (at an age-appropriate level) both the process and the part they are expected to play in it, this lack of understanding makes it hard for children to participate meaningfully in the process and for police and prosecutors to obtain the "best evidence" from them in their statements or testimony.¹

It was noted that there isn't uniformity in the ability to provide court preparation to all children. *"When they have to testify and face cross examination in court, not all social workers are equally equipped to properly do witness preparation, especially in the (rural) regions"* (RA4-J-NA-05-A, Children's Advocate, Ombudsman Namibia).

Children don't know what elements must be proven nor what exactly must be said in order to complete the proof of the offense the child was subjected to. The child may feel very uncomfortable giving more

¹ "Best evidence" is defined as giving the most complete, accurate and detailed information about what happened at the time of the offense, as well as before and after the event.

than general descriptions of what happened, which may not be enough to prove the guilt of the perpetrator. This is where the prosecutor may try to take the child through the evidence.

“A very, very traumatic process. It's unfortunately heartbreaking that children would have to go through this” (RA4-J-NA-08-A, Legal Practitioner, Tjombe-Elago Incorporated).

Ensuring that children are given court preparation, understanding the court system and what their part in it is and what is expected from them as a victim/witness would help to alleviate some of the stress of testifying.

The failure of key stakeholders, such as police and prosecutors (as well as others) to recognise their biases, whether that bias is based on gender, or age, or behavioural issues, was highlighted as making the process more difficult for children. (RA4-J-NA-02-A, RA4-J-NA-03-A, RA4-J-NA-08-A).

Police insensitivity was specifically raised as a difficulty for children. The respondent went so far as to say that in some cases *“the police become the abusers”* (RA4-J-NA-02-A, University of Namibia).

The respondent further stated that the police were unaware of *“the emotional trauma they are inflicting upon the children. One of the children said ‘I would rather face the abuse than face my parents or tell a police officer about it’* (RA4-J-NA-02-A, University of Namibia).

Another respondent highlighted the difficulty that some victims have in accepting that they were betrayed by someone in whom they had placed their trust, and moving forward from there. The accompanying refusal to accept counselling or therapy was also seen as a problem. (RA4-J-NA-04-A, Inspector, Namibian Police).

Another respondent indicated: *“Prosecutors, magistrates and judges are human, and it is about how sensitive an individual is towards these kinds of cases. Being insensitive and not understanding their [children’s] developmental stages” makes the process harder for children*” (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

It was noted that *“a few defense lawyers might be hard on the kids for the sake of their clients.”* (RA4-J-NA-07-A, Office of the Prosecutor General).

This desire of the defence counsel to intimidate, confuse or otherwise undercut the credibility of the child needs to be addressed in order to ensure children are treated with respect and that it not left to an individual professional’s decision on how best to pursue their case strategy.

Failures of the criminal justice system were identified by multiple respondents. First, there was the length of time that the criminal process may take to be finalised. This was evidenced by delays caused either by

the police at the investigative stage, or by the judge during the trial/pre-trial stage (RA4-J-NA-04-A, Inspector, Namibian Police).

“From the time the crime is first reported to the time the case is trial ready, sometimes years pass” (RA4-J-NA-05-A, Children’s Advocate, Ombudsman Namibia).

The respondent noted that people, both children and other witnesses, will not always have the same acute memory of events once a substantial amount of time has passed. This, in turn, may impact on their perceived credibility as a witness. In sum, justice delayed is justice denied, and is one cause of children *“losing trust in the system”* (RA4-J-NA-05-A, Children’s Advocate, Ombudsman Namibia). This is an almost global complaint and may need to be addressed by prioritising OCSEA (and all child abuse) cases in the criminal docket and minimising the number of continuances granted to the defence once the case has been accepted for prosecution.

Not only the length of time, but also the multiple victim interviews were seen as extremely difficult for the child. *“The process is so tedious. After the first disclosure to a trusted adult, the child again has to disclose to the social worker and then again to the police and then again to a prosecutor and again to another prosecutor if it goes to trial”* (RA4-J-NA-05-A, Children’s Advocate, Ombudsman Namibia).

The respondent noted that children feel that the first disclosure will get them in trouble with the perpetrator, and multiple interviews may inadvertently reinforce the feeling that they (the victims) are not believed. The length of time it takes to finalise a case may also result in turnover of key support persons for the child. This high staff turnover, resulting in cases being handled by people who do not necessarily have the training to handle children as victims, was noted as a problem (RA4-J-NA-05-A, Children’s Advocate, Ombudsman Namibia).

The turnover of social workers and support persons who have training on working with child victims, was specifically noted as a challenge. *“This will continue until such time as child witness training is in basic legal or police or social worker training”* (RA4-J-NA-07-A, Office of the Prosecutor General).

Compensation

Child victims of OCSEA in Namibia theoretically have the possibility of seeking compensation from convicted perpetrators. Pursuant to the provisions of the Child Care and Protection Act, if a person is convicted in any proceedings undertaken by the Children’s Advocate, the court may make the award of compensation against such person, notwithstanding that the injured person has not applied for compensation.² Therefore, child victims do not need to pursue an independent civil suit and can be awarded compensation in conjunction with the judgment of the criminal proceeding.

Currently, victims of OCSEA offences may not have the possibility of seeking compensation through country-managed funds. Although the Child Care and Protection Act provides for the establishment of a Children’s Fund,³ the Act does not state whether this fund can be used for compensating victims of crime, though it does have a “catch-all” provision covering activities relating to the implementation of the act and other laws relating to children.⁴

However, there is a contrast in the theoretical possibility to access compensation and the lack of access in practice. This was neatly summed up by one senior and experienced respondent as: *“I have never heard of a single victim getting compensated in Namibia”* (RA4-J-NA-01-A, Coordinator Gender Research and Advocacy, Legal Assistance Centre).

The respondent further stated that part of the problem was: *“we don’t have a Victims’ Rights Charter. The victims, in general, are neglected in our criminal justice system. It is not just about compassion, but about the victim’s right to be informed and eligible for compensation when needed”* (RA4-J-NA-01-A, Coordinator Gender Research and Advocacy, Legal Assistance Centre).

In regard to seeking compensation through the civil system, one respondent stated: *“It’s extremely difficult. It’s a very tedious process, very long. It’s almost impossible. We only have done it once. And it’s as complicated as you can get”* (RA4-J-NA-08-A, Legal Practitioner, Tjombe-Elago Incorporated).

Another respondent echoed this sentiment, saying *“It was difficult, it is not easy”* (RA4-J-NA-09-A, Executive Director, NamRights) and pointed out the necessity of getting legal representation if possible, or going through a human rights NGO if indigent. Attaching an order of compensation to a criminal finding

² Republic of Namibia. (1977). [The Criminal Procedure Act No. 51 of 1977 \(as amended in 2012\)](#), Section 300(1)(b).

³ Republic of Namibia. (2015). [The Child Care and Protection Act No. 3 of 2015 \(as amended in 2018\)](#), Section 26(1).

⁴ The fund may be used for (a) activities of the Council and the Children’s Advocate; (b) prevention and early intervention programmes; (c) early childhood development programmes; Republic of Namibia 29 Annotated Statutes Child Care and Protection Act 3 of 2015 (d) the training of persons who implement this Act and any other law relating to children, such as the social workers, social auxiliary workers, community child care workers, magistrates, clerks of the courts and the members of the Police; (e) the establishment, maintenance or upgrading of facilities for children contemplated in Chapter 5 or programmes for children at such facilities; (f) the appointment of external advisors contemplated in section 21; and (g) any other activities relating to the implementation of this Act and other laws relating to children. Child Care and Protection Act, Section 27.

would be easier, but as criminal proceedings require a higher burden of proof than civil proceedings, may not be an option in some cases.

One respondent stated that: *“regarding compensation, I would recommend that if there was a fund available then maybe there could have a way of saying a child who suffers this kind of trauma would be entitled to at least basic compensation”* (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

Others seemed to believe that there was no option of compensation when the case was accepted for criminal prosecution. *“Most of the cases come in as state cases and use state facilities. You don’t pay - the social workers and professionals involved in the cases come from the state”* (RA4-J-NA-04-A, Inspector, Namibian Police). This may be seen to reflect a lack of knowledge among those in the criminal justice sector that a victim can have both criminal justice and monetary compensation.

“If pursuing an order for compensation after conviction in a criminal matter, there needs to be an application by the complainant right from the start of the case, before sentence is passed. There needs to be an application by the complainant for compensation and that needs to be the well-motivated. ...prosecutors are normally not involved in that. We can get involved, but it's very seldom” (RA4-J-NA-07-A, Office of the Prosecutor General).

Finally, in discussing the role of compensation in the hierarchy of importance one respondent added: *“For me, compensation would be the last thing, not the first. The law must be stiff enough to punish the person”* (RA4-J-NA-10-A, Detective Chief Inspector, NAMPOL). This reflects a pure punishment bias in the mindset of many criminal justice system professionals, as opposed to recognising the combined objective of the criminal justice system as not only punishing the offender, but also assisting the victim.

In terms of crime in Namibia, compensation may only be claimed in two ways; by instituting civil proceedings and suing for damages, or in accordance with the Criminal Procedure Act. However, this Act is very limited as it only allows for compensation if damages are monetary or that can be calculated easily (RA4-J-NA-05-A, RA4-J-NA-06-A), such as damage to property.

Other expenses that might be incurred, such as travel costs for a court case, are dealt with by a travel and subsistence allowance (RA4-J-NA-05-A, Children’s Advocate, Ombudsman Namibia). This may explain why compensation for emotional damages, such as psychological support and treatment or pain and suffering are not used often for OCSEA or for child abuse cases more generally. As another respondent stated, *“if a child is referred by the police, they go to a district surgeon for examination and treatment if necessary. That is free of charge. Even the little few dollars that they normally pay at the state hospital is not charged. Attending court, the travelling fees to court...those are covered by witness fees, which they in any event can claim”* (RA4-J-NA-07-A, Office of the Prosecutor General).

“Medical bills and hospital expenses are taken care of by the state because as soon as a criminal case is reported, if there are injuries, physical or psychological, the police have to make sure that those are taken care of. At least that part is not problematic, as long as the person dealing with the child knows what to do. The challenge is compensation for pain and suffering because the criminal law has no provision for that kind of compensation. They would have to go to a civil court” (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

However, pursuing this avenue of redress was seen as highly problematic since *“a lot of victims of crime do not have the means to go and fight for damages in a civil court”* (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

The interview participants mentioned a number of structural gaps in services. Even assuming a case is prosecuted successfully, once the criminal case has finished, it does not necessarily follow that the child will continue to be best served by receiving continuing psycho-social support. In other words, the end of the case is not always the end of the child needing psychological or social services support. Even if the state were to grant the child continued assistance from state social workers after the conclusion of the criminal matter, there is still a failure to recognise that the best psycho-social support may not come from the public sector. A private psychiatrist, psychologist, social worker or other mental health professional may have greater knowledge of working with children, particularly traumatised children. The dynamics of OCSEA victimisation are in some ways fundamentally different from other forms of child abuse, in that the abuse/exploitation may have been shared on the Internet, potentially exposing the child to exponentially greater trauma, with no clear definitive end. Differing trauma may require different expertise in meeting the needs of the child in recovery. The private sector may offer not only greater expertise, but also better location or scheduling options, and almost certainly will have the ability to provide more time to the child than overburdened state employees. However, the private sector requires compensation (or a higher level of compensation) for the professionals providing services to the child victim, which many victims and their families cannot afford.

One respondent believed that: *“maybe as part of the criminal sanction the perpetrators should be made to pay some kind of fine which would go to that fund which in turn will be used to compensate the children”* (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

Such a double-barrelled approach to criminal justice (incarceration and concurrent fines) can be seen in other criminal justice systems globally. However, another respondent noted a substantial difficulty in this suggestion, at least in practice, in terms of trying to get damages from the perpetrator.

“The problem with the civil process is that ... people must actually have money to pay these damages and in the cases I know the crimes committed against children are predominantly committed by people who have no income” (RA4-J-NA-05-A, Children’s Advocate, Ombudsman Namibia).

Therefore, even if the child's family could afford legal representation in the civil courts, or if the legal representation was offered pro bono, the *"chances are the child will not get anything"* (RA4-J-NA-05-A, Children's Advocate, Ombudsman Namibia).

This comes full circle to the issues raised earlier, that without a Victim's Charter or other mechanism providing state funding for children in need of services, the likelihood of a child receiving compensation for non-monetary damages is seriously undermined. One respondent offered a way to ameliorate this problem.

"The best thing for us to do is to amend our Criminal Procedure Act, so that victims can seek compensation for other types of damages, for physical and psychological harm, and then the process will be so much easier because it goes hand-in-hand with the criminal case and will be conviction based. This also improves access to justice because the child does not need to do anything or approach a separate court or institute new proceedings" (RA4-J-NA-05-A, Children's Advocate, Ombudsman Namibia).

Another respondent stated: *"why can't the court also order the compensation will be paid to the complainant? So, there's only one court case. The person is sentenced to 10 years in prison, and you must pay X amount to the complainant. And the complainant then can take that order and have it executed"* (RA4-J-NA-08-A, Legal Practitioner, Tjombe-Elago Incorporated). If all stakeholders had a better understanding of the Child Care and Protection Act, perhaps this would happen.

These ideas for criminal justice reform are helpful, but still do not address the issue of cases of OCSEA that do not go through the criminal justice system. Some children and their families will not report these crimes to the police or want to pursue criminal sanctions and may, therefore, be excluded from compensation even though the child has suffered exploitation and/or abuse. By implementing a compensation system that does not require the victim go through the criminal justice system to access funds, such as a Victims' Charter or Children's Fund specifically noting OCSEA victims as eligible, it will allow for a far larger number of child victims to obtain compensation that will be used to assist in rebuilding their lives.

Finally, in regard to compensation options, it was stated that there was *"a lack of knowledge, there I include the justice professionals, prosecutors, magistrates"* (RA4-J-NA-07-A, Office of the Prosecutor General).

"We need to educate the judges, the police" (RA4-J-NA-09-A, Executive Director, NamRights).

There were barriers to receiving compensation under the existing system, even in those cases where it might be available. Also mentioned was the use of traditional courts in lieu of criminal or civil courts as another way to receive compensation at the informal level, thereby excluding the need to go through criminal or civil courts at all. (RA4-J-NA-04, RA4-J-NA-07-A).

Successes

"We have started with the big case in Namibia. Let's see what is going to happen to that case" (RA4-J-NA-04-A, Inspector, Namibian Police). Here, the respondent is referring to a case of online child sexual abuse currently being investigated by a law enforcement office, with 14 children involved. The case is still pending in Namibian courts. The perpetrator was arrested and is being held without bail (RA4-J-NA-04-A, Inspector, Namibian Police).

This case involved children being *"lured to a website where they were offered bursaries to go to modelling school in a first-world country. They had to complete an application form with their [personal] details and their parent's details, including email addresses and so on, employment details. So, they gave quite a lot of details, because it's application form"* (RA4-J-NA-07-A, Office of the Prosecutor General). The perpetrator waited a couple weeks and then sent them an e-mail saying their application is being considered. Then in another few weeks the next email informed them that they had made it through to the final 100 but that there were only 14 bursaries available.

To narrow the field the perpetrator asked them to model swimwear. He contacted them thereafter and said, *"listen, so, you really want to get through this? Just remove the swimsuit top. I'm telling you, it's going to do the trick."* The girls then complied. As the respondent insightfully noted: *"So the girls did that in their own room. You feel safe. The guy is thousands of miles away"* (RA4-J-NA-07-A, Office of the Prosecutor General).

After another small passage of time had passed the perpetrator asked them to engage in masturbation. Whilst some complied, others refused and were told *"I've recorded everything that you've done so far. And thank you for providing me with your mother's email address. You want me to show this to her or to her employer? Or to your headmaster at school? How about that? Because you've given all your details."*

As the respondent observed: *"The girls were trapped. They had to do whatever the guy asked them. Can you think of having to face your mother saying, listen, I've paraded topless in front of the webcam. By now you've moved to the next level. Now it becomes even more difficult to face your mother. And now you just start doing all sorts of sexual acts before a webcam. You're twelve years old. What do you think your mother's going to say now?"* (RA4-J-NA-07-A, Office of the Prosecutor General).

Requests for acts escalated to very severe levels, up to the point where the girls got together and said, *"listen, this guy is going to kill us. The reason we are doing so much damage to ourselves at the moment, let's just face it. Let's get beaten by our parents. Let's get expelled from school. Whatever happens, we got to speak up now. And that's what happened. They spoke"* (RA4-J-NA-07-A, Office of the Prosecutor General).

The National Online Task Force is seen as a very important success, pulling together ministries, NGOs, academia and the technology sector to address OCSEA. The national online protection conference was also noted as an achievement (RA4-J-NA-02-A, University of Namibia).

Another success mentioned was the strong involvement and leadership of the NGO community, acting as drivers and looking at current trends at the community and national level (RA4-J-NA-03-A, Technical Director, Office of the First Lady). Initial success with raised public awareness of the problem, as well as making key stakeholders give their attention to OCSEA, was noted.

A second respondent sounded a note of caution when it came to self-congratulations.

"We can do better. At least there have been some trainings for prosecutors, magistrates, and social workers on understanding child witnesses for one and also OCSEA. I think it is a good start" (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

"What is encouraging is we currently have two cases before courts. One in Khomas, the other in Kunene, meaning that the police could at least do some investigation and hopefully soon those cases will go through court and then we will be able to say, this was the outcome" (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

It is important to note that the relatively small number of successes pointed to with regard to OCSEA may be due to its infancy as a field of investigation and prosecution.

As one criminal justice actor stated: *"We are dealing predominantly with offline cases. Yes, we do come across online here and there, but I think it is a new area that we really have not grasped, and because of that we aren't doing much. Not that we don't receive cases of online abuse, but I think we are still struggling with those. The police are struggling to investigate and because of that the cases are not coming to court for them to be tested"* (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

It was estimated that only 2-3% of the docket involves OCSEA cases. *"Hopefully, they will eventually and also it is a challenge with the law. The Cybercrime Bill is still not law. That poses a challenge. Maybe as soon as it becomes law it will make it easier for these cases to be investigated and prosecuted"* (RA4-J-NA-06-A).

The sentiment that professionals do not yet have extensive experience with OCSEA was echoed by another respondent as they stated: *"None of us in the country have a lot of experience with online abuse cases"* (RA4-J-NA-07-A, Office of the Prosecutor General).

Challenges/ Changes Needed

Main challenges described by the criminal justice professionals

One challenge that was noted was issues regarding reporting of OCSEA crimes.

“The biggest barrier to access to justice is to get these kids to actually have the self-confidence to pick up a phone and call Childline, or tell a teacher, or just to start off in telling, reporting their abuse” (RA4-J-NA-05-A, Children’s Advocate, Ombudsman Namibia).

As noted earlier, getting a child to speak up and report remains the biggest challenge, in online cases or off (RA4-J-NA-07-A, Office of the Prosecutor General).

The dynamics in more rural areas were also noted. *“In African culture and tradition, you see that a victim will shut their mouth and take some cows from the person and the problem is solved. However, the victim is not counselled” (RA4-J-NA-10-A, Detective Chief Inspector, NAMPOL).*

Even once reporting takes place, serious difficulties can arise. *“Once abuse is reported, the other challenge is also, I don’t know if it is cultural issues, but a lot of parents to whom the abuse is reported don’t believe the child or they decide to just deal with it in the family so then the next obstacle is cultural family belief systems that need to be addressed” (RA4-J-NA-05-A, Children’s Advocate, Ombudsman Namibia).*

“The state protects the children no matter what. As soon as a crime is committed, if evidence is there, we prosecute. If I can proceed with that case without [the victim’s] evidence, I will do it no matter what [the victim] says. It is not about what the complainant says, the decision lies with the prosecution” (RA4-J-NA-10-A, Detective Chief Inspector, NAMPOL).

It is critical that this fact becomes better known in the general population, as it will relieve the child of the pressure exerted to drop the case. There’s no point intimidating or bribing the child and his/her family. In the end, it’s the prosecutor who decides, not the victim.

“The emotional and secondary trauma that children go through from pressure from the family saying to drop the case” results in “emotional strain on the child” (RA4-J-NA-03-A, Technical Director, Office of the First Lady).

On the prosecution side, difficulties were noted that result in the rarity of prosecuting OCSEA cases due to two factors. First, *“it’s very, very hard to trace an abuser. They can hide their identity, [the]online world is an anonymous world” (RA4-J-NA-07-A, Office of the Prosecutor General).*

It was also stated that the abuser is *“not normally in the same country”* (RA4-J-NA-07-A, Office of the Prosecutor General). However, this may be a myth and even in-country perpetrators can hide their identities. Hiding IP addresses was the example given (RA4-J-NA-07-A, Office of the Prosecutor General).

Secondly, and following from this belief, jurisdictional difficulties were noted if two countries have overlapping jurisdiction in an OCSEA case (RA4-J-NA-07-A, Office of the Prosecutor General).

Another challenge highlighted by the respondents was the lack of precedent in such cases as well as the lack of technology.

“It’s very rare for us to prosecute a case, because of a number of challenges. It’s very, very hard to trace the abuser. He is usually not in the same country... and hides his IP address” (RA4-J-NA-07-A, Office of the Prosecutor General). While this may be the reality in cases to date, the existence of national offenders should not be assumed to be negligible.

When it comes to problems with technology: *“Technology is advancing on a daily basis. When we want to apprehend the culprits, they have already advanced on other things”* (RA4-J-NA-10-A, Detective Chief Inspector, NAMPOL).

As another respondent added: *“Police training on cybersecurity and learning how to use technology”* was seen as a serious challenge. (RA4-J-NA-02-A, University of Namibia). This is a universal reality and may require more proactive strategies being employed by police, rather than simply reactive ones.

Getting services and programs to rural areas was seen as a critical but lacking (RA4-J-NA-10-A, Detective Chief Inspector, NAMPOL).

The assumption that children in rural areas are safe was undercut by one person observing: *“They [children] are walking behind the cattle with a cell phone. And it’s a Smartphone!”* (RA4-J-NA-07-A, Office of the Prosecutor General).

Another respondent pointed out that: *“I know there is a cyber crime unit in our police, but it sits in Windhoek at the head office, but these cases are happening all around the country. Some cases are possibly not being detected because we do not have people who are trained in those places and we also do not have people who are specialised enough in those areas”* (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

This need for equitable distribution of resources and expertise throughout a country, particularly ensuring that rural areas are not left behind, is a dynamic seen throughout the world.

Parental ignorance of OCSEA was also identified as a challenge. Indeed, parents *“have no clue what their kids are doing on the Internet, and they have no clue of the dangers. The only thing that can assist our kids is parental control, proper parental control, not the electronic kind, because kids are smarter than adults”* when it comes to the Internet (RA4-J-NA-07-A, Office of the Prosecutor General).

When it came to almost all adults: *“We need to understand that they [children] learn the digital language as we learn to speak. On the Internet, even if they’re five years old, they’ll beat you on the digital forum”* (RA4-J-NA-07-A, Office of the Prosecutor General). This ignorance results in OCSEA failing to be noticed by parents and allows for continued access to OCSEA victims often going unchecked.

The lack of prioritisation of OCSEA cases was also noted: *“We do not have the capacity to investigate the offline cases so online cases are left behind when they come to the police docket, unless there is physical harm before any action is taken”* (RA4-J-NA-03-A, Technical Director, Office of the First Lady). Once an OCSEA case is accepted, prioritising it on the dockets will also help minimise the length of time it takes to get a case through the system.

Issues with testifying were also identified. *“We instil in our children not to talk about sex, and then they come to court. There is still a judge who may be male, or a prosecutor who may be male. Even if she [the prosecutor] is female, there is a court orderly who is probably male. There is a group of people [in the court] and a lawyer who may be male. This child must now relate their unfortunate sexual experience to all these people”* (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

The need for gender diversity in key positions, such as prosecutors, magistrates, court staff and police should be prioritised, as should making the proceedings *in camera* [closed to the public] or at least ensuring the child gives evidence through CCTV or from behind screens, to minimise trauma.

Recommendations

Police, social workers, judges and prosecutors need training, along with parents, guardians and society in general. The “legal machinery” needs to be sensitised and well-versed and they can only be well-versed if they receive training. The need for both academic and practical training was emphasised (RA4-J-NA-09-A, Executive Director, NamRights).

Understanding the dynamics of OCSEA was stressed, as well as training on the relevant laws and technology. It was stated that recognition of biases should be included in any training program (RA4-J-NA-02-A, University of Namibia).

The police need cyber capacity and to have hardware (computers, etc.) that they can be trained on to perform cyber forensics (RA4-J-NA-02-A, University of Namibia).

The police were singled out for mention of being in need of training by multiple respondents (ex: (RA4-J-NA-04-A, Inspector, Namibian Police). Additionally, one respondent offered: *“What I would say to prosecutors, as a prosecutor, is they need to understand what OCSEA is. They need to understand that it is just as bad as rape of a child. They need to understand what impact it has on children. This is not just something online and no big deal. It is a big deal. Every prosecutor must understand it is a big deal”* (RA4-J-NA-04-A, Inspector, Namibian Police). The need for training to be ongoing and not a one-off event was also underscored.

“The challenge is understanding most people were born before the Internet. Most of our people are so reluctant, until they face the problem” (RA4-J-NA-10-A). If more of the general population, particularly parents, educators and those born well before the Internet became ubiquitous, were targeted for awareness raising, they might be better able to both raise awareness among their children/grandchildren/pupils and make disclosure by children less traumatic for the victims.

One respondent noted that *“if the parents get involved, it’s going to be easier for kids to talk”* (RA4-J-NA-07-A, Office of the Prosecutor General).

The role of parents and the need to give them awareness raising/education on OCSEA was stressed. *“Parents are the biggest barrier. Namibian parents felt that they did not want schools to interfere with the way they raised their children. The parents said that social media was evil. Some parents felt that WhatsApp is safe but it is the most dangerous because it is encrypted and no one can see what the child is going through. Parents need to be sensitised”* (RA4-J-NA-02-A, University of Namibia).

Using the educational system to address OCSEA was noted as possible at both the elementary level (RA4-J-NA-04-A, Inspector, Namibian Police) and at the university level by offering courses on OCSEA to those studying law, social work, psychology, etc. (perhaps as part of courses on child abuse and exploitation

generally), as *“this is going to be an issue for the next 10-20 years”* (RA4-J-NA-03-A, Technical Director, Office of the First Lady).

Finally, *“those who are supposed to investigate these cases have to be not only trained, but passionate. It is one thing to train, but the government needs to make sure that the people are placed in institutions where they are passionate. So, if we are to have a unit dealing with OCSEA it must be manned by people who are passionate in the fight against it, not just people who went for training”* (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

It was also recommended to adopt a Multi-Disciplinary Team (MDT) approach. *“We need to strengthen the presence of social scientists, psychologists, sociologists, and social workers in the justice system. They can bring their expertise and their lens (focused knowledge) to the conversation”* (RA4-J-NA-03-A, Technical Director, Office of the First Lady).

The justice system (police, magistrate, and prosecutor) is concerned with facts and evidence but doesn’t give enough consideration to the dynamics of trauma. *“Trauma can be evidence that can be used in the court of law”* (RA4-J-NA-03-A, Technical Director, Office of the First Lady).

Expert testimony can be used to bolster the case and explain behavioural aspects that may not be easily understood, such as why the child didn’t immediately tell or why the child continued to have contact with the perpetrator. The need for the professions involved in responding to OCSEA (specifically mentioned were investigators, social workers and medical professionals) having training in helping to support the victims as well as working “hand-in-hand” with each other was noted (RA4-J-NA-04-A, Inspector, Namibian Police).

Improving legislation was also recommended by respondents. *The Cybercrime Bill [which will deal with OCSEA specifically] is still not law. That poses a challenge. Maybe as soon as it becomes law it will make it easier for these cases to be investigated and prosecuted”* (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General). The respondent expanded on this, adding: *“I do not believe that the law [currently] is sufficient. We do have bits and pieces here and there, but the law is still lacking. I think that is why there is a challenge in the investigation of these cases. Sometimes police come across a case, like child pornography, and instead of going to one piece of legislation, they have to fish around Combatting of Immoral Acts or Child Care and Protection Act, and even those are not enough. There are some acts that are not covered by those pieces of legislations, so there is a problem with the law. We must lobby that they pass that law. Maybe we need to start carrying placards, especially as women, and sit outside parliament”* (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

When asked if the new legislation would be sufficient, the response was: *“If we start with that, then we know we can move forward. If there are new challenges that we come across, then we amend to include that”* (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

“There is a need for specific laws which stipulate about cybercrime. [Currently] you have to use other laws that are not strong enough to advance the case in court” (RA4-J-NA-10-A, Detective Chief Inspector, NAMPOL).

The need for legislation *“with teeth”* was noted (RA4-J-NA-10-A, Detective Chief Inspector, NAMPOL).

“There is a need for strengthening the legislative framework,” while ensuring that the legislation recognises the fact that minors are often the perpetrators of OCSEA. Drafting legislation that can accommodate this reality and craft penalties/sentencing options that may be used on a case-by-case basis to reflect this common dynamic (RA4-J-NA-03-A, Technical Director, Office of the First Lady).

“What needs to happen is a standalone law done for the purpose of online or digital media offenses. Because you have bits and pieces of laws all over, but things move so fast that those laws are now suddenly unable to deal with things” (RA4-J-NA-08-A, Legal Practitioner, Tjombe-Elago Incorporated).

It was noted that the Child Care and Protection Act can address pornography, but *“it’s not all that we need. We need a lot more than that”* (RA4-J-NA-07-A, Office of the Prosecutor General).

Another participant called for the *“speedy enactment of those pieces of legislation, the Cybercrime Bill and Sexual Offenses Bill, so that at least the legal framework is in place to criminalise these acts and make the presenting of evidence, the obtaining of the evidence and the admissibility of that evidence in court so much easier for prosecutors and police”* (RA4-J-NA-05-A, Children's Advocate, Ombudsman Namibia).

Another recommendation concerned prevention initiatives. The Ministry of Gender was called on to do more toward implementing the provisions in the Child Care and Protection Act, generally used in OCSEA cases. Preventative services or early intervention services were noted as being potentially able to *“reach more children, reach more families, in order to educate them on the evils of child sexual abuse and exploitations and break through those barriers that prevent children from disclosure”* (RA4-J-NA-05-A, Children's Advocate, Ombudsman Namibia).

Further recommendations were made with regard to court preparation/familiarisation.

“Making the language of the justice system more user friendly, because the end goal is to make sure the protection of the child is achieved” (RA4-J-NA-03-A, Technical Director, Office of the First Lady).

The importance of educating not only the child but the child’s entire family/support network was seen as equally important.

“Educate the parents as they go through the process of what is happening at different stages of the court hearings. They need to have a comprehensive outline of what will happen as they go through the system. This will help the parents to remain firm and focused throughout the justice system” (RA4-J-NA-03-A, Technical Director, Office of the First Lady). By helping the support network understand how the system works, and what will happen when and why, the likelihood of keeping the parents positive about the case will improve markedly.

A positive step towards this was that last year (2019) a group of support persons for vulnerable persons support was trained. *“We now have available in all regions trained vulnerable witness support persons who can be called upon to come and assist children in court or even prepare them for court”* (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

It was recommended that victim-friendly measures be applied throughout the country. Every court, be it the district court, regional court, or high court should be victim-friendly.

“Currently even those that have victim friendly courts, have them in the regional court or they are utilised mainly by the regional court. All courts must be victim-friendly courts” (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

The respondent noted that if this was not immediately possible, victim-friendly courts should be distributed within regions so that children have a chance to use them, no matter which region they live in. The respondent also added that *“I would make sure that every child who comes to court, comes with a support system, and every stakeholder who has to deal with the child is properly trained and understands children. Child-friendly courts on their own cannot be enough the people that man them need to be trained”* (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

This sentiment was echoed exactly by another respondent, who noted that currently there were only eight courtrooms in the country that are equipped with audio-visual equipment. Prosecutors and magistrates who don’t have these child-friendly facilities often try to construct “makeshift screens,” sometimes at their own expense, *“to get something to protect the child from direct contact with the abuser”* (RA4-J-NA-07-A, Office of the Prosecutor General). This respondent stated that funding for such upgrades of facilities is critical to give effect to this aspiration.

Ensuring the involvement of children was also recommended. Increased child participation was noted as helpful, to make the system more responsive to the needs and best interests of the child (RA4-J-NA-05-A, Children’s Advocate, Ombudsman Namibia).

“We have to move toward the active participation of children and young adults, beyond the token experience of having a children’s parliament” (RA4-J-NA-03-A, Technical Director, Office of the First Lady).

By including children in the consultative process, a better picture will emerge of the reality of OCSEA, and from that better-informed responses may be created.

In terms of making children more aware of and prepared to invoke their rights, another interviewee called for *“A whole lot more effort towards empowering children to have more confidence to enforce their rights”* (RA4-J-NA-05-A, Children's Advocate, Ombudsman Namibia).

The COVID19 pandemic has impacted children, parents, and teachers who had no training in cyber safety before. the pandemic exposes them to the world of online exploitation (RA4-J-NA-02-A, University of Namibia). This requires strengthening parents' access to digital space, closing the generational gap and becoming more responsive to the current state of the world (RA4-J-NA-03-A, Technical Director, Office of the First Lady).

One respondent stated: *“The cases are increasing because most of the time the kids are at home with cell-phones, computers and they do whatever they want”* (RA4-J-NA-04-A, Inspector, Namibian Police).

When it came to Covid and the requirement of online classes in response to it, one participant noted: *“I don't think there are many parents who had the time and maybe the ability also to monitor what else was happening is online other than the learning”* (RA4-J-NA-06-A, Deputy Prosecutor General, Office of the Prosecutor General).

The impact of court closures and/or delays due to the pandemic was also noted. *“The criminal justice system is very slow moving, and now closure of courts and restriction of movements will have the effect that trials could not proceed. This means if there was a backlog before, it is now even bigger. Where [before] it would take 4 years to finalise a trial where a child was involved, it will now be 6 years”* (RA4-J-NA-05-A, Children's Advocate, Ombudsman Namibia). It is interesting to see that not only is COVID19 resulting in increased screen time, hence the risk of OCSEA is increased, but also on the backend, resulting in exponentially more delays in getting these cases to court and finalising the trial.

Recommendations were made in regard to protection of witnesses/victims/those who report OCSEA crimes. One respondent requested whistleblower protection be in place, as victims and those who help them report may be targeted for retaliation (RA4-J-NA-02-A, University of Namibia).

Also, the reality that an accused may be placed in the same home with the child victim, if bail is granted, needs to be addressed. Taking the suspect out of the home rather than the child would be preferred but will be determined on a case-by-case basis, due to family dynamics.

Improved political will to protect children was also recommended. *“We have a war against woman and child. Unmitigated. And you don't see the political will to address it. We need to up our game”* (RA4-J-NA-08-A, Legal Practitioner, Tjombe-Elago Incorporated). This is the most critical but also the most difficult of

all recommendations to achieve. To protect children from OCSEA, and all forms of child abuse, will require a seismic change in the way children are seen. It will require that myths are addressed and also require the end to victim-blaming. It may require changes in evidentiary and criminal procedure laws to ensure children are allowed to give their evidence without being intimidated. In short, it will require a paradigm shift from seeing children as unreliable witnesses upon whom it is difficult to base a successful prosecution. In the private realm, it will mandate seeing children as being not simply family members who must do what is best for the family, such as accepting informal compensation rather than reporting to police and keeping silent to avoid shame being brought on the family. It will require seeing and protecting children's rights to be free from OCSEA and all forms of abuse and exploitation. To fail to protect children now is to fail the future. As one participant noted: *"Taking care of kids today is taking care of the future"* (RA4-J-NA-07-A, Office of the Prosecutor General).