



MINISTRY OF GENDER,
CHILDREN AND SOCIAL
PROTECTION

Position paper on children's online
safety concerns in Ghana

Children's online safety concerns in Ghana: A position paper on legislative and policy gaps



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Acknowledgments

This paper has been put together to look at the issue of child online protection in Ghana and generate some debate and consensus to address some of the core issues affecting girls and boys in Ghana while accessing internet and ICT. This position paper has been put together by Law and Development Associates (LADA) Group as part of a contract between LADA, UNICEF and Government of Ghana. The completion of this paper could not be possible without the express participation of Awo Aidam Amenyah. This position paper is part of the efforts led by the Department of Children, Ministry of Gender, Children and Social Protection to conduct a comprehensive review of the existing legislation in Ghana and to propose changes to bring it in line with the Convention on the Rights of the Child.

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Executive Summary

It is known that the Ghanaian population is largely young. This according to the 2010 population and housing census; Ghana's structure, entailed the age group from 0 through 14 years old estimated to represent 38.8% of the total population. The age group from 15 through 24 years was estimated to represent an additional 18.69% of the total population.

The United Nations Convention on the Rights of the Child defines a child as being any person under the age of 18 and so does the Constitution of Ghana and the Children's Act of 1998, Act 560. There is no clear statement regarding the virtual environment in these laws and unfortunately Ghana has signed onto various treaties, agreements but have not ratified those relating to the protection of children online. Without a clearly defined legislation and policy statement on the safety of a child online, there will be little or no guarantee for child protection; solely because the scope of the Act is limited to the physical space of the child.

Several government regimes in their effort have developed programmes and policies which aim to enhance ICT in teaching and learning for children all over Ghana. However, research shows that access to the Internet via computers is still quite limited in rural areas. However, a recent study on child online practices by UNICEF-Ghana indicates that children predominantly access the Internet at home via mobile devices. The widespread use of mobile phones is enabling children and

young people to access social media sites surprisingly regularly where some reporting that they use phones for an hour or more daily. This has increased the exposure of most children such that they are already falling victim to scams, including requests to send money (in order to access inheritance money), requests to share personal information including address and bank details, and agreeing to meet strangers they have met online or by bogus phone calls.

Children report that they are exposed to pornographic material on social media sites, though they strongly expressed their views about the damaging impact of looking at such images. Access to the Internet is less widespread and as it is more frequently accessed in schools on their handheld devices and Cafes, there is greater opportunity for supervision and capacity for teacher, students and Café operators alike, and supervision of students' use of the devices in all spaces (if the key players are properly informed). In an effort to protect their children, parents and teachers are reportedly trying to restrict children's access to ICT, indicating the importance of engaging parents so that they understand both the benefits and the risks. Since the most common way to access social media sites is via mobile phones at home, parental awareness and supervision is vital.

Empower children through outreach programmes by encouraging them to embrace the positive use of the various ICT Tools they have at their disposal. Teachers

can help to respond to the negatives by supporting young people if they encounter problems online, and by giving them the resilience, confidence and skills that young people need to navigate the internet safely since the internet cannot be controlled by Ghana.

Child Online Protection is possible in Ghana but the real action depends on all stakeholders especially legislature, law enforcement and industry. There is now a considerable amount of international law and international instruments which underpin and in many cases mandate action to protect children both generally, and also specifically in relation to the Internet. These laws and instruments could form the basis of the call for the review of existing policies and legislations in Ghana to make them child friendly and up to date. This paper is a call to action by all stakeholders especially the judiciary to promote the adopt policies and legislations that will protect children in cyberspace and promote their safe access to online resources. Thus, activate the necessary measures to accede to the Budapest and Lanzarote Conventions.

Government should work closely with the technology industry players to develop a framework that helps achieve some kind of consistency, share best practices and agree on what should be expected of service providers to protect their users from abusive behaviour and content online. Further actions may be to consider a regulatory

regime that will both support digital service providers and delivers improved protection to users, combined with a sanction regime to ensure compliance. Awareness creation should be supported by budgetary allocation.

Civil Society Organisations should ensure that COP interventions are carried out collaboratively and not as individuals, thus, mainstreaming online safety interventions into existing child protection programming. Ensure that the National laws are enforced to the latter.

Parents should also maintain an open dialogue with their children in relation to their online lives, support them with their online activity and seek out positive opportunities to engage with their children online. Based on the policies reviewed and the interactions held with various players in the space as far as children's growth and welfare is concerned, it is important that key players understand better, how to put in place a system which will prioritize children's emotional and cultural understanding of technology so they can update their knowledge. Ghana is in grave danger of losing her future generation to the predatory and hidden evils of the online world. Serious and immediate action is required if Ghana aspires to have a thriving, creative and safe future generation to nurture its growth and development in a technologically advanced world.

Rationale

Most children are growing up with the Internet as a central part of their lives. The rapid growth of digital devices and “smart” toys, education technology termed as Information Communication and Technology (ICT) in the classroom, couple with social media; children are living their lives almost entirely online at home, at school, and in real-time. The Internet and high-tech tools such as Internet enabled mobile phones, and online game consoles, smart TV, tablets and laptops through which it is deployed, offer wonderful potential for children and young people to learn, play, communicate, and innovate. These devices with the help of an Internet also offer the potential for others to amass personally identifiable information about children that can be tracked, mined, and exploited by unintended audiences with unexpected consequences over the course of a lifetime. It’s important to understand how the Internet and technology affect their lives. More importantly, helping to build children’s digital literacy to spot danger, think critically about the content

they are consuming and to understand that actions have consequences online just as they do offline. Stakeholders across board including parents and policymakers, as well as industry and educational leaders, have such a critical responsibility to help children survive in the imaginary world.

The paper is aimed at providing stakeholders with a broad understanding of the emerging challenges and recommendations to combat the abuse of children online. It is to help identify the risk and vulnerability of children within the cyberspace; explore a comprehensive legal, policy and institutional framework for the protection of children in relation to cyber threats and violence. The paper is also to provide a framework that creates and provides awareness among policy makers as well as other stakeholders

The writing is divided into five (5) main parts for easy understanding under the following broad headings: Title, executive summary, the problem statement, Situational Analysis of Child Online Violence in Ghana, Legal and Policy Framework, National Initiatives, Implementation and Effectiveness, Conclusions and Recommendations.

Problem Statement

Child Online abuse, in all its various forms, has been a growing public concern in Ghana for quite some time now. Results from a global poll conducted by UNICEF/IPSOS (2016) in 25 countries including Ghana also affirmed the global results and indicated that 82% of children and adolescents are in danger of being sexually abused or taken advantage of online. Another 63% of the children in Ghana have been engaged in risky behaviours online. This is a confirmation that most young people have experienced some form of online abuse by adults and/or by their peers either deliberately or otherwise.

As a consequence, it is imperative to develop an approach to Internet governance which ensures children safe use of the space and this will be beneficial to all. It requires a strategic approach to Internet access and use that embraces and maximizes the opportunities that the Internet provides whilst at the same time tackling the risks it poses for the especially Children and everyone.

Achieving this goal will necessitate working with stakeholders in terms of policy, education and an effective process of accountability and evaluation of the various systems. Approaches in terms of policies related to other forms of abuse against children in Ghana have not been well implemented and have failed to achieve their desired results. Perhaps the best approach now is to combine consideration of child online abuse with all other forms of abuse of children in Ghana in terms of policy and

Legislative reforms and seek to establish more robust mechanisms and strategies to ensure their effective implementation and evaluation.

As the Internet has developed, risks have emerged online including those enumerated above and behaviors that would not be tolerated in the real world are increasingly condoned online. Child Online abuse is any action which contributes to affecting children negatively through the use of technology. It is an action which happens via the Internet through social networking sites, gaming platforms or even through the use of mobile phones. Some of the online abuses that children face are cyberbullying, grooming, sexual abuse, sexual exploitation or emotional abuse. Children can be at risk of online abuse from people they know, as well as from strangers. Children can feel like there is no escape from online abuse – abusers can contact them at any time of the day or night, the abuse can come into safe places like their bedrooms, and images and videos can be stored and shared with other people.

Concerns of this nature led to the International Telecommunications Union (ITU) starting the Child Online Protection (COP) initiative aimed at building cooperation among member countries ensure the safety of children online. The COP initiative was part of the Global Cybersecurity Agenda (GCA) launched by the ITU Secretary General with the aim of giving it the desired priority it deserves.

Ghana like many other countries in the world records increasing numbers of children gaining access to the Internet. Children are prone to risks by use of the Internet; the fact that they are online give them the opportunity to contact to people, generate contents and even by the way they conduct themselves within the space. They engage in chat rooms and share personal information when online which can put them at risk.

Observing what gets reported in the media, one could conclude that young people have become vulnerable targets for predators to abuse sexually and exploit for scams,

identity theft, and other social vices. Among the Ghanaian public, especially among children, there is a general dearth of knowledge on the various threats associated with online activities. This is compounded by the fact that many children do not have the requisite skill it takes to stay safe online. As a result, children are at risk of becoming involved in illegal or inappropriate activities such as buying and selling stolen goods, cyber bullying, online gaming and addiction, online fraud, privacy and identity theft, sexting, self-harm and grooming. Some are also at risk of being involved in the viewing, possessing, making and distributing pornographic images.

Situational Analysis Of Child Online Violence In Ghana

a. Prevalence Rates

Although a few studies have been done on child online safety in Ghana, one will say that these researches were limited in terms of coverage and focused only on some aspects of the issue living out the effect of online abuse of suicide and mental health. Considering the complex and dynamic nature of the digital space, it is advisable to have periodic research to reflect the trends. There is therefore a need for a national research that provides evidence of a wider scope in terms of sample size, nature of activities undertaken by young people within the cyber space in Ghana.

A study synthesis research conducted by UNICEF office of research and other partners on the Digital rights of children titled Global Kids Online (UNICEF ET AL, 2016) and a similar study done in Ghana using the same methodology though yet to be published had a number of findings which this paper will be dwelling on in a bit. The paper considers the particular study because of the following reasons: It follows the child rights framework and gives the opportunity to comprehensively tackle children's everyday experiences both online and offline. It acknowledged the varied contexts in which children live. It connects evidence with the conversation regarding policy and solutions for child welfare and rights in the digital era especially where Internet is still being deployed.

The key findings of the GKO were the following:

Children predominantly access the Internet at home and through mobile devices. It was obvious that Mobile access may be positive in terms of flexibility of use, enhancing children and young people's opportunities for private or personalized benefits. But it can also reduce parents' and caregivers' opportunity to support children and young people as they explore the Internet for the same reason that the device is so small and could be easily hidden by the user. Moreover, the small screen limits the amount and complexity of content that can be readily viewed, and because of its privacy it may be associated with risk.

The majority of children and young people learn something new by searching the Internet. Children and young people who use the Internet say they learn something new online at least every week. Children and young people have indicated that they get a lot of information from the Internet, however it is important to carry out a lot more research into the KIND of information and interaction they have been accessing.

Younger Internet users lack the digital skills than their older peers in all four countries where the study was undertaken, young people seem to be more confident than children in the use of online applications. Gender differences were not so prominent. However, Access and skills are linked to opportunities and risks: in South Africa, for example, and the Philippines, younger children use the Internet less, undertaking

fewer online practices and developing fewer digital skills than children in Argentina or Serbia. This may be the case for the children in Ghana.

Younger children's digital safety skills also need support. For the past two years in Ghana, we have been calling for building children's resilient by equipping them with Digital literacy and citizenship skills. It implies that although some parents may be able to adequately guide their younger children as they go online and help them develop their digital skills, they may not have the knowledge and ability required to guide children as things get complex.

A substantial minority of young Internet users have had contact with unknown people online. A great number of children have had requests from unknown persons for all the reasons there may be. Nonetheless, such activities may potentially pose a risk of harm that merits awareness-raising and education, ideally without overly restricting children's opportunity to explore the online world.

Countries vary in the amount of risks encountered and the balance with online opportunities. The proportion of children and young people who have exposed to sexual images during the past year ranges from about a third of all children in the Philippines to slightly over two-thirds in Argentina and Serbia. Boys and older teenagers are more likely to have seen such images. While online sources such as pop-ups and social networking sites account for a significant amount of this exposure,

‘traditional’ sources such as television or film are also sources of potentially pornographic exposure.

Fewer than one in twenty children in the Philippines and South Africa reported some kind of online sexual solicitation – being asked for sexual information, to talk about sex or to do something sexual, although even these low numbers merit serious attention.

b. Causal Factors - areas or regions, urban vs. rural, age, social class, gender

A lot of children residing in urban areas of Ghana use the Internet more often than those in rural areas. About 12% of the rural children hardly ever use the Internet compared to the 8% among those residing in urban areas. This trend confirms the data from the 2010 Population and Housing Census indicative that the possession of mobile phones and other Internet enabled devices are concentrated in urban areas than rural Ghana. Taking into consideration regional figures (Figure 1); children in Northern region

use the Internet most frequently followed by upper west region. About 31% of the children surveyed in northern region reported to use the Internet daily or almost every day, highest across all regions. Eastern region had the biggest proportion (28%) of children that hardly ever use the Internet. (UNICEF and IPSOS, 2017)

c. Harm from online risks

A quarter (25%) reported that something there were some situations that upset them while online. About 16% of the children reported that they have been treated in a harmful way or in a way they didn’t like in the past one year. Example: being sent a sexual photo or receiving a request to share personal sexual photo. These are mostly boys, urban residents and older children (15-17 years).

d. Exposure to sexual Images

Overall, 39% of the children have had a situation of being exposed to sexual images in the past one year. These were mostly boys, urban residents and older children (15-17 years).

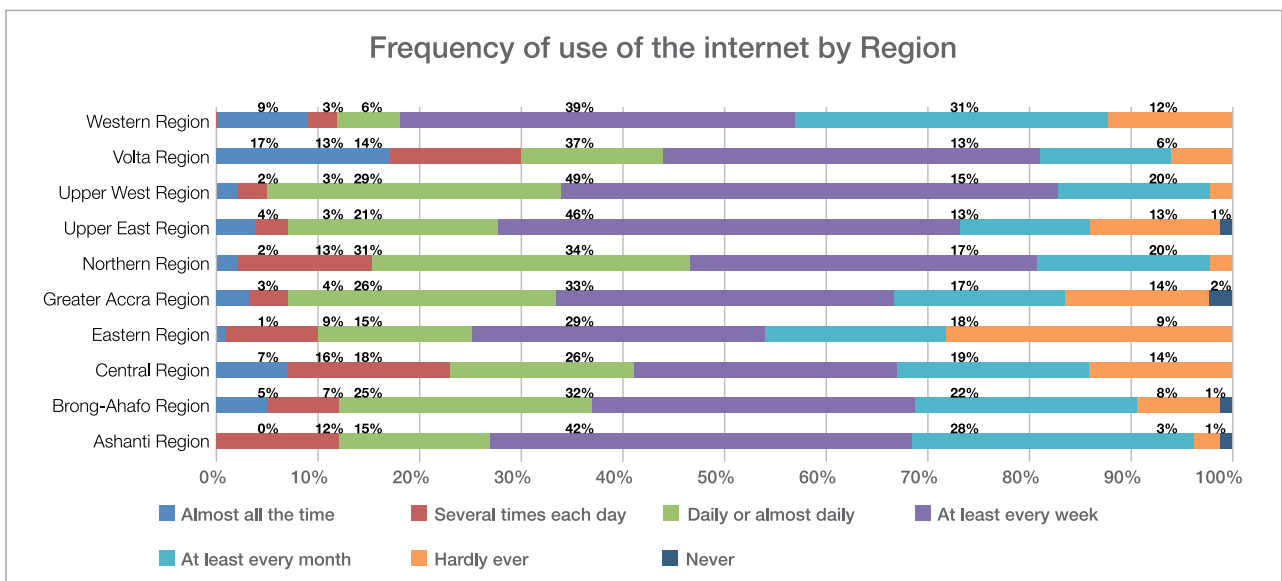


Figure 1.

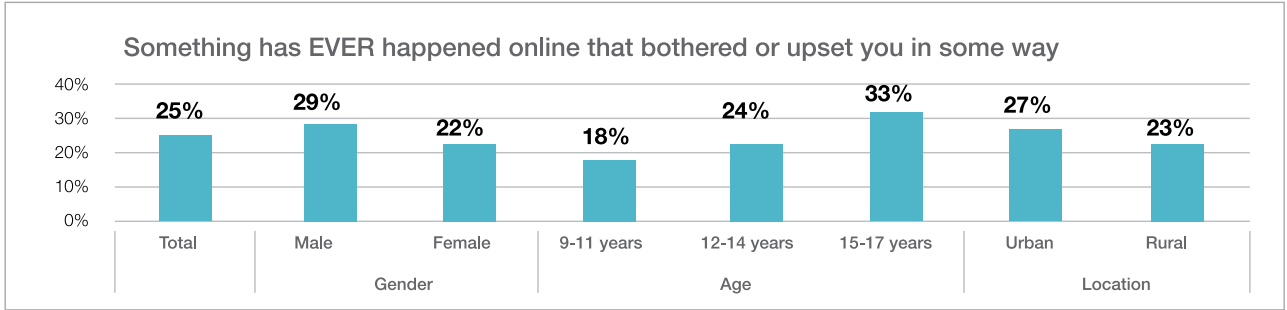


Figure 2.

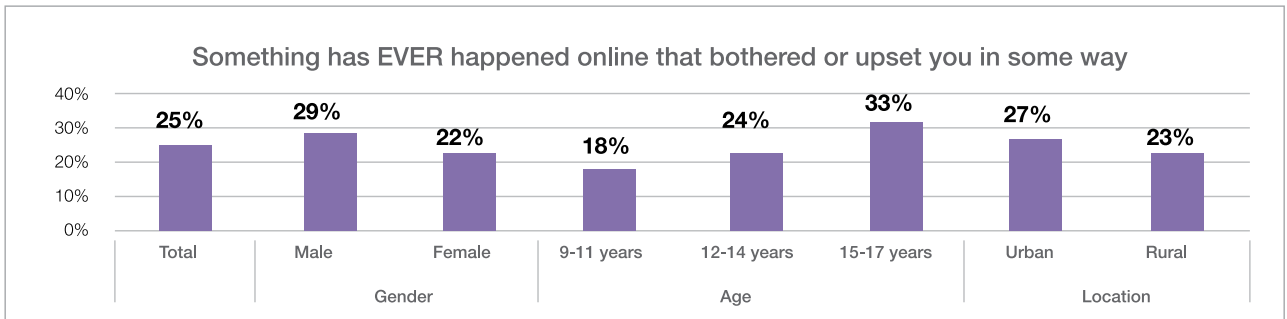


Figure 3.

(UNICEF IPSOS, 2017)

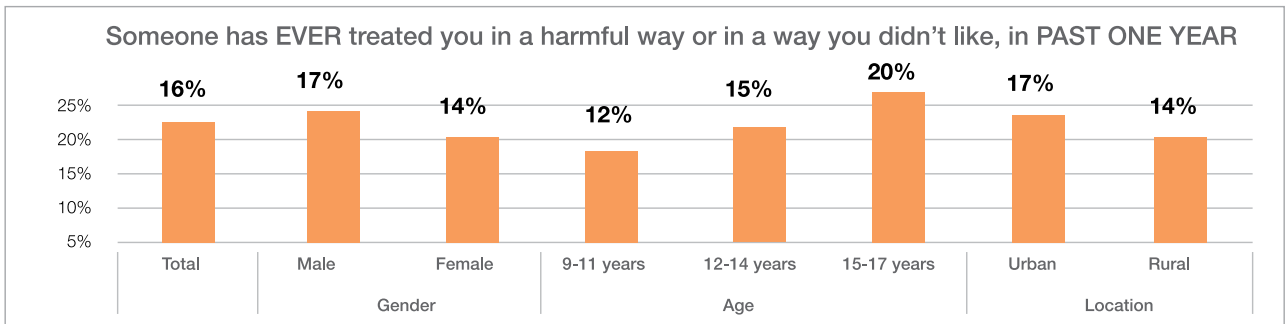


Figure 4.

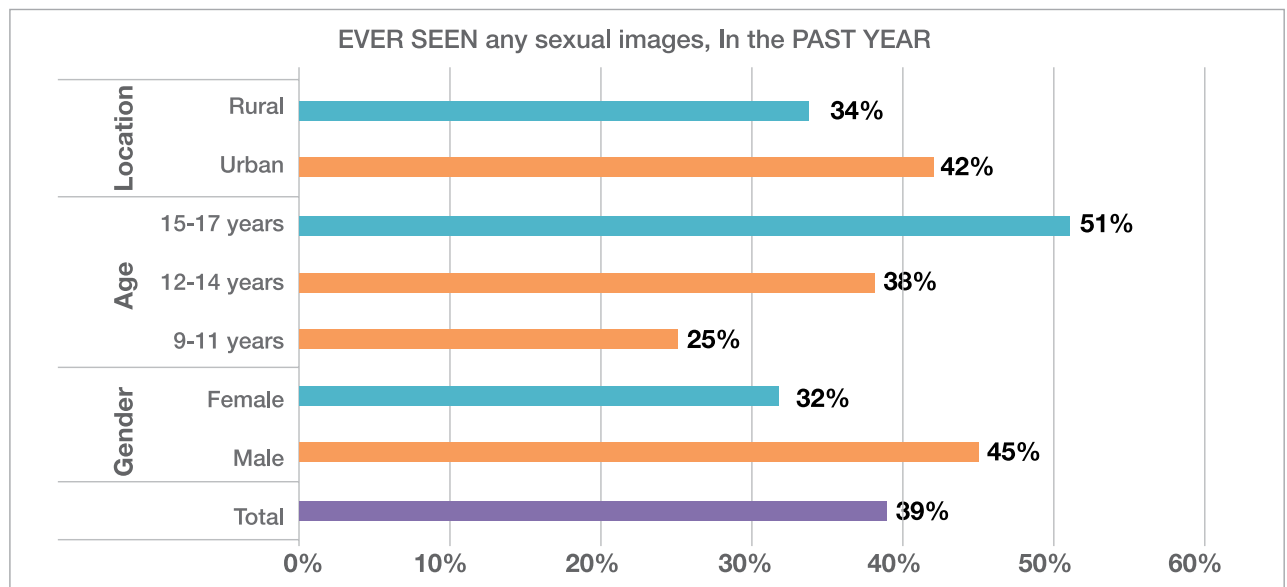


Figure 5.

Legal And Policy Framework

National Policy Environment

There are couple of Domestic legislation and international and regional treaties that Ghana has joined and these guarantee children's rights in the country. Relevant treaties which Ghana has ratified or which are legally bound to are:

- Convention on the Rights of the Child (1989) - **ratified in 1990;**
- Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999) - **ratified in 2000;**
- African Charter on the Rights and welfare of the Child (1990) – **ratified in 2005;** Supplementary Act A/SA. 1/01/10 on Personal Data Protection within ECOWAS – Ghana is legally bound to it since 2010; and
- Directive C/DIR. 1/08/11 on Fighting Cyber Crime within ECOWAS - **Ghana is legally bound to it since 2011.**

Relevant treaties which Ghana has not ratified or which status is unknown are:

Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000) - **signed in 2003;** Convention on Cybercrime (2001) – **Ghana has not acceded to it;** Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2007) – **Ghana has not acceded to it; and** African Union Convention on Cyber Security and Personal Data Protection (2014) –Ghana signed this is 2017.

Finally, domestic legislation, which protect children's rights and/or govern violence against children in Ghana includes: Criminal Code, 1960 (ACT 29); Children's Act, 1998 (Act 560); Juvenile Justice Act, 2003 (ACT 653); Electronic Transaction Act, 2008 (Act 772); Data Protection Act, 2012; and Criminal Offences (Amendment) Act, 2012.

Currently, among the six domestic legislations, which protect children's rights and/or govern violence against children in Ghana and has a mention and an attempt to define child pornography is the Electronic Transaction Act, 2008 (Act 772). The Article 136 of the Electronic Transaction Act can be considered to provide a definition of child pornography: "child pornography' includes materials that visually depicts (a) a child engaged in sexually explicit conduct; (b) a person who appears to be a child engaged in sexually explicit conduct; (c) images representing a child engaged in sexually explicit conduct; and (d) unauthorized images of nude children". However, no clarification is made of what "sexually explicit conduct" means. Therefore, the definition of child pornography needs clarification or should the need arise for the application of the law; it will be subject to people's discretion.

Access, skills, risks and opportunities are all part of the overall picture of children and young people's well-being and rights in the digital age and should all, therefore, be kept in mind when developing policy interventions. It is important therefore to draw distinction between policy goals

based on these differences and real life situations. Policy and legislation must also pay special attention to those who may be of greater vulnerability, such as indigenous or ethnic minority children, children in poor or rural settings or those who have some form of disability.

a. Lack of national policy for COP

Ghana does not have most of its domestic laws concerning various forms of child online abuse. Section 17 of the Children's Act of Ghana is very vague regarding the report of offenses involving children. It only states that "any person with information on child abuse shall report the matter to the Department." In the same Act, child abuse is defined as "contravention of the rights of the child which causes physical or mental harm to the child, while person is only said to include public agency. Therefore, Ghana is not considered to have legislation regarding the mandatory reporting requirement for Internet Service Providers (ISPs).

The need to make the online space safer for children and young people has been taken to a much serious level across board though there is still the capacity gap among the stakeholders in the web for child online protection. In dealing with child online violence, the image below gives an idea of the various stakeholders and their roles in ensuring safety of children and young people in Ghana.

After series of stakeholder consultations, a consensus was built which has resulted in a multi-sectorial National child online protection steering committee inauguration. The Committee was tasked with the responsibility to draft the Child Online protection framework for Ghana. At

the time of the paper, the operationalization of the framework is currently ongoing at the National Cyber Security Secretariat. One can say that protecting children online is acknowledged to be a global challenge. Some countries have come up with policies and regulations targeted at protecting children online and Ghana is in the process of joining the list but a lot more is required to achieving that feat. The International Telecommunications Union (ITU) and UNICEF has also developed a global set of Guidelines for children, parents/guardians and educators, industry and policy makers to be adopted and adapted to suit national and local realities.

In Ghana however, there are no known policies or institutional frameworks, whether developed locally or adapted from the ITU Guidelines or other best practices, intended to protect and safeguard children in cyberspace. Even though the Information & Communications Technology for Accelerated Development (ICT4AD) Policy exists, it does not make provisions for the protection of children online. The sector regulator, the National Communications Authority (NCA), has also not developed any specific guideline or policy to guide industry players and users on COP issues. The resultant effect of the lack of policy on COP is the fact that there is no clear guideline on how issues of online abuses or violations against children are to be addressed. So far, reported cases of online abuses against children have been interpreted as isolated cases of child abuse or young people's non-adherence to rules. Even though Ghana has ratified the UN Convention on the Rights of the Child, and given meaning to the Convention by enacting the Children Act 1998, neither the

Act nor the recently-introduced Child and Family Welfare Policy has an online safety/protection consideration.

What is currently available is the Ministry of Communications' National Cyber Security Policy & Strategy Final Draft document (as at July 23, 2015) which makes the following provision in relation to COP: Child Online Protection Policy measures will be implemented through multi-stakeholder working by government, industry, civil society, and relevant international child online protection agencies. Government will encourage dialogue at national and local levels to engage all concerned and create awareness of the possibilities and dangers of the Internet.

b. National cyber security policy & strategy final draft document

The recent expansion of Internet access in Africa does not come without its attendant challenges and risks. The disruptive activities of cyber criminals have caused the debate on cyber security to be brought to the front burner of every country where discussions are ongoing with regards to strategies to combat the situation. There are a number of global initiatives established to address the issue of cyber-crime and enhancing the cyber security and ITU is providing member countries with the needed capacity to deal with country specific policing mechanisms (Ministry Of Communications, 2016). As such the current National Cyber Security Policy and Strategy is fashioned around nine (9) pillars to drive it which includes one pillar on Child Online Protection.

c. Relevant International Policy Frameworks on COP

i. Relevant International Instruments

The international instruments directly or indirectly related to COP captured in this paper focuses on international best practices in relation to online abuse and identifying gaps in Ghanaian domestic law in relation to the best practices identified.

ii. Convention on the Rights of the Child (1989)

The United Nation's (UN) Convention on the Rights of the Child (CRC) aims to ensure human rights for children in several aspects of life. It is the main child protection instrument since Ghana signed and ratified in November of 1989.

Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000)

The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (OPSC) expects State Parties to criminalize illicit conduct in relation to child pornography, besides providing its definition under the Article 2 (c), as stated below. Because of its nature, the OPSC may be one of the most important international legally binding instruments to analyse regulatory approaches regarding child pornography offenses²⁷. ***Ghana has signed OPSC in 2003, but it is one of the few countries in the world which has not ratified it as of the 3rd of August 2015.***

iii. Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182)

The Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (from now on referred as “Convention 182”) was adopted in 1999 recognizing the need to adopt new instruments for the prohibition and elimination of the worst forms of child labour as the main priority for national and international action. The “worst forms of labour” comprises the use, procuring or offering of a child for the production of pornography or for pornographic performances (Article 3), among others.

By the above preamble, it is required that each Member State which ratifies the Convention take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency (Article 1). Furthermore, Article 7 stresses the need of Member States to “ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including the provision and application of penal sanctions or, as appropriate, other sanctions”. It has been in force in Ghana since June 2000.

iv. Convention on Cybercrime (2001)

The Council of Europe’s Convention on Cybercrime now on being referred to as “Budapest Convention”) seeks to harmonize national laws on cybercrime, improve national capabilities for investigating such crimes, and increase cooperation on investigations. The Convention also sorts

to protect society against cybercrime by adopting appropriate legislation and fostering international cooperation. **Ghana is in the process of acceding to this convention because series of workshops have been held to the effect.**

v. Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2007)

Council of Europe’s Convention on the Protection of children against Sexual Exploitation and Sexual Abuse or the Lanzarote Convention (from now on referred as “Lanzarote Convention”) entered into force in December 2009. Its objectives are to (a) prevent and combat sexual exploitation and sexual abuse of children; (b) protect the rights of child victims of sexual exploitation and sexual abuse; (c) promote national and international cooperation against sexual exploitation and sexual abuse of children.

Among its 50 articles, contains provisions regarding sexual abuse (Article 18), child pornography (Article 20), pornographic performances involving children (Article 21), and solicitation of children for sexual purposes (online grooming) (Article 23).

vi. Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents (2008)

The Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents (from now on referred as Rio de Janeiro Declaration) resulted from the World Congress III against Sexual Exploitation of Children and Adolescents. Even

though it is not an international legally binding instrument, it provides a blueprint to prevent, prohibit, and stop sexual exploitation of children and adolescents and to provide the necessary support to children who have fallen victim to it. Special attention is given to the abuse of children and adolescents through the Internet and associated technologies, including child pornography and online grooming (under (C) Call for Action - II).

vii. Economic and Social Council Resolution 2011/33 on Prevention, Protection and International Cooperation against the Use of New Information Technologies to Abuse and/or exploit Children (2011)

The UN's Economic and Social Council issued a resolution in 2011 for the "Prevention,

Protection and International Cooperation against the Use of New Information Technologies to Abuse and/or Exploit Children" (from now on referred as "ECOSOC Resolution"). The council stresses that new ICTs and applications are being misused to commit child sexual exploitation crimes, "such as the production, distribution or possession of child sexual abuse images, audio or video, the exposure of children to harmful content, the grooming, harassment and sexual abuse of children and cyber bullying." Further, it underscores the importance of cooperation among States and the private sector.

As a matter of urgency, the resolution recognizes the need for Member States to adopt legislation designed to criminalize all aspects of the misuse of technology to commit sexual exploitation crimes.

Moreover, it recognizes the need to detect and remove such images from the Internet, facilitating the identification of individuals responsible for the abuse and/or exploitation of children. Further, the resolution encourages Member States to involve relevant ministries in inter-sectoral mechanisms for addressing the misuse of ICTs to abuse and/or exploit children.

d. Relevant Regional Instruments

The Regional instruments directly or indirectly related to COP captured in this paper focuses on: international best practices in relation to online abuse

i. African Charter on the Rights and Welfare of the Child (1990)

The African Charter on the Rights and Welfare of the Child (from now on referred as

"ACRWC") was Africa's response to CRC and other human rights-related instruments. It entered into force in 1999, recognizing the rights, freedoms and duties of children, besides requiring the African Union's (AU) Member States to adopt legislative measures to give effect to its provisions. Ghana has ratified it in 2005 with no reservations or declarations to the following relevant article: Article 27 mandates that States protect children from all forms of sexual exploitation and sexual abuse, taking measures to prevent: (a) the coercion or encouragement of a child to engage in any sexual activity; (b) the use of children in prostitution or sexual practices; (c) the use of children in pornographic activities, performances and materials.

ii. African Union Convention on Cyber Security and Personal Data Protection (2014)

The AU Convention on Cyber Security and Personal Data Protection was adopted in 2014. It aims to define the objectives and give orientations regarding the Information Society in Africa, besides strengthening its Member States and Regional Economic Communities (REC)' existing legislations on ICTs. Moreover, the Convention's goal is to address the need for harmonized legislation among the AU's Member States. There is no country status list for this Convention available on the Internet.

The convention defines: *Child pornography as "any visual depiction, including any photograph, film, video, image, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where (a) the production of such visual depiction involves a minor; (b) such visual depiction is a digital image, computer image, or computer-generated image where a minor is engaging in sexually explicit conduct or when images of their sexual organs are produced or used for primarily sexual purposes and exploited with or without the child's knowledge; (c) such visual depiction has been created, adopted, or modified to appear that a minor is engaging in sexually explicit conduct."

*Article 29 (3) addresses content related offences, including child pornography. It mandates that State Parties take legislative and/or regulatory measures to make the following behaviours a criminal offense: (a) produce, register, offer, manufacture, make available, disseminate and transmit

an image or representation of child pornography using ICT; (b) procure, import, have imported, export, or have exported an image or representation of child pornography using ICT; (c) possess an image or representation of child pornography using ICT; (d) facilitate or provide access to pornographic natured images, documents, sound or representation to a minor.

iii. Supplementary Act A/SA. 1/01/10 on Personal Data Protection within ECOWAS (2010)

The Supplementary Act A/SA. 1/01/10 on Personal Data Protection within ECOWAS (now being referred to as "SAPDP-ECOWAS") was issued in 2010 as an integral part of the ECOWAS Treaty. This legally binding Act requires Member States to establish a legal framework for privacy of data, including the collection, processing, transmission, storage, and use of personal data without prejudice to the general interest of the State. Ghana is legally bound to this Act.

Article 19 (3) addresses the need for processing and use of personal data especially when it leads to violation of rights and liberties. In this case, the Data Protection Authority may decide to block certain data processed and to temporarily or permanently prohibit any processing that is contrary to the provisions of the Act. The act does not have any provision focusing specifically on the protection of children when using ICT.

iv. Directive C/DIR. 1/08/11 on Fighting Cyber Crime within ECOWAS (2011)

The objective of the Directive C/DIR. 1/08/11 on Fighting Cyber Crime within ECOWAS (which is being now on referred as “DFCC-ECOWAS”) is to adapt criminal law and criminal procedure of Member States to address cybercrime. The Directive stresses the growing need to harmonize or create regional legislation in the face of the increasing level of cybercrime in the region. Moreover, Member States were required to adopt legislative, regulatory and administrative measures to comply with this Directive by January 1st, 2014. Ghana is legally bound to this Directive.

The following behaviors constitute an offense under the Directive: Article 16: the production of child pornography or pornographic representation. It defines this production as the act of producing, recording, offering or making available, distributing or transmitting child pornography or pornographic representation using ICTs.

Article 17: the import or export of child pornography or pornographic representation. It defines it as the act of procuring, importing, causing to be imported, exporting or causing the imported, child pornography using ICTs. Article 18: the possession of child pornography or pornographic representation through ICTs. Article 19: the facilitation of access of minors to pornography pictures, documents, sounds or pornographic representation.

The Directive requires Member States to punish offenses under its criminal Courts. For that, any liable corporate body must be

punished by proportionate and dissuasive sentences, including criminal and civil penalties. Furthermore, the confiscation of materials, equipment, instruments, computer programmes or data, or any other proceeds from an offence is predicted. Under its Article 33, Member States are required to cooperate with each other in the search for and establishment of an offense and the collection of evidence related to it.

v. International Guides and suggestions

In the African Union Convention on Cyber Security and Personal Data Protection (2014) which Ghana signed in July 2017 yet to be ratified by parliament of Ghana defines Child pornography as “any visual depiction, including any photograph, film, video, image, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where (a) the production of such visual depiction involves a minor; (b) such visual depiction is a digital image, computer image, or computer-generated image where a minor is engaging in sexually explicit conduct or when images of their sexual organs are produced or used for primarily sexual purposes and exploited with or without the child’s knowledge; (c) such visual depiction has been created, adopted, or modified to appear that a minor is engaging in sexually explicit conduct.”

Article 29 (3) addresses content related offences, including child pornography. It mandates that State Parties take legislative and/or regulatory measures to make the following behaviours a criminal offense: (a) produce, register, offer, manufacture, make available, disseminate and transmit an image or representation of child pornography using

ICT; (b) procure, import, have imported, export, or have exported an image or representation of child pornography using ICT; (c) possess an image or representation of child pornography using ICT; (d) facilitate or provide access to pornographic natured images, documents, sound or representation to a minor.

Most Directives under the ECOWAS protocols require member states to punish offences under its criminal Courts. Thus any liable corporate body must be punished by proportionate and dissuasive sentences, including criminal and civil penalties.

It also encourages the confiscation of materials, equipment, instruments, computer programmes or data or any other proceeds from an offence. In the United Kingdom for instance; any behaviour or action that is illegal when committed offline is also illegal if committed online. Could we start introducing that kind of flexibility into our laws so it makes it easy for us to deal with cases without necessarily having to promulgate new laws before trial.

Article 29 (3) (3) of the AU Convention on Cyber security and Personal Data Protection requires State Parties to take the necessary legislative and/or regulatory measures to ensure that, in case of

conviction, national courts confiscate of the materials, equipment, instruments, computer program, and all other devices or data belonging to the convicted person and used to commit child pornography.

Articles 28 of the Lanzarote Convention, however, demand Parties to take the necessary legislative measures to ensure that the following circumstances are taken into consideration as aggravating circumstances in the determination of the sanctions in relation to child pornography: (a) The offense seriously damaged the physical or mental health of the victim; (b) the offense was preceded or accompanied by acts of torture or serious violence; (c) the offense was committed against a particularly vulnerable victim; (d) the offense was committed by a member of the family, a person cohabiting with the child or a person having abused his or her authority; (e) the offense was committed by Several people acting together; (f) the offense was committed within the framework of a criminal organization; (g) the perpetrator has previously been convicted of offenses of the same nature.”

National Initiatives, Implementation And Effectiveness

CSO initiatives

There are a number of interventions put up by Civil Society Organizations since the rise in Child online safety concerns, these initiatives have been carried out collaboratively and sometimes separately. Some of these interventions were geared towards, capacity, awareness creation and policy change. The table below shows the initiatives, their implementation and their effectiveness.

Since 2014, there has been a number of Civil Society intentions geared towards informing the various stakeholders on their roles in promoting safety of children

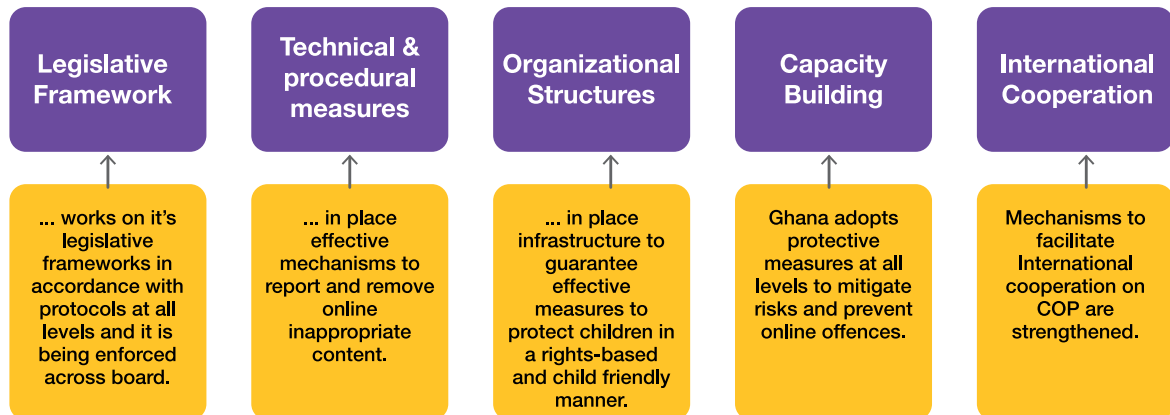
and young people within the Cyber space. Some of these interventions were in the form of the following: Stakeholders roundtable discussions, Capacity building for ICT Teachers in Greater Accra, Internet Safety awareness month/ weeks and day’s celebrations, corporate institutions sensitization on social media adverts, research/polls and International Corporation in addressing the issues. These interventions have worked quite well with the support of some Industry players to bring Ghana to where we are now in addressing the issue of Child Online Protection.

NATIONAL RESPONSE

60% of children and young persons in Ghana will be protected from all forms of ICT violence and exploitation by 2021.

STRATEGIC & ENABLING PILLARS

A functional and interactive COP portal in Country.



Roadmap to COP Developed by the Ministry of Communications

The COP intervention in-country is guided by a five-year implementation plan which seeks to address issues of COS anchored on five pillars of the ITU strategy. The pillars

address issues related to legal, technical and procedural, organizational structure, capacity building, international cooperation and the work undertaken by the different stakeholders in the area of online protection

(Ministry of Communications, 2016-2021)

Conclusions

The **Child Online Protection paper** is an opportunity to make real and lasting improvements to children's lives in Ghana now present and for the future. It is Digi Time in Ghana and what that means is that technology is permeating every facet of our lives and so are the complexities in people's lives and connections. Ghana's status for Conventions like Rio de Janeiro Declaration is unknown, coupled with the fact that the country is yet to ratify the Convention on Cybercrime (Budapest Convention on Cybercrime). Notwithstanding, it is extremely important that Ghana accedes to the Lanzarote Convention which defines "child pornography" to include "pornographic material that visually depicts: (a) a minor engaged in sexually explicit conduct; (b) a person appearing to be a minor engaged in sexually explicit conduct; (c) realistic images representing a minor engaged in sexually explicit conduct." Ratifying the Lanzarote Convention gives Ghana the opportunity to strengthen its domestic laws and also an opportunity to access all the benefits within the Lanzarote Prevention, Protection and Prosecution objectives for members.

The amount of personal information about children and young people will continue to grow through our increasing connections

on the internet. In the not too distant future, it will become practically impossible to function without digital footprints because services will be unavailable except digitally. Therefore, it has become important to understand everyone's rights online, and how children in particular can be empowered to exercise them. Decades ago mobile phones were unknown apart from to a select group of high earning adults. Today, increasing number of babies are engaging with digital technology in their early years even before learning to speak, walk or write. It is vital we predict and plan for the effects the digital transformation will have on children and young people's lives by adopting appropriate domestic laws to address child online abuse and exploitation.

One of the things this paper sorts to do is to create the platform and to highlight the need for stakeholders to dialogue and bring a unique perspective to the digital debate to inform and shape future policy. It is important this stakeholder group defines the best community of practice which will put the interest of children and young people at the centre stage. Let us be part of the Internet Governance process to redesign the Internet of the future with children's rights at heart of it all.

Recommendations

To achieve some level of safety in Ghana will require a concerted effort by ALL stakeholders to give the future generations of Ghana the needed environment and information to help them grow. For the recommendations in this paper to work, requires that Ghana take a second look at its legislation as a whole: thus, having them aligned to International treaties that the country has signed and ratified. The provision of clear guidelines on the roles and responsibilities of all stakeholders at the national, regional and local community levels, and for parents/guardians are required. COP requires a multi-stakeholder approach which is vital to ensure that all Ghanaian children and young people are protected online. A piecemeal approach will not work.

It is therefore recommended that;

- a. Government finalizes draft COP framework that addresses most if not all the issues associated with online abuse and creates an enabling environment for the implementation of the policy and guidelines.
- b. Define or clarify the meaning of “sexually explicit conduct” in Article 136 of the National Electronic Transaction Act.
- c. Criminalize importing or exporting child pornography, visualization of child pornography and online grooming.
- d. Enact new law and/or amend existing laws to reflect the growing trend of online crimes against children and young people.
- e. Update existing child protection systems to reflect the growing trend of online abuses and demonstrate clear linkages of how systems interrelate in support of addressing issues related to children and young people (i.e. Community of Practice.)
- f. Ratifies the Optional Protocol to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography.
- g. Activate the necessary measures to accede to the Budapest and Lanzarote Conventions.
- h. Government should work closely with the technology industry players to develop a framework that helps achieve some kind of consistency, share best practices and agree on what should be expected of service providers to protect their users from abusive behaviour and content online.
- i. Set up a mechanism for reporting and removal of inappropriate content and child abuse materials
- j. Government led actions to ensure that Capacity needs of the key implementation partners are addressed.
- k. Further actions may be to consider a regulatory regime that will both support digital service providers and delivers improved protection to users, combined with a sanction regime to ensure compliance.

- i. Introduce an industry-wide levy for social media companies and communication service providers to support awareness and preventive activities to counter the harmful impact of the Internet.
- m. Create and promote positive content and services online such as anti-spam platforms as well as empower users to respond to any issues by providing clear safety advice, a range of easy-to-use safety tools, and quick access to support should things go wrong.
- n. Empower children and young people through outreach programmes by encouraging them to embrace the positive use of the various ICT Tools they have at their disposal. Teachers can help to respond to the negatives by supporting young people if they encounter problems online, and by giving them the resilience, confidence and skills that young people need to navigate the internet safely since the internet cannot be controlled by Ghana.
- o. Civil Society Organisations should ensure that COP interventions are carried out collaboratively and not as individuals. Sometimes mainstream into existing child protection programming.
- p. Stakeholders should support law enforcement to ensure that the National laws are enforced to the latter.
- q. Maintain an open dialogue with their children in relation to their online lives, support them with their online activity and seek out positive opportunities to engage with their children online.
- r. Awareness creation should be supported by budgetary allocation.

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