

# Child Sexual Exploitation by Tourists in Kenya: A Legal and Gender-Based Violence Perspective

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**Abstract:** This article examines the growing issue of child sexual exploitation by tourists in Kenya, framing it as a form of gender-based violence. Drawing on both international and domestic legal frameworks, the study analyses the extent to which current laws protect children from sex tourism and associated abuses. The analysis highlights systematic weakness in implementation, economic drivers of Vulnerability, and the challenges of digital grooming. Through data sourced from legal documents, field reports, and published literature, the study emphases the urgent need for stricter enforcement mechanisms and multi-stakeholder collaboration to curb this exploitation.

**Keywords:** child sex tourism, gender-based violence, legal protection, Kenya, sexual exploitation

## 1. Introduction

Tourism industry beyond all reasonable doubt is not only one of the most rapidly growing industries in the globe and attracts a lot of business but; but has other negative impact to our different societies.<sup>1</sup> One of the negative impacts is people travelling for the purpose of child sex. Child sex tourism, sometimes referred to as child commercial sex is one of the current global concern that is causing a lot of different debates in the world. This industry of sex tourist is growing despite efforts to eradicate child sexual exploitation which result to gender-based violence. Child sex tourism is a global problem and it is difficult to ascertain the exact number of children and tourist involved in sex tourism.<sup>2</sup> Child sex tourism is the commercial sexual exploitation of children by the people who travel from one location to another and take part in sexual acts with children.<sup>3</sup> Child sex tourism involves adults' individuals who travel from within their own country and from other countries to engage in commercial sex acts with children.<sup>4</sup> Child sex tourism is an appalling physical and psychological form of child abuse;<sup>5</sup> thus, sexual exploitation of children. Sexual exploitation of children is a serious violation of children's rights and intensely complex issue.<sup>6</sup> This child abuse is also gender based violence because these children are sexually exploited because of their gender. If girl child is sexually exploited by

a male individual sexually; thus, the same applies to a boy child being sexually exploited by female adult.

Gender-based violence (GBV) has many forms of violence, which includes Physical, sexual, emotional and psychological economic and educational, coercion, and threats directed at an individual based on their biological sex or gender identity.<sup>7</sup> This is the violence that is committed against someone based on their gender identity, gender expression or perceived gender.<sup>8</sup> The term GBV is mostly used when referring to women and girls who have been abused; but also boys suffer violence because of their gender. Therefore in this paper GBV will be referring to both girls and boys.

The UNCEF study indicates that Kenyan Tourist from 39 per cent of the client base of exploited children. CABI news research indicates that 2000 to 3000 girls and boys are engage in prostitution with tourists.<sup>9</sup> The nationalities of the foreign sex tourists vary ranging from domestic, regional and international.<sup>10</sup> The perpetrators who travel to exploit children sexually come from United State of America, Germany, Italians, Canada, Korea and chine from developed countries; from Africa are South Africa, Nigeria, Ethiopia, Somalia, Uganda, Tanzania, Democratic Republic of Congo and Sudan; while in Kenya, the offenders come from affluent neighborhoods targeting poor neighborhoods.<sup>11</sup> The most leading perpetrators are Italians at 18%, Germans at

<sup>1</sup> Bah, Y. M., *Causes of Child Sex Tourism*, Global Journal of Sociology Current Issues, 2021, Volume 11, Issue 1, p.12.

<sup>2</sup> Raven, W., *Treating the International Child Sex Tourism Industry as A Crime Against Humanity*, Southwestern Journal of International Law, 2009, Vol. 24, p.363.

<sup>3</sup> Wallace, N. L., *Encyclopedia of Criminal Activities and Deep Web*, 2020, p.14.

<sup>4</sup> Fact Sheet, Office to Monitor and Combat Trafficking in Person, Washington DC, August 19<sup>th</sup> 2005.

<sup>5</sup> Gerdes, L. and Willis, B., Human Trafficking: Child Sex Tourism, Collage of Social Work, The Ohio State University, (2006)

<sup>6</sup> United Nations Office on Drugs and Crime, Regional Office of Southeast Asia and the Pacific, Project Childhood, Thailand,(2014), Child Sexual Exploitation in Travel and Tourism: An Analysis of Domestic Legal Frame work, Sponsored by Government of Australia, P. 14.

<sup>7</sup> <https://www.researchgate.net> accessed on 21/3/2024.

<sup>8</sup> Cooter, A. and Savage, L., *Gender-based Violence and Unwanted Sexual Behaviour in Canada: Initial Findings from Survey of safety I Public and Private Space*, Statistics Canada, 2019, p.1.

<sup>9</sup> CABI News 20<sup>th</sup> December 2006 The Unacceptable Face of Tourism: Child Sex Tourism Booms in Kenya, found at <https://www.cabidigitallibrary.org> accessed 15<sup>th</sup> August 2025.

<sup>10</sup> <https://mafrome.org/when-tourism-trivializes-sexual-exploitation-children-tourist-kenya> accessed 23<sup>rd</sup> March 2024.

<sup>11</sup> Nzioka, M. J., *Sexual Exploitation of Children in Travel and Tourism (SECTT): A Kenyan Case*, Presentation during the 32<sup>nd</sup> Meeting of the UNWTO World Tourism Network on Child Protection During ITB, Berlin, 9<sup>th</sup> March 2017.

14% and Swiss at 12 %.<sup>12</sup> These travellers lure children to engage in sex with them in different ways: 57.1% they use money, 28.6 % lure them with goodies for example new phones and, 14.3 are lured with promises of good life/riches.<sup>13</sup>

Understanding the legal and social dimensions of child sex tourism in Kenya is critical to designing effective interventions and accountability. The Study offers insights into the intersection of gender violence and tourism-related abuse.

## **2. Aims and Methodology**

This article aims to examine the legal protection afforded to children in Kenya against sexual exploitation by tourists, considering its classification as gender-based violence. The findings triggers discussion on the fight of gender based violence specific child sex abuse through tourism industry.

The study is non-doctrinal because it analyses the laws and their impact by addresses the legal standards that protect children against sexual exploitation in domestic and international level. At the same time, desk review was used to review already published literature is one of the main sources that were referred to lay foundation of this study. The published reports by different studies, institutions and media reports provided data that shows the real current situation on the ground how children are being sexually exploited by tourists in Kenya. The data was analysed thematically and presented in thematic form.

### **2.1 Causes of Sex Tourism in Kenya**

Many researches done have shown that there are different causes of child sex tourism that influence children to involve in sex tourism are different causes of the adults who travel to engage in sex acts with under age individuals.

Economic factor is the major significant cause of child sex tourism.<sup>14</sup> The study carried out by Otieno, the findings were that: 39.4% were boys; 57.8% were girls; 67% were orphans heading households; 51.4% children from single parents; 40.4% children whose parents engage in illicit brew and; 29.4% children who have dropped out of school.<sup>15</sup> The research done at the coast of Kenya, the leading contribution of the children being exploited sexually by the tourist is poverty at 47.2%.<sup>16</sup> The dire economic situation faced by the

<sup>12</sup> CABI News 20<sup>th</sup> December 2006 The Unacceptable Face of Tourism: Child Sex Tourism Booms in Kenya, found at <https://www.cabidigitallibrary.org> accessed 15<sup>th</sup> August 2025.

<sup>13</sup> Nzioka, M. J., 9<sup>th</sup> March 2017.

<sup>14</sup> Bah, Y. M., (2021), P. 14.

<sup>15</sup> Otieno, W. A., Global Study on Sexual Exploitation of Children in Travel and Tourism in Kenya, Utah University, 2015 found at <https://www.researchgate.net> accessed on 2<sup>nd</sup> April 2024.

<sup>16</sup> Determinants of Child, Sex Exploitation by Tourists in Kenya: A Case Study of Mombasa North Coast, Search done by: Technical University of Kenya- Department of Business and Management Studies; Kisii University-School of Business and Economics, Department of Tourism and Hospitality; Chuka University-School of Natural Resource Management, Department of Wild Life Management, P. 10.

children and their families is one of the root causes of children being exploited.<sup>17</sup> The reports show the picture that the children that are sexual exploited come from different background with similar character of being poor economically and have hope of getting out of poverty. They perceive to get out of poverty is getting tourists that will help them to travel abroad especially western countries.

Political stability is a fundamental requirement for inclusive, equitable and sustainable development. With political peace and process assures to citizen to reap benefits of their natural and human endowment.<sup>18</sup> Fact-finding mission report in Kenya shows how 2007-2008 post-election violence exposed children to sexually abuse and exposed them to predators.<sup>19</sup> If there is no political stability survival cannot be assured, desperation will take place leading to vulnerability to all minces including sex for survival.

The progress of the society cannot be severe from effective and sufficient justice delivery system; therefore, in the absence of any accountable, independent and corruption immune judiciary, order and moral consciousness become scarce commodity paving ways for all genres of social villainies including commercial sexual exploitation of children.<sup>20</sup> When justice is delivered on time without complication, perpetrators will fear to face the law.

Sexual violence and sexual exploitation are humanitarian issues in situations of disaster and emergency situations.<sup>21</sup> Natural calamities put children at risk of being sexually exploited and sexual violence in different ways. Children because of natural calamities may end up separated from their parents, which make them vulnerable to be sexually assaulted. In longer term, the abuse children may suffer is sex tourism as visitors who are tourists are seen as the people who can save them and put them in a situation they cannot refuse if asked to have sex with them.<sup>22</sup> Natural calamities in Kenya have been a common thing like floods and drought which leave the children in the area affected in a vulnerable situation to be easily sexually exploited by the tourists.

There is significant impact that digital media and ICT are having children's lives, including the child freedom from all forms of violence, the best interest of the child and child protection.<sup>23</sup> Many children have been lured by friend to be

<sup>17</sup> The Universal Periodic Review of the Human Rights Situation in Kenya: Sexual Exploitation of Children in Kenya, Submitted by Kenya Alliance for Advancement of Children (KAACR) and ECPAT International, to Human Rights Council, 35<sup>th</sup> Session, 2020, Para. 8.

<sup>18</sup> Bah, M. Y., *Causes of Child Tourism Systematic Literature Review*, International Journal of Cases Studies in Clinical Research, 2020, Vol. 4, Issue 1, p.2.

<sup>19</sup> OHCHR, Report on Fact-finding Mission to Kenya, February 2008, p.13.

<sup>20</sup> Bah, M. Y., 2020, p. 2.

<sup>21</sup> Naik, A., Protecting Children from Sexual Exploitation and Sexual Violence in Disaster and Emergency Situations, ECPAT International, p.2.

<sup>22</sup> Naik, A., P.15 to 16.

<sup>23</sup> Committee on United Nations Convention on the Rights of the Child, Guidelines Regarding the Implementation of the Optional Protocol to the Convention on the Rights of the Child on the Sale

used sexually online. A lot of online grooming that is growing very fast.<sup>24</sup> The internet has made easier, faster and cheaper for online grooming, cybersex and, webcam; resulting to many children to engage in webcam child sex tourism.<sup>25</sup> Kenya has improved internet access by developing internet infrastructure and cheap electronic gadgets. Unsupervised access to the internet by minors is giving rise to online grooming, where predators use false identities to lure the minors into the world of online sex exploitation. Once the online relationship is established, the offline meeting is set.<sup>26</sup> The National Action Plan for the Elimination of Child Labour 2024-2028, reports that child labour is rampant and there is increase children sexual abused online.<sup>27</sup> This report reveals how children are vulnerable online to be sexually exploited.

The discussion enlighten how different factors that expose children to be sexually exploited. The economic, political instability, humanitarian situation and media are the main catalyzed for creating environment that exposes children to sexually exploit.

## **2.2 The Legal Standards that Protects a Child against Sexual Exploitation by Tourists**

The world is concerned with protection of the child; therefore child sex tourism is a serious concern within tourism industry and human rights community. Child sex tourism causes the exploitation of the child; thus gender-based violence. The laws have been enacted and adopted to protect the child from being sexual exploited as the main gender-based exploitation caused by child sex tourism.

### **2.2.1 International Legal Standards**

The international community has come up with different laws to combat sexual exploitation of children. These international legal frameworks also protect children who are being sexually exploited by tourists.

#### **2.2.1.1 The United Nations Convention on the Rights Child (CRC) which was adopted in the year 1989.**

The human rights instrument builds the international foundation of protecting children. CRC affirms that children rights should be protected and against all violence and exploitation.<sup>28</sup> This shows that CRC protects children against violence and exploitation like sexual exploitation and violence. All children are equally entitled to protection from sexual abuse and exploitation,<sup>29</sup> and safety is one of the fundamental tents of the child's best interests.<sup>30</sup> Therefore,

of Children, Child Prostitution and Child Pornography, Comment 6, P.4.

<sup>24</sup> KAACR and ECPAT International Report to Human Rights Council, 35<sup>th</sup> Session, Para. 9 and 10.

<sup>25</sup> Bah, M. Y., 2020, p. 3.

<sup>26</sup> Eugene Okumu interview with Grace Kirui of Terre des Hommes East Africa on Child Sex Predators Using Internet to Get New Victims in Kenya found at <https://www.standardmedia.co.ke> accessed on 23<sup>rd</sup> March 2024.

<sup>27</sup> National Action Plan for the Elimination of Child Labour 2024-2028, p. 3.

<sup>28</sup> United Nations Committee on the Rights of the Child, January 1996, 11<sup>th</sup> Session, p. 45.

<sup>29</sup> Article 2 of the CRC.

<sup>30</sup> Article 3 of the CRC.

states should undertake the protection of the child from all forms of sexual exploitation and sexual abuse by taking all appropriate national, bilateral and multilateral measures, to prevent: inducement or coercion of a child to engage in any unlawful sexual activity; the exploitative use of children in prostitution or other unlawful sexual practice and; the exploitative use of children in pornographic material.<sup>31</sup>

The Convention protect children against sexual exploitation because impedes children's optimum development, resulting in profound and long-term negative consequences for physical, emotional and psychological well-being of the children. Therefore, state to ensure that every to the maximum extent possible and survival and development of the children.<sup>32</sup>

Recognition of the scale and extent of sexual exploitation of children and the need for legislation accelerated in 1990s two events: the appointment by the commission on human rights of the special rapporteur on the sale of children, child prostitution and the child pornography 1990 and; the Commission's adoption of a programme of Action in 1992.<sup>33</sup> These two events gave global visibility, reaffirming the human-based goal of universal protection of children from all forms of sexual exploitation.<sup>34</sup>

In the year 2000 the optional protocol to CRC on the sale of children, child prostitution and child pornography was adopted because of the increase in child sexual exploitation. The Optional Protocol requires prohibition of sale of children, child prostitution and child Pornography and asks the member states to criminalize all these forms exploitation. This Optional Protocol has enforcement mechanism to make sure the member states are implanting the articles of the convention and if the rights of the child stipulated under are infringed the perpetrators are taken to account.

#### **2.2.1.2 Declaration and Agenda for Action arising from World Congress against Commercial Sexual Exploitation of Children (1996)**

It is also referred to as The Stockholm Declaration and Agenda Action. It is the first World Congress against Commercial Sexual Exploitation of Children. Commercial exploitation of children is violation of children's rights<sup>35</sup> and poverty cannot be used as justification for the commercial sexual exploitation of children.<sup>36</sup> Although laws, policies and programmes exist to counter the commercial sexual exploitation of children, greater political will, effective implementation measures, and adequate allocation of resources are needed to give effect to spirit of these laws, policies and programmes.<sup>37</sup> These Declaration and Agenda Action has exhilarated member states to UN to focus on prevent, protect and recover children from sexual exploitation.

<sup>31</sup> Article 34 of the CRC.

<sup>32</sup> Article 6 of the CRC

<sup>33</sup> Thematic Paper no. 2 on Legal Frameworks for Combating Sexual Exploitation of Children found at <https://www.ohchr.org> accessed on 14<sup>th</sup> April 2024.

<sup>34</sup> Ibid.

<sup>35</sup> Para. 5 of the Stockholm Declaration and Agenda Action.

<sup>36</sup> Para. 6 of the Stockholm Declaration and Agenda Action.

<sup>37</sup> Para. 10 of the Stockholm Declaration and Agenda Action.

### **2.2.1.3 African Charter on the Rights and Welfare of the Child (2000) ACRWC**

The charter protects the children from sexual exploitation.<sup>38</sup> The children should be protected from any forms of sexual exploitation and sexual abuse and states member to take measures to prevent: Inducement, coercion or encouragement of a child to engage sexual activity; and the use of children in prostitution or other sexual practices.<sup>39</sup> Kenya being member state to the charter has to take all measure to avoid all forms of children sexual exploitation.

### **2.2.1.3 Child Participation Guidelines**

The main purpose of the guidelines is to improve awareness of the right to children to be included and to be heard in all matters affecting them.<sup>40</sup> The guidelines are guided with the principle of non-discrimination, best interest of the child, principal of life, survival and development, and child participation.<sup>41</sup> The guidelines insist on state parties to make sure, they take measures to protect alleged victims of the violations of the rights of the child during or after the mission against threats, harassment, or any other form of intimidation related to investigations.<sup>42</sup> The state parties have to use available procedures: administrative, judicial and other mechanism to keep children informed on their efforts to remedy the violation.<sup>43</sup>

### **2.2.2 National Standards**

Kenya has come up with different laws and policies to combat sexual exploitation of children including being sexual exploited by tourists and promotes protecting of children against any harm.

#### **2.2.2.1 Constitution of Kenya, 2010**

The Constitution stipulates that every child should be protected from abuse, neglect, harmful cultural practices, all forms of violence, inhuman treatment and punishment, and hazardous or exploitative labour.<sup>44</sup> The constitution further explains that parental care and protection, which includes equal responsibility of the mother and father to provide for the child, whether they are married to each other or not.<sup>45</sup> The very important the constitution states clearly that the Child's best interest is of greatest importance in any matter concerning the child.<sup>46</sup>

#### **2.2.2.2 Penal Code CAP 63 [Revised Edition 2012]**

The Penal code states that the children under the age of eight years are not criminally responsible for any act or omission, and those between the ages of eight and eleven are not criminal responsible for an act or omission, unless it is proved that at the time of doing the act or making the omission they had the capacity to know that they were not supposed to do or not to omit. The same section outlines that the male child of under the age of twelve years is incapable

<sup>38</sup> Article 27 of the ACRWC.

<sup>39</sup> Article 27 (a) and (b) of the ACRWC.

<sup>40</sup> Guideline on Child Participation, African Committee of Experts on the Rights and Welfare of the Child, 2022, P. 7.

<sup>41</sup> Guideline on Child Participation, P. 10-11.

<sup>42</sup> Guideline on Child Participation, Principle 70, p. 24.

<sup>43</sup> Guideline on Child Participation, Principle 74 and 89, p. 25.

<sup>44</sup> Article 53 (1)(d) of the 2010 Constitution.

<sup>45</sup> Article 53(1)(e) of the 2010 Constitution.

<sup>46</sup> Article 53 (2) of the 2010 Constitution.

of having carnal knowledge.<sup>47</sup> The Penal Code excludes children against criminal liability which indirectly influences the cases of sexual exploitation of children; it has not pronounced itself on the children between the ages of thirteen to seventeen.

A male or female person living directly or indirectly on the earnings of the activities of prostitution is guilty of a felony.<sup>48</sup> These two sections protect children being sexually exploited by tourists for children's parents and relatives and those all who are involved to get commercial gains.

Any person who conspires with another to fraudulently have unlawful carnal knowledge is guilty of a felony and is liable to imprisonment for three years.<sup>49</sup> Those individuals who help the children to get tourists for carnal knowledge with the tourist and those who connects tourists to children in order to engage in sexual activities are criminal liable for a felony.

The detention of females in brothels or any premises for the purpose of having sex with them is guilty of a felony.<sup>50</sup> The person shall be deemed detained if is compelled to be in the premises of brothel with intention of having unlawful sexual connection.<sup>51</sup> This section protects any female person including female children being held in a building for sexual exploitation.

If there is reasonable suspicions that a person has been detained for the purpose for immoral purposes of unlawful sexual activities, and if the person is under the age of sixteen years and the ages of sixteen and eighteen against his/her will or the will of parents; the magistrate shall give a warrant to order for the search of the detained person. The section allows the authority to search for the child who has been detained for sexual abuse.

The suspension of any building partly or whole of it being used for prostitution, the warrant of arrest should be issued authorizing the police officers to search and arrest the owner.<sup>52</sup> Any person who owns, manages, leases, occupies or an agent knowing that the building is used as a brothel is guilty of a felony.<sup>53</sup> The section is against for any type of building that is used for the purpose of sexual activities including sexual activities against children is a criminal offence.

#### **2.2.2.3 Sexual Offence Act No. 3 of 2006 [R.E 2012]**

The Act outlaws anyone from organizing travel arrangements for a person who intends to commit any sexual offence against a child (regardless of whether the offence is committed), any one from printing or publishing any information intended to promote or facilitate a sexual offence against a child, and anyone from facilitating contact with a person the auspices of promoting tourism in order to

<sup>47</sup> Section 14 of the Penal Code Act.

<sup>48</sup> Sections 153 and 154 of the Penal Code Act.

<sup>49</sup> Section 157 of the Penal Code Act.

<sup>50</sup> Section 151(1) of the Penal Code Act.

<sup>51</sup> Section 151(2) of the Penal Code Act.

<sup>52</sup> Section 155 of the Penal Code Act.

<sup>53</sup> Section 156 of the Penal Code Act.

promote a sexual offence against a child.<sup>54</sup> This section criminalises any person who travels within Kenya or from other country for the purpose of having sexual activities with a child; and if found that has committed this crime will be convicted to imprisonment for minimum term of ten years.<sup>55</sup> If it is the person is juristic person involve in child tourism will be fined with minimum of two million shillings.<sup>56</sup> It doesn't matter if you are a natural person or juristic person the law does not allow any person to be involved in child tourism.

If a person knowingly permits any child in any premises for such a child to be sexually abused or perform any sexual activities; or procure a child for the purpose of any sexual activities; or induce a person to a client of the child to involve in sexual activities; or use the influence over the child to procure sexual intercourse with the child; or threatens to use the violence towards the child so that to have sexual activity with the child; or internationally or knowingly leases, manages, occupies or controls commission any offence sexual activities with the child and; gives money, goods, other benefits to a child or parents so that to procure the child for sexual activities will be convicted to imprisonment for the minimum of ten years.<sup>57</sup> Any person who is involved and benefit from the child involved in sell of sexual activities commits a crime of child commercial sex and will be imprisoned for the minimum of ten years.

#### **2.2.2.4 Children Act CAP 141**

The Act stipulates the rights of children and parental responsibility. On any matters concerning children the Act prevails if there is inconsistency with other legislation,<sup>58</sup> but legislation may prevail if it offers a greater benefit in law to a child.<sup>59</sup> Although, the main law that protects the child is the Children Act, it allows any other law to prevail if it gives better option for the benefit of the child.

The child should have the right to life, survival, wellbeing, protection and development<sup>60</sup> and all in these the best interests of the child should be the primary consideration.<sup>61</sup> Although, the reason for engaging in sexual activities by minors is for their survival, it is not the best interest of the child. Therefore, is not a defence for the tourist to engage in sexual activities with children in exchange to providing them economic favours.

#### **2.2.2.5 Employment Act CAP 226 [Revised Edition 2012]**

The Act prohibit any person to employ a child in any activity which amount to worst form of labour,<sup>62</sup> and person who uses the child worst labour commits child labour and liable for the fine not exceeding two hundred shillings or imprisonment for a term exceeding twelve month or both.<sup>63</sup>

<sup>54</sup> Section 14 of the Sexual Offences Act.

<sup>55</sup> Section 14 of the Sexual Offence Act.

<sup>56</sup> Section 14 of the Sexual Offence Act.

<sup>57</sup> Section 15 of the Sexual Offence Act.

<sup>58</sup> Section 4(1) of the Children Act.

<sup>59</sup> Section 4(2) of the Children Act.

<sup>60</sup> Section 6(1) of the Children Act.

<sup>61</sup> Section 8(1) of the Children Act.

<sup>62</sup> Section 53 of Employment Act.

<sup>63</sup> Section 64 of Employment Act.

Sexual abuse of children by Tourist to earn the children and parents to have money is the worst form of labour.

#### **2.2.2.6 Counter Trafficking in Person Act No. 8 of 2010 [Revised Edition 2012]**

The Act defines trafficking for sexual exploitation the offence will be subjected to Sexual Offences Act.<sup>64</sup> the Act lists the offence of trafficking in person to include: threat or use of force or other forms of coercion; abduction; fraud; deception; abuse of power or of position of vulnerability; giving payments or benefits to obtain the consent of the victim of trafficking in person; or giving or receiving payments or benefits to obtain the consent of person having control over another person.<sup>65</sup> The Act protects children to be trafficked in person within or outside Kenya for the purpose of sexual exploitation.

#### **2.2.2.7 National Guidelines on the Management of Sexual Violence in Kenya 2014, 3<sup>rd</sup> Edition**

The guidelines outlines that medical management of sexual violence survivors is essential in mitigating against unfavorable effects of violence; and aims to manage any life threatening injuries and reduce possibilities of the victim to contract sexually related infections and pregnancy.<sup>66</sup> The child who is sexually abused should be approached in manner to: ensure privacy, with extreme sensitivity, report the incidence, establish child's development level to understand limitations, he/she knows why she has to see medics, child to narrate the what happened, examine the child, if there is discomfort examination should stop and consideration for interviewing care giver.<sup>67</sup> The victims of sexual abuse should receive guide and counseling, matter to be reported to the police and the rights of victim to be respected.<sup>68</sup>

#### **2.2.2.8 National Plan of Action on Children, 2008-2012**

The Action plan recognize Sexual Offence Act in protecting children against sexual exploitation, but it insist that there should be increased coordination and resource allocation to enable actors to provide witness protection, raise awareness of sexual Offence Act and improve investigative and prosecutorial capacity.<sup>69</sup> The awareness of sexual abuse should be carried all parts in Kenya especially to those families that are vulnerable tourists who are looking to have sex with children.

#### **2.2.2.9 National Children Policy 2010**

The policy acknowledges that children are vulnerable for sexual exploitation and the protection should be provided through: enforcing of legislations on child abuse and exploitation; programmes and life skills for vulnerable children of commercial sex workers; provision of child protection systems to receive and respond to cases of child sexual abuse; and establishment of temporary shelters for

<sup>64</sup> Section 2 Counter Traffic in Person Act.

<sup>65</sup> Section 3 Counter Traffic in Person Act.

<sup>66</sup> National Guidelines on Management of Sexual Violence in Kenya, 3<sup>rd</sup> Edition, 2024, p. 2.

<sup>67</sup> National Guidelines on Management of Sexual Violence in Kenya, 3<sup>rd</sup> Edition, 2024, p. 6-18.

<sup>68</sup> National Guidelines on Management of Sexual Violence in Kenya, 3<sup>rd</sup> Edition, 2024, p. 20-27.

<sup>69</sup> National Plan Action for Children 2015-2022, p. 27-28.

children who have sexually abused.<sup>70</sup> The policy express that children are vulnerable for sexual abuse and gives hints the government how they should help the children that are sexually abused.

#### **2.2.2.10 National Plan Action for Elimination of Child Labour 2024-2028**

To the plan all persons of the age under 18 years are children and a young person is the person under 16 years.<sup>71</sup> The plan categories sexual abuse as the hazardous work because of its nature or circumstances is carried is likely to jeopardise the health, safety or morals of children.<sup>72</sup> The National Plan Action, categories sexual abuse of the child in the worst group of child labour.

#### **2.2.2.11 National Plan of Action Against Sexual Exploitation of Children 2015-2022**

The national plan of Action against sexual exploitation of children in Kenya is to prevent, protect, recover and reintegrate, coordinate and cooperate and lastly participation of children.

To prevent there are: 24 hours child help line 116 which is free to call; juvenile courts; police station have children protection Units; progressive gazettlement of children magistrate courts; cash transfer to orphans and vulnerable children by the government and awareness raising, sensitizations and capacity building.<sup>73</sup>

Protection is achieved by enforcement of the laws enacted; creating safe havens for the victims of child sexual abuse; protecting children in juvenile justice system and; training law enforcers on relevant sexual abuse laws and handling of evidence of the victims.<sup>74</sup>

Recovery and reintegration is achieved by provision of social, medical and psychological counseling; provision of legal aid assistance and judicial remedies to victims; provision of an alternative sources of livelihood and; vocational and life skills.<sup>75</sup>

Coordination and cooperation entails developing a multi-stakeholder coordination, monitoring and documentation system and; the national council for children's services has members from government, civil societies' organisations and private sector.<sup>76</sup>

Child participation is achieved by having child rights clubs in schools; children assembly and; weekly publication in the newspaper column with the title 'Children and the Law' to inform children their rights in a child friendly manner.<sup>77</sup>

<sup>70</sup> Kenya National Children Policy 2010, p. 13.

<sup>71</sup> National Action Plan for Elimination of Child Labour, p. IX.

<sup>72</sup> National Action Plan for Elimination of Child Labour, p. IX.

<sup>73</sup> Nzioka, M. J., Sexual Exploitation of Children in Travel and Tourism (SECTT): A Kenyan Case, Presentation during the 32<sup>nd</sup> Meeting of the UNWTO World Tourism Network on Child Protection during ITB, Berlin, 9<sup>th</sup> March 2017.

<sup>74</sup> Nzioka, M. J., Berlin, 9<sup>th</sup> March 2017.

<sup>75</sup> Nzioka, M. J., Berlin, 9<sup>th</sup> March 2017.

<sup>76</sup> Nzioka, M. J., Berlin, 9<sup>th</sup> March 2017.

<sup>77</sup> Nzioka, M. J., Berlin, 9<sup>th</sup> March 2017.

#### **2.2.2.12 The Framework for National Child Protection System in Kenya**

Child protection system is a set of laws, policies, regulations and services capacities, monitoring, and oversight needed across all social sectors, especially, social welfare, education, health, security, and justice to prevent and respond to protection related risks.<sup>78</sup>

The government to be able to protect the children, several government ministries and departments in relation with non-government organization work together with the aim of making sure children are protected. The following are stake holder to ensure a child is not involved in the sex tourist industry and his/her right is violated because of his/her gender:

Ministry of Gender, Children and social development; National Council for Children's services; County governments; District Area Advisory Council (AACs); Division and Location Area Advisory Councils; Ministry of Home Affairs; Ministry of Education; Ministry of Local Government; Ministry of Medical Services; Ministry for Public Health and Sanitation; Ministry of Finance; Ministry of Labour(Division of Child Labour); Ministry of State for Provincial Administration and Security; Attorney General; Director of Public Prosecution; Ministry for Planning, National development and Vision 2030; Ministry of state for Special programmes; Ministry of Justice National Cohesion and Constitutional Affairs; Kenya national Human Rights and Equality Commission; Judiciary and; Stakeholders with Complementary Roles. All these stakeholders have the mandate to make sure the interest of the child is protected and not to face any GBV.

### **2.3 Published Data Showing Children Being Sexually Abused by Tourists**

There are different kinds of children that are vulnerable to sexual exploitation by tourists. The reports from different institutions and media that entail the perpetrators that sexually abused the children were tourist.

The government of Kenya through Ministry of Tourism and Information for the first time in 2003 publically admitted that children are being sexually exploited in tourism sector.<sup>79</sup> The article published by the Guardian on topic Kenyan Calls for help in Fight against Rising Sexual Abuse by Foreigners; explains how wide spread trust in white outsiders make children an easy target to abusers from the west.<sup>80</sup> The same information was expressed by Kenya Film Classification Board (KFCB) expressing their concern over increase in sex tourism and child prostitution in the coastal region.<sup>81</sup> The tourism industry has been more than seeing animal and white sand beach to the sexually exploiting children.

<sup>78</sup> <https://www.socialserviceworkforce.org> accessed on 18<sup>th</sup> Dec 2024.

<sup>79</sup> UNICEF and Kenyan Government Report: The Extent and Effect of Sex Tourism and Sexual Exploitation of Children on Kenyan Coast, 2008.

<sup>80</sup> <https://www.theguardian.com> accessed on 23<sup>rd</sup> March 2024.

<sup>81</sup> Bonventure Kikoo, KFCB Costal Regional Manager on KFCB fight of Sex Tourism and Child Prostitution found at <https://www.kenyanews.go.ke> accessed on 23<sup>rd</sup> March 2024.

National Plan of Action for Children in Kenya 2015-2022 acknowledges that there is major concern especially in the tourism industry in urban areas in trafficking and sexual exploitation of children.<sup>82</sup> The claim that National Child Help line in 2011 received 46 reports of child trafficking and 19 concerning child prostitution.<sup>83</sup> This is the manifestation of children being exploited sexually and the victims try to seek help.

The Universal Periodic Review of Kenya Submitted to the Human Rights Council in 35<sup>th</sup> Session in 2020<sup>84</sup> revealed that sexual exploitation of children by travel and tourism is a growing problem in Kenya. The report explain to arrest the perpetrators because middleman/woman, use of private villas and reluctant law enforcement and lengthy judicial proceedings. The report gives the reason for tourists are able to get the children to exploit them is because of their vulnerability and the children are not protected.

Lilian Muendo<sup>85</sup> discusses how parents sell children as Kenya's sex tourism normalizes exploitation. Lilian explains how retired tourists, who are attracted to Kenyan cost because of its reputation of heaven of sex tourism, especially with children. She explains that Kenya is growing rapidly for under age commercial sex. Commercial sex including of children is seen as acceptable means of earning in the coastal of Kenya. To parents and relatives, a child with a white tourist as girlfriend or boyfriend is the fastest way to get the family out of poverty; therefore young girls and boys are encouraged by their families to look for tourists who will cater for their family needs.<sup>86</sup> Lilian enlightens that tourist main reason to travel at coastal Kenya is not white sand beaches but to have access to sexual activities with children because of the economic disparity, poor families they do not care about the legal consequences of pushing the children into commercial sex, because they want their children to involve in sexual activities with tourist to get money or to get out of poverty.

British Broadcasting Corporation (BBC) on 15<sup>th</sup> May 20214, reported that Kenya's Coast town of Malindi may look like a tropical paradise but it is a host to a child sex trade and; these children who are as young as twelve (12) years are lured into selling of sex and pornography by tourists, who are willing to pay wholesomely for sex in secret locations.<sup>87</sup> The news reporter of BBC who interviewed some of the children who were under the age of eighteen (18) years admitted selling sex to tourist; while most of the tourists come from Italy and they range from the age of fifty (50) years to the age of eighty (80) years.<sup>88</sup>

<sup>82</sup> National Plan Action for Children in Kenya 2015-2022, p. 27.

<sup>83</sup> Ibid.

<sup>84</sup> Kenya Alliance for Advancement of Children (KAACR) and ECPAT International, Univeral Periodic review of the Human Rights Situation in Kenya: Sexual Exploitation of Children in Kenya, 2019.

<sup>85</sup> Lilian Muendo is a contributor to Global Sisters Report, A Project of National Catholic Reporters, and 1st March 2018. Found at <https://www.globalsistersreport.org> accessed on 23<sup>rd</sup> March 2024.

<sup>86</sup> Lilian Muendo.

<sup>87</sup> <https://www.bbc.com> accessed on 20<sup>th</sup> December 2024.

<sup>88</sup> <https://www.bbc.com> accessed on 20<sup>th</sup> December 2024.

On other expose by BBC African Eye Investigation on 3<sup>rd</sup> August 2025, they revealed how girls young as 13 years are being trafficked for sex in Kenya in transit town of Maai mahiu in the Kenya's Rift Valley by trucks and Lorries transporting goods and people across Kenya into Uganda, Rwanda, South Sudan and, the Democratic Republic of Congo.<sup>89</sup> Malemba Mkongo reports how United States citizen Gregory Dow sentenced to 15 years in prison after he was found guilty of sexually abusing young girl at an orphanage in Bomet. Gregory pleaded guilty in the United State to four counts of engaging in illicit sexual conduct with minor.<sup>90</sup> The orphanage Dow worked was partly funded by churches in Lancaster County in Pennsylvania. Dow was prosecuted in United State because he run to United State from Kenya after the allegation of surfaced.

## 2.4 Reasons why Child Sex Tourism is a Gender-Based Violence Issue

Sexual and gender-based violence is a human rights violation and refers to any act the perpetrated against a person's will based on their gender norms and unequal power relationship.<sup>91</sup> Will do not legally need from a child because a child cannot make consent. The intersection of violence and gender matters in tourism, with violence being both cause and consequence of gender inequality.<sup>92</sup> The tourists have more power than children, thus tourists engaging in sex activities with children is gender-based violence.

Sex tourism is connected to gender-based violence. As discussed above sex tourism is where individual travel to engage in sex activities with children. On the side of gender-based violence is the violence that is committed against someone based on their gender identity, gender expression or perceived gender; that has many forms of violence, which includes Physical, sexual, emotional and psychological economic and educational, coercion and threats. Child sex tourism is sexual exploitation.

Sexual violence is a form of gender-based violence and encompasses any sexual act, attempt to obtain sexual act, unwanted sexual comments or advances directed against a person sexuality using coercion, by a person regardless, of their relationship to victim, in any setting.<sup>93</sup> Sexual exploitation is one of the sexual violence. Sexual exploitation as a reflection of gender-based violence is often the consequence of harmful gender stereotypes and power imbalances that position children as inferior or subordinates in society.<sup>94</sup> Any sexual exploitation of the child is one of the forms of gender based violence. Thus, tourism with the purpose to have sex with children is gender-based violence.

<sup>89</sup> <https://www.bbc.com> accessed on 22<sup>nd</sup> August 2025.

<sup>90</sup> <https://www.the-star.co.ke> accessed on 23<sup>rd</sup> March 2024.

<sup>91</sup> <https://eea.iom.int> accessed on 11<sup>th</sup> April 2024.

<sup>92</sup> Eger, C., (2021) Gender Matters: rethinking Violence in Tourism, Annals of Tourism research, Vol. 88, p. 1.

<sup>93</sup> The United Nations Human Rights, The Office of High Commissioner, Sexual and Gender-based Violence in the Context of Transitional Justice found at <https://www.ohchr.org> accessed on 11<sup>th</sup> April 2024.

<sup>94</sup> <https://www.ecpat.org> accessed on 11<sup>th</sup> April 2024.

When children are involved in sexual activities are physical abused. Put in mind the children have not developed enough to engage in sexual activities; and they end up involved in sexual activities with tourists who are mature individuals. Which in common man sense they will be physical injured. According to research done, it shows that victims and survivors of child sexual abuse may have poor physical health than those who have not been abused.<sup>95</sup> Children if they are sexual abused they sustain physical injuries during sex and some end up contacting sexual transmitted diseases.<sup>96</sup>

Children who are sexually abused by tourists end up having problems with their mental health and emotional wellbeing. Impacts on mental health and wellbeing are regularly reported by victims and survivors of sexual abuse, which include: depression and anxiety disorders; coping response during after the abuse; and others end up having psychiatric disorder in long term.<sup>97</sup>

The physical and psychological effect of sexual abuse can be long term and short term. When the child is sexual abused develop fear that cause children getting in trouble, being shamed or judged, loose love, being threatened by the abuser and break up with the families. The sexual abused children are at a risk of becoming abusers themselves in future;<sup>98</sup> where the gender-based violence will continue evolving in the society.

Sex tourism should be seen as a legitimate leisure industry, in one which women and children are literally Men's leisure.<sup>99</sup> The victims of sexual violence are usually gender biased targeted because gender plays a key role in the extent and nature of violence perpetuated against children.<sup>100</sup> The extents of violence they get exhibit how the sexual violence is gender-based matter.

### 3. Conclusion

Despite Kenya's robust legal framework against child sexual exploitation, weak enforcement, economic desperation, and digital access continue to expose children to abuse by tourists. The study reinforces the need for coordinated stakeholder action, including strict prosecution, public awareness, and policy adaptation for online abuse. The framing of sex tourism as gender-based violence demands urgent attention in legal and ethical discourse to safeguard the dignity and future of affected children.

<sup>95</sup> Fisher, C., et al (2017), The Impacts of Child Sexual Abuse: A Rapid Evidence Assessment, Independent Inquiry into Child Sexual Abuse Research Team, July 2017.

<sup>96</sup> Velasquez , O., et al (2012) Children Referred for Possible Sexual Abuse: Medical Findings 2384 Children, P.75 found at <https://pubmed.ncbi.nlm.nih.gov> accessed on 11<sup>th</sup> April 2024.

<sup>97</sup> <https://www.csacentre.org.uk> accessed on 11<sup>th</sup> April 2024.

<sup>98</sup> <https://www.healthyplace.com> accessed on 11<sup>th</sup> April 2024.

<sup>99</sup> Jeffreys, S., (2010) Globalizing Sexual Exploitation: Sex Tourism and Traffick in Women, Routledge Publishers, p.6

<sup>100</sup> Samanyia, S., et al., (2016) A Study on Violence Against Children with Social Focus on Sexual Exploitation and Child Sex Tourism in Ghana, pp. 19-20.

## References

### International Human Rights Instruments

- [1] The United Nations Convention on the Rights Child (CRC), 1989
- [2] Declaration and Agenda for Action arising from World Congress against Commercial Sexual Exploitation of Children, 1996
- [3] African Charter on the Rights and Welfare of the Child (ACRWC), 2000
- [4] Guideline on Child Participation, African Committee of Experts on the Rights and Welfare of the Child, 2022

### Domestic Laws

- [5] Children Act CAP 141
- [6] Constitution of Kenya, 2010
- [7] Counter Trafficking in Person Act No. 8 of 2010 [Revised Edition 2012]
- [8] Employment Act CAP 226 [Revised Edition 2012]
- [9] Penal Code CAP 63 [Revised Edition 2012]
- [10] Sexual Offence Act No. 3 of 2006 [R.E 2012]

### Guidelines and National Action Plan

- [11] National Children Policy 2010
- [12] National Guidelines on the Management of Sexual Violence in Kenya 2014, 3<sup>rd</sup> Edition
- [13] National Plan Action for Elimination of Child Labour 2024-2028
- [14] National Plan of Action Against Sexual Exploitation of Children 2015-2022
- [15] National Plan of Action on Children, 2008-2012
- [16] The Framework for National Child Protection System in Kenya, 2011

### Reports

- [17] Committee on United Nations Convention on the Rights of the Child, Guidelines Regarding the Implementation of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, Comment
- [18] Determinants of Child, Sex Exploitation by Tourists in Kenya: A Case Study of Mombasa North Coast, Search done by: Technical University of Kenya-Department of Business and Management Studies; Kisii University-School of Business and Economics, Department of Tourism and Hospitality; Chuka University-School of Natural Resource Management, Department of Wild Life Management
- [19] Fact Sheet, Office to Monitor and Combat Trafficking in Person, Washington DC, August 19<sup>th</sup> 2005
- [20] Fisher, C., et al (2017), The Impacts of Child Sexual Abuse: A Rapid Evidence Assessment, Independent Inquiry into Child Sexual Abuse Research Team, July 2017
- [21] Kenya Alliance for Advancement of Children (KAACR) and ECPAT International, Universal Periodic review of the Human Rights Situation in Kenya: Sexual Exploitation of Children in Kenya, 2019

- [22] Lilian Muendo is a contributor to Global Sisters Report, A Project of National Catholic Reporters, 1<sup>st</sup> March 2018
- [23] Naik, A., Protecting Children from Sexual Exploitation and Sexual Violence in Disaster and Emergency Situations, ECPAT International
- [24] Nzioka, M. J., Sexual Exploitation of Children in Travel and Tourism (SECTT): A Kenyan Case, Presentation during the 32<sup>nd</sup> Meeting of the UNWTO World Tourism Network on Child Protection During ITB, Berlin, 9<sup>th</sup> March 2017
- [25] OHCHR, Report on Fact-finding Mission to Kenya, February 2008
- [26] The United Nations Human Rights, The Office of High Commissioner, Sexual and Gender-based Violence in the Context of Transitional Justice
- [27] The Universal Periodic Review of the Human Rights Situation in Kenya: Sexual Exploitation of Children in Kenya, Submitted by Kenya Alliance for Advancement of Children (KAACR) and ECPAT International, to Human Rights Council, 35<sup>th</sup> Session, 2020, Para. 8.
- [28] Thematic Paper no. 2 on Legal Frameworks for Combating Sexual Exploitation of Children, EPACT International, 2015
- [29] UNICEF and Kenyan Government Report: The Extent and Effect of Sex Tourism and Sexual Exploitation of Children on Kenyan Coast, 2008.
- [30] United Nations Committee on the Rights of the Child, January 1996, 11<sup>th</sup> Session
- [31] United Nations Office on Drugs and Crime, Regional Office of Southeast Asia and the Pacific, Project Childhood, Thailand, (2014), Child Sexual Exploitation in Travel and Tourism: An Analysis of Domestic Legal Framework, Sponsored by Government of Australia
- [32] Velasquez, O., et al (2012) Children Referred for Possible Sexual Abuse: Medical Findings 2384 Children

**Books**

- [33] Cooter, A. and Savage, L., (2019), Gender-based Violence and Unwanted Sexual Behaviour in Canada: Initial Findings from Survey of safety Public and Private Space, Statistics Canada
- [34] Gerdes, L. and Willis, B., Human Trafficking: Child Sex Tourism, Collage of Social Work, The Ohio State University, (2006)
- [35] Jeffreys, S., (2010) Globalizing Sexual Exploitation: Sex Tourism and Traffick in Women, Routledge Publishers
- [36] Otieno, W. A., Global Study on Sexual Exploitation of Children in Travel and Tourism in Kenya, Utah University, 2015
- [37] Samanhya, S., et al., (2016) A Study on Violence Against Children with Social Focus on Sexual Exploitation and Child Sex Tourism in Ghana
- [38] Wallace, N. L., (2020), Encyclopedia of Criminal Activities and Deep Web

**Journals**

- [39] Bah, M. Y., *Causes of Child Tourism Systematic Literature Review*, International Journal of Cases Studies in Clinical Research, 2020, Vol. 4, Issue 1
- [40] Bah, Y. M., *Causes of Child Sex Tourism*, Global Journal of Sociology Current Issues, 2021, Volume 11, Issue. 1
- [41] Bhadra, S., *Exploring Dimention of Sexual Issues in Disasters and Conflicts: Need to Bridge the Gaps between Policy and Practice*, Sexologies Journal, 2022, Vol. 32, Issue 3, Pages 277-290
- [42] Eger, C., *Gender Matters: rethinking Violence in Tourism*, Annals of Tourism research, 2021, Vol. 88
- [43] Mekinc, J. and Music, K., *Sexual Exploitation of Children in the Tourism- The Dark Side of Tourism*, Innovative Issues and Approaches in Social Science, 2015, Vol. 8, No. 2
- [44] Raven, W., *Treating the International Child Sex Tourism Industry as A Crime Against Humanity*, Southwestern Journal of International Law, 2009, Vol. 24

**Internet**

- [45] <https://mafrome.org/when-tourism-trivializes-sexual-exploitation-children-tourist-kenya> accessed 23<sup>rd</sup> March 2024
- [46] [www.state.gov](http://www.state.gov) accessed on 23<sup>rd</sup> March 2024
- [47] <https://www.standardmedia.co.ke> accessed on 23<sup>rd</sup> March 2024
- [48] <https://www.globalsistersreport.org> accessed on 23<sup>rd</sup> March 2024
- [49] <https://www.the-star.co.ke> accessed on 23<sup>rd</sup> March 2024
- [50] <https://www.researchgate.net> accessed on 21/3/2024
- [51] <https://www.ohchr.org> accessed on 14<sup>th</sup> April 2024
- [52] <https://www.researchgate.net> accessed on 2<sup>nd</sup> April 2024
- [53] <https://nation.africa> accessed on 11<sup>th</sup> April 2024
- [54] <https://eea.iom.int> accessed on 11<sup>th</sup> April 2024
- [55] <https://www.ohchr.org> accessed on 11<sup>th</sup> April 2024
- [56] <https://www.ecpat.org> accessed on 11<sup>th</sup> April 2024
- [57] <https://pubmed.ncbi.nlm.nih.gov> accessed on 11<sup>th</sup> April 2024
- [58] <https://www.csacentre.org.uk> accessed on 11<sup>th</sup> April 2024
- [59] <https://www.healthyplace.com> accessed on 11<sup>th</sup> April 2024
- [60] <https://www.bbc.com> accessed on 20<sup>th</sup> December 2024