



protecting children everywhere

# Child Sex Tourism in Kenya

## 1. Background

Child sex tourism in Kenya is officially acknowledged as a problem requiring greater awareness raising, implementation of new legislation and a coordinated effort to protect and promote the rights of children. Although there is little data to verify the true scale of the problem, children are clearly vulnerable to such abuse given the levels of poverty and the large numbers of AIDS orphans and street children. Children in the sex industry are also often targets of sex tourists. UNICEF estimates that some 30,000 Kenyan children are being exploited in the sex industry and that this figure is likely to be an underestimation due to the lack of monitoring and the social stigma inhibiting children from reporting abuses.

The ways in which children become exposed to sex tourism are numerous. Research suggests that one of the ways that child sex tourists seek out children is under the guise of domestic workers in their private residences. Reportedly, this is practised in Mombassa, Ukunda, Malindi and Nairobi. On the beach resorts of Mombassa, both boys and girls appear to be sexually abused by male and female sex tourists. In some locations, there are suspicions that hotel staff brings children into hotels for abuse by sex tourists. Children also frequent the beach and resorts catering for foreigners in order to make some money. This places them at risk from sex offenders as well as intermediaries who search for children to lure into the sex tourism industry.

### Kenyan Legislation

Kenya ratified the Convention on the Rights of the Child on 30 July 1990 and also signed the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. In order to bring its legislation in conformity with international obligations, Parliament enacted the Children's Act in 2002, which defines a child as anyone who is under the age of 18 and provides protection from sexual exploitation, including prostitution and pornography. It also includes provisions guaranteeing free basic education and the right to health care for children. Under the Children's Act the National Council for Children's Services and Children's Courts have also been established to promote and protect the best interests of the child.

Other legislation that protects children is the Criminal Law (Amendment) Act, which entered into force in July 2003 and harmonized the penalties for rape and defilement to the maximum sentence of life imprisonment. Attempted rape is punishable by life imprisonment and ignorance of the age of a female victim of rape is irrelevant in establishing criminal responsibility. Sexual age of consent for girls is set at 16 years with no minimum for boys, but the legal age for marriage is 18 years thus prohibiting child marriages. The Penal Code also contains offences against child sexual abuse and commercial sexual exploitation of children, including rape, attempted rape, abduction of girls, and child prostitution carrying sentences ranging from seven years to life imprisonment with hard labour. However, there is no specific anti-trafficking legislation although some provisions in the Penal Code can be used to prosecute traffickers.

### UK Legislation

While British tourists who commit sexual offences in Kenya can be prosecuted in that country, they can also be prosecuted in the UK for crimes committed while abroad. Under the UK Sexual Offences Act, 2003, article 72, persons can be prosecuted for a crime that is viewed as a criminal offence in both countries. Therefore, if tourists sexually abuse a child in Kenya, they can be tried in the UK as

both countries legislate against this offence. This Act is intended to cover crimes that may be committed by the traveller against either a travelling child companion or a child living in the country, but in which the crime is not detected until returning to the UK.

Additionally, the Sexual Offences (Conspiracy and Incitement) Act, 1996, allows for the prosecution of those who conspire to commit a sexual offence outside the UK, or incite someone else to commit the offence. Therefore if one person either helps or pushes another to commit the offence, they too can be prosecuted in the UK.

## 2. Who are the children and aspects of vulnerability?

Poor and unprotected Kenyan children are exposed to various kinds of commercial sexual and labour exploitation. Many of them are children from rural areas, children living in city slums, refugees and AIDS orphans left alone after the death of their parents. The myriad forms of exploitation detailed below are interlinked and continue to deny children their rights:

**Poverty and migration:** According to Government figures an estimated 15 million people are living in poverty in Kenya, i.e. some 52 percent of the population. This has led to many rural children, with or without their families, migrating to urban cities to seek better opportunities and employment. However, these families and children simply exchange the poverty of the rural areas with the poverty of the urban cities by living in overcrowded slums. Many of the children end up living on the streets.

**Street children:** Research suggests that some 250,000 children, including 60,000 in Nairobi are living on the streets and are extremely vulnerable to sexual abuse, including commercial sexual exploitation. NGOs report that, "an unprotected girl working on the streets will sooner or later end up working as a prostitute". In Nairobi children on the streets are from destitute families from slums, conflict areas and AIDS orphans. These children are often exchanging "sex for survival" in order to pay for food or a drug dependency formed as a result of their life on the streets. This situation is often mediated by older 'protectors' who exploit these children by pimping them to other street members, the public and sex tourists. According to the child right's organisation, ECPIC, part of the ECPAT International network, independent agents with multilingual skills facilitate contact between children and sex tourists in Mombassa's and Malindi's bars, nightclubs and discotheques.

**HIV/AIDS and the breakdown of family support:** An estimated 2.1 million adults and children live with HIV/AIDS in Kenya, which has the ninth highest HIV prevalence rate in the world. U.S. Census Bureau projections for 2005 indicated that there would be about 820 deaths per day from AIDS in Kenya and to date there are some 1.8 million AIDS orphans who are particularly vulnerable to sexual abuse because of the lack of parental oversight. In addition, they and other children are at increasing risk due to the prevalent belief that having sex with a young child reduces the possibility of HIV infection or, with an infant, cures the infection.

**Organised prostitution:** The rising number of AIDS orphans has contributed to the increase in children being sexually exploited in the sex industry. According to the International Labour Organization some 30,000 girls under the age of 19 years are engaged in prostitution in the country. This figure is believed to be an underestimation of the true extent of the problem.

### **Early marriage:**

Research indicates that most early marriage is forced upon young girls who are taken as second or third wives. These girls suffer from domestic violence and poverty because they are often abandoned once their husbands take another wife. Not enough is known about their condition, but they are clearly a highly exploited group that has little recourse to any assistance or care.

**Child labour:** Child labor is prevalent in Kenya, with an estimated 41.3 percent of children between 10 and 14 years of age being exploited for cheap labor. Children in domestic service, especially in residences catering or owned by expatriates are potentially at risk of sexual exploitation. Reportedly, in Malindi, some young girls working as domestic help have had child abusive images taken for distribution to people abroad.

**Trafficking:** The US State Department Trafficking Report (2005) details that children are being trafficked internally from rural to urban areas by individuals and criminal networks for the purpose of commercial sexual exploitation. Most of the traffickers lure children and their families with promises of employment and marriage. Children from Burundi and Rwanda are also trafficked to the country's coastal areas for exploitation in the sex tourism industry.

### **3. Who are the abusers?**

It is well recognised that local men and those from neighbouring countries sexually exploit Kenyan children, but sex tourists, both men and women, are also active in the country. Activists believe the rise in the sex tourism industry is the result of the weak application of the law and the corruption of some officials, which allows offenders to commit abuses against children with impunity.

The methods used by sex offenders to access children are varied, but often involve an intermediary, be it hotel staff, street pimps, parents and other family members, criminal networks and various intermediaries in the sex industry. The Ministry of Tourism has detected that there are also some coastal areas where tour operators act as guides and direct sex offenders to children or lure children to sex tourists. Street and beach children are also picked up directly by sex offenders.

Research documents that many of these offenders escape detection for a long time because they abuse boys and girls in private residences, particularly along the coastal areas of Mombassa. Sex tourists who abuse children for the first time are often offered the opportunity to do so through intermediaries working for the sex industry at bars and clubs. It appears that some brothels are being operated by women who also mediate in the exploitation of children by local or foreign child sex abusers.

The few cases of sex offenders who have been convicted abroad for abusing children in Kenya show that they are often in possession of child abusive images. These images are either produced by the offenders themselves or downloaded from the Internet, indicating what appears to be an organised sex tourism industry. Women are also implicated in the child abuse, but not enough is known about their role and how they access the children.

### **4. How is the travel industry involved?**

Since the 1970's the popularity of Kenya as a tourist destination has continued to rise, fuelled by the beach resorts and safari parks set up to attract such tourism. There were 1,361,000 visitors to Kenya in 2004 as compared to 969,000 in 1999; the majority coming from the United Kingdom, Germany, France, Switzerland and Italy.

The Government believes that the problem of sexual exploitation of boys has arisen due to a direct result of child sex offenders seeking to abuse boys. Apart from enacting new legislation to control the problem of child sexual abuse, the Ministry of Tourism and Wildlife has instituted a Beach Management Programme. Under this programme, the beach traders are organized into a Beach Operators Association, with about 6,000 members. This Association hopes to prevent the exploitation of children by rogue traders.

Since 2001 the Kenyan Government and Tourism Ministry have become more aware of the national issue of child sex tourism and set in motion initiatives to combat it. For example, the Mombassa and Coast Tourism Association carry out campaigns amongst member hotels and tour operators on the rights of the child. The Government is also undertaking a registration program for coastal guesthouses. A National Coalition on Child Rights and Child Protection exists under the Government's Children's Department with the aim of coordinating programmes to protect children at risk. However, NGOs feel that more needs to be done with regard to awareness raising, investigation and prosecution of sex offenders and that child protection services are not effective or coordinated enough to tackle the extent of the problem.

In 2005, as part of the implementation of the Code of Conduct, adopted by the Kenyan tourism industry, Government tourism ministries and NGOs, a series of awareness raising and training

seminars and workshops were organised by ECPIK and Respect (Austria). These trainings were provided to police, tourism and social welfare agencies along the coastal areas and highlighted the roles and responsibilities of various stakeholders in combating the exploitation of children.