

ASEAN Guidelines for
Provision of Protective and Support Services
for All Child Victims and Children
in Contact with the Law as a Result of
Online Child Sexual Exploitation and Abuse

2023



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Foreword

The ASEAN Guidelines for Provision of Protective and Support Services for All Child Victims and Children in Contact with the Law as a Result of Online Child Sexual Exploitation and Abuse are an important milestone towards increasing the prosperity, connectivity, resilience, and security of children of ASEAN Member States. Taken as a whole, the Guidelines form a framework in which development can take place.

The Guidelines are implementing activity 4.1.6. of the 2021 Regional Plan of Action for the Protection of Children from All Forms of Online Exploitation and Abuse in ASEAN which as developed to effectively implement the 2019 Declaration on the Protection of Children from all Forms of Online Exploitation and Abuse in ASEAN.

We anticipate that the Guidelines will be highly beneficial for ASEAN Member States when they develop new legislation or amend existing legislation which aims to enhance the protection of children online. We also expect that the Guidelines will serve as a reference point for the development of a comprehensive legal prevention and response framework across relevant legal areas.

ASEAN appreciates the technical assistance of the United Nations Children's Fund (UNICEF) East Asia and Pacific Regional Office and ECPAT International

which facilitated the process, in collaboration with a wide range of partners from national government agencies, international, regional and national research and academic institutions, nongovernmental organisations, and civil society groups. We are grateful, too, for the leadership, foresight and collaborative spirit of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) and Senior Officials Meeting on Social Welfare and Development (SOMSWD) Technical Working Group on Strengthening National Legal Standards, Integrated Survivor Support Services. We also thank the ASEAN Secretariat (ASEC) for their consistent support for, and input to, the process. Last but not least, we acknowledge that without the aspirations and leadership of the ministries of Member States, these Guidelines would never have come to fruition.

With such a wide-ranging group of contributors and supporters in both government, non-government and civil society, We are confident these Guidelines will assist in accelerating ASEAN-wide adoption of comprehensive legal frameworks enhancing the protection of children online and all the benefits that will follow.

ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC)

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In particular, we acknowledge the leadership of the focal points of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) and Senior Officials Meeting on Social Welfare and Development (SOMSWD) led Technical Working Group on Strengthening National Legal Standards, Integrated Survivor Support Services and Cross-Border Law Enforcement Collaboration who have been the driving force that has brought the Guidelines to realisation. Four Technical Working Group Meetings were held between September 2022 and June 2023 to develop the Guidelines.

The ASEAN Secretariat (ASEC) also deserve our gratitude for coordinating the partners' contributions to the Guidelines.

We would also like to thank the United Nations Children's Fund (UNICEF) East Asia and Pacific Regional Office and ECPAT International for their technical support in the development of these Guidelines.

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Acronyms

AMS	ASEAN Member States
ASEAN	Association of Southeast Asian Nations
ACWC	ASEAN Commission on the Promotion and Protection of the Rights of Women and Children
AMMSWD	ASEAN Ministerial Meeting on Social Welfare and Development
COP	Child Online Protection
CRC	UN Convention on the Rights of the Child
CSEA	Child Sexual Exploitation and Abuse
ECPAT	Every Child Protected Against Trafficking
ICCPR	International Covenant on Civil and Political Rights
ICTs	Information and Communication Technologies
MACR	Minimum Age of Criminal Responsibility
MHPSS	Mental Health and Psychosocial Support
NGO	Non-Governmental Organisation
OCSEA	Online Child Sexual Exploitation and Abuse
OPSC	UN Convention on the Rights of the Child Optional Protocol on the sale of children, child prostitution and child pornography
PEP	Post-exposure Prophylaxis
RPA	ASEAN Regional Plan of Action for the Protection of Children from All Forms of Online Exploitation and Abuse in ASEAN (2021)
SOMSWD	ASEAN Senior Officials Meeting on Social Welfare and Development
STIs	Sexually Transmitted Infections
UN	United Nations
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime

Definition of terms

It has to be noted that there are no internationally agreed upon definitions in the area of OCSEA. These Guidelines mainly rely on definitions set forth by ASEAN or by international human rights bodies.

Online Child Sexual Exploitation and Abuse (OCSEA)

is a form of sexual violence against children and the term is used to describe forms of online exploitation and abuse of a sexual nature carried out against a child that have, at some stage, a connection to the online environment. Representing a significant proportion of online violence against children, OCSEA includes any use of information and communication technologies (ICTs) that results in sexual exploitation or causes a child to be sexually exploited or that results in or causes images or other material documenting such sexual exploitation to be produced, bought, sold, possessed, distributed, or transmitted. OCSEA includes grooming, indecent images of children taken through coercion, threats, force, deception or persuasion or through peer-to-peer sharing, and use of children in audio or visual images of child abuse.¹

Children in conflict with the law as a result of OCSEA²

means children alleged as, accused of, or recognised as having infringed criminal laws relating to OCSEA.³

Child justice system

means the legislation, norms and standards, procedures, mechanisms and provisions specifically applicable to, and institutions and bodies set up to deal with, children considered as offenders.⁴

Child sexual exploitation and abuse

are sometimes used as interchangeable terms. However, what distinguishes the two concepts is the underlying notion of exchange present in cases of child sexual exploitation. Child sexual abuse includes: (a) Engaging in sexual activities with a child who, according to the relevant provisions of national law, has not reached the legal age for sexual activities (this does not apply to consensual sexual activities between minors), and (b) engaging in sexual activities with a child where use is made of coercion, force or threats; or use is made of a recognised position of trust, authority or influence over the child, including within the family; or use is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence.

¹ ASEAN, *Regional Plan of Action for Protection of Children from All Forms of Online Abuse and Exploitation in ASEAN*, 2021.

² Terminology derived from ASEAN, *Regional Plan of Action for Protection of Children from All Forms of Online Abuse and Exploitation in ASEAN*, 2021.

³ Terminology derived from CRC Committee, *General Comment No. 24 (2019) on children's rights in the child justice system*, CRC/C/GC/24 (18 September 2019).

⁴ CRC Committee, *General Comment No. 24 (2019) on children's rights in the child justice system*, CRC/C/GC/24 (18 September 2019).

Child sexual exploitation and abuse

Child sexual abuse becomes sexual exploitation when a child or other person is given or promised money or another form of remuneration, payment or consideration in return for the child engaging in sexual activity, even if the payment/ remuneration is not made. It includes harmful acts such as sexual solicitation and sexual exploitation of a child or adolescent in prostitution.⁵

Child sexual abuse materials (CSAMs)

means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.⁶

Grooming

means the process of an adult establishing or building a relationship with a child either in person or through the use of the Internet or other digital technologies to facilitate either online or offline sexual contact with the child.⁷

Live streaming of child sexual exploitation and abuse (Live Streaming)

means child sexual exploitation and abuse (CSEA) carried out in real-time and viewed through streaming (and sometimes recording) the content online, while the victim and perpetrator are in different or in the same countries.⁸

Sexual extortion of children

means the blackmailing of a child with the help of images of that child, including self-generated images of that child in order to extort sexual favours, money, or other benefits from her/him under the threat of sharing the material beyond the consent of the depicted child (e.g. posting images on social media).⁹

5 UNICEF, *Ending Online Child Sexual Exploitation and Abuse. Lessons learned and promising practices in low- and middle-income countries*. New York, 2021.

6 ASEAN, *Regional Plan of Action for Protection of Children from All Forms of Online Abuse and Exploitation in ASEAN*, 2021.

7 ASEAN, *Regional Plan of Action for Protection of Children from All Forms of Online Abuse and Exploitation in ASEAN*, 2021.

8 ASEAN, *Regional Plan of Action for Protection of Children from All Forms of Online Abuse and Exploitation in ASEAN*, 2021.

9 ASEAN, *Regional Plan of Action for Protection of Children from All Forms of Online Abuse and Exploitation in ASEAN*, 2021.

1. Background

Thirty years after the adoption of the Convention on the Rights of the Child (hereafter: CRC), the role and impact that the online world has played in the lives of children had not been imagined. The internet has provided positive opportunities for children such as improved access to education, information, socialisation and play. However, the Internet is also a domain in which children are vulnerable to violence, including online child sexual exploitation and abuse (hereafter: OCSEA) – a risk which grows exponentially with the rapidly increasing internet penetration. The internet exposes children to risks not only from perpetrators in their vicinity, but from perpetrators across the region and the globe.

Recent research such as the 2022 Disrupting Harm studies, jointly implemented by ECPAT International, INTERPOL and UNICEF, indicate the alarming scope of OCSEA affecting children in the region. In Thailand, 9 per cent of internet-using children aged 12–17 were victims of online sexual exploitation and abuse, which mostly took place on social media platforms.¹⁰ Most children in Vietnam have access to the internet but not many are equipped with online safety knowledge. Although parents and caregivers are aware of the risks of online child sexual exploitation and abuse, the percentage of those disclosing such incidents, seeking help, and reporting to formal mechanisms is very low.¹¹ In the Philippines, 20 per cent of internet-users aged 12–17 were victims of online sexual exploitation and abuse and such instances mainly take place on social media platforms.¹² Very few victims turn to formal reporting mechanisms like helplines or the police. While relevant legislations, policies, and standards have been enacted and a range of initiatives are also underway, it takes more prioritisation and investment to implement the frameworks and tackle the challenges.

Many of these OCSEA offences are committed across country borders due to the transnational nature of the internet. This means that OCSEA is a cross-border problem which requires cross-border solutions. Against this background, the Association of Southeast Asian Nations (ASEAN) adopted the Declaration on the Protection of Children from all Forms of Online Exploitation and Abuse in ASEAN (hereafter: Declaration) at its 35th ASEAN Summit in November 2019. The Declaration stated seven main recommendations for the ASEAN Member States (hereafter: AMS): legislations, law enforcement capacity, national specialised unit, child protection and support services, data collection, education programme and engagement with private sector, with an aim to better protect children from online risk and harm. To effectively implement the ASEAN Declaration, and to provide a detailed framework with clear and measurable results, a Regional Plan of Action for Protection of Children from All Forms of Online Exploitation and Abuse in ASEAN (hereafter: RPA) was developed under the leadership of ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (hereafter: ACWC) and the ASEAN Senior Officials Meeting on Social Welfare and Development (hereafter: SOMSWD), with the support of UNICEF and ECPAT International. The RPA was noted at the 38th and 39th ASEAN Summit in October 2021.

The RPA elaborates on and provides guidance for the implementation of the commitments articulated in the Declaration. Focus Area 4 of the RPA deals with the effectiveness of rights-based, gender and age-responsive child protection and support services, including social service programmes across all ASEAN Member States. Activity 4.1.6 RPA recommends the development of regional Guidelines for the provision of protective and support services for all child victims and children in contact with the law as a result of OCSEA (hereafter: the Guidelines).

10 ECPAT International/INTERPOL/UNICEF, *Disrupting Harm in Thailand – Evidence on online child sexual exploitation and abuse*, 2022.

11 ECPAT International/INTERPOL/UNICEF, *Disrupting Harm Viet Nam – Evidence on online child sexual exploitation and abuse*, 2022.

12 ECPAT International/INTERPOL/UNICEF, *Disrupting Harm in the Philippines – Evidence on online child sexual exploitation and abuse*, 2022.

2. Purpose of the Guidelines

The Guidelines seek to enhance the provision, quality and accessibility of rescue, recovery, care and support services for children impacted by OCSEA (both as victims and as offenders) across AMS, by providing guidance on the implementation of Focus Area 4 of the RPA.

In particular, the Guidelines seek to assist ASEAN and AMS in conceptualising and fulfilling the below recommendations in the RPA:

- **Identify and safeguard child victims** of online sexual exploitation and abuse and ensure that child victims have access to quality support and recovery services that meets the specific needs of children¹³;
- **Provide psychosocial support to children in conflict with the law as a result of OCSEA** and take measures focused on their **rehabilitation and reintegration**¹⁴;
- **Ensure the provision of safe, appropriate, family and emergency based emergency and longer-term care** so that child victims of OCSEA can be removed from situations of significant risk and harm, where necessary¹⁵;
- **Ensure that the social service workforce and key frontline workers can provide an effective response** for child victims of online abuse and exploitation, including through the development of protocols and guidance for case management¹⁶;
- **Strengthen the capacities, skills and knowledge of the social service workforce and key frontline workers**, including through the development and incorporation of modules on child online protection into pre- and in-service training for these workers¹⁷;
- **Consider improvements to the victim compensation mechanism** (including, as appropriate, developing victim compensation Guidelines) for child victims of OCSEA, and consider the establishment of a victims' compensation fund¹⁸.

13 ASEAN, *Regional Plan of Action for Protection of Children from All Forms of Online Abuse and Exploitation in ASEAN*, Activity 4.1.1.

14 ASEAN, *Regional Plan of Action for Protection of Children from All Forms of Online Abuse and Exploitation in ASEAN*, Activity 1.2.3, 4.1.1.

15 ASEAN, *Regional Plan of Action for Protection of Children from All Forms of Online Abuse and Exploitation in ASEAN*, Activity 4.1.2.

16 ASEAN, *Regional Plan of Action for Protection of Children from All Forms of Online Abuse and Exploitation in ASEAN*, Activity 4.1.3.

17 ASEAN, *Regional Plan of Action for Protection of Children from All Forms of Online Abuse and Exploitation in ASEAN*, Activity 4.1.4.

18 ASEAN, *Regional Plan of Action for Protection of Children from All Forms of Online Abuse and Exploitation in ASEAN*, Activity 4.1.5.

3. Objectives of the Guidelines

Based on the above purpose, the Guidelines aim to provide recommendations that fulfill the below objectives:

- OCSEA victims and children in conflict with the law as a result of OCSEA receive **rights-based, gender, age responsive and inclusive services** which are tailored to their specific needs and vulnerabilities and are provided in an integrated and multi-sectoral manner;
- **Service providers** (government, NGOs, private sector) **understand their role** in providing services to OCSEA victims;
- **AMS implement activities under focus area 4 RPA** which are the foundation for integrated and multi-sectoral service delivery by a skilled and sensitised workforce;
- **AMS are guided in the development of national Guidelines** for the support of OCSEA victims and children in conflict with the law as a result of OCSEA.

These Guidelines take a child-rights based approach as endorsed in the RPA.¹⁹ They acknowledge that children's rights are non-hierarchical, interdependent and indivisible. They will follow the principle of proportionality in resolving conflicts between conflicting children's rights or children's rights and human rights more broadly, while applying the principle of the best interests of children as a primary consideration.

Further, these Guidelines should be read together with the *ASEAN Guidelines for Harmonised and Comprehensive National Legislation Against All Forms of Online Child Sexual Exploitation and Abuse* (hereafter: the legal Guidelines). These legal Guidelines provide guidance to AMS on the overall regulatory framework that can help to effectively prevent and respond to OCSEA and hence contribute to the enabling environment in which the child protection system operates.

In addition, these Guidelines contribute to the goals set out in the 2016 ASEAN Regional Plan of Action on the Elimination of Violence against Children (Action Point 6: "*Improve protection and support services for children affected by violence including physical and psychosocial rehabilitation, counselling services in schools and communities, appointment of guardian(s), legal assistance, shelter/housing, provision of life skills development, peer to peer and family support*").²⁰ These Guidelines are aligned with and contribute to the implementation of the 2020 Ha Noi Declaration on Strengthening Social Work Towards Cohesive and Responsive ASEAN Community²¹ and the ASEAN Road Map for the Implementation of the Ha Noi Declaration on Strengthening Social Work Towards Cohesive and Responsive ASEAN Community, which sets out priority areas for the implementation of the Ha Noi Declaration.²²

19 ASEAN, *Regional Plan of Action for Protection of Children from All Forms of Online Abuse and Exploitation in ASEAN*, 2021.

20 ASEAN, *ASEAN Regional Plan of Action on Elimination of Violence against Children (ASEAN RPA on EVAC)*, 2016.

21 ASEAN, *Ha Noi Declaration on strengthening social work towards cohesive and responsive ASEAN Community*, 2020.

22 ASEAN, *ASEAN Road Map for the Implementation of the Ha Noi Declaration on Strengthening Social Work for Cohesive and Responsive ASEAN Community*, 2022.

4. Conceptualising service delivery for OCSEA victims and children in conflict with the law as a result of OCSEA

4.1 Comprehensive and holistic approach to OCSEA services

Forms of online violence against children such as OCSEA require a dedicated and systematic response. However, such a dedicated and systematic response should not be misinterpreted as a need to establish a *separate* child protection system which is solely focused on online violence. While certain specialised services may be required for OCSEA victims, such services should be part of the service delivery structures within the larger child protection systems (see section 6 for detailed explanation).

Children experience child sexual abuse and exploitation in different contexts, such as in their community, school, in their families – or facilitated through digital technologies. Child sexual abuse and exploitation facilitated by digital technologies is hence simply a different context in which children’s rights are violated. Further, violence against children often spans across these different contexts, demonstrating that the differentiation between ‘online’ and ‘offline’ violence is artificial and does not align with children’s lived realities. As an example, a child might be sexually abused by a relative, and this sexual abuse is livestreamed online. This shows that a single case of child sexual abuse can have both online and offline dimensions, which cannot be separated from each other. As a consequence, service provision needs to holistically respond to such a case, focusing simultaneously on its offline and online elements.

Given the inextricable linkages between online and offline harms for children, prevention and response initiatives aiming to protect children online should be **integrated into the wider national child protection system**.²³ The RPA endorses this approach and makes it clear that it is not possible to eliminate online violence²⁴, support the safeguarding and recovery of victims or hold perpetrators accountable without effective offline systems of child protection and justice.²⁵ Therefore, these Guidelines contribute towards building a **comprehensive and holistic approach** to strengthen systems and services of prevention and response to all forms of violence, abuse and exploitation of children, including online.

However, due to the nature of OCSEA, **child victims have specific vulnerabilities which require dedicated support within the existing child protection system**. For example, the continuous threat of circulation of child sexual abuse material long after the original images were generated can impact the recovery and reintegration of the victim in the short and long term. Therefore, OCSEA victims might require longer-term access to mental health and psychosocial support services, as their victimisation continues through the sharing of the material.

23 CRC Committee, *General Comment No. 25 (2021) on children’s rights in relation to the digital environment*, CRC/C/GC/25 (2 March 2021).

24 The term ‘online violence’ as used in these Guidelines encompasses all forms of violence enabled by technology.

25 ASEAN, *Regional Plan of Action for Protection of Children from All Forms of Online Abuse and Exploitation in ASEAN*, 2021.

Further, OCSEA victims might require the support of additional stakeholders, such as private sector companies like internet service providers, mobile operators, social media or gaming platforms. These companies provide the services and products which are used as a medium to sexually abuse and exploit children. Therefore, they play an important role both in the prevention and in the response to OCSEA cases and are hence included as an additional stakeholder in these Guidelines.

In summary, these Guidelines locate prevention and response services for OCSEA victims within the existing child protection system. They highlight the specific vulnerabilities of OCSEA victims and how the child protection system could adapt and expand to their needs to ensure child victims receive rights-based, gender and age-responsive protection and support services.

Similar considerations apply to children in conflict with the law. Children in conflict with the law as a result of OCSEA should be dealt with within the existing child justice system, which pays specific consideration to the needs of children. Therefore, these Guidelines locate prevention and response to children in conflict with the law as a result of OCSEA within the existing child justice system.

4.2 Focus on both child victims and children in conflict with the law as a result of OCSEA

Emerging evidence from AMS shows that OCSEA is often committed by peers.²⁶ If children commit criminal offences, the CRC Committee recommends a separate justice system for children in conflict with the law as a result of OCSEA with a differentiated, individualised approach.²⁷ Children differ from adults in their physical and psychological development and hence should be considered to have lesser culpability. Therefore, if children are in conflict with the law as a result of OCSEA, it is important that they are not treated the same as adult offenders. Under Art 40 (30) CRC, States parties are obliged to promote the establishment of laws, procedures, authorities and institutions specifically applicable to these children. This includes, inter alia, the establishment of an appropriate minimum age of criminal responsibility and the introduction of alternative measures, with any sanctions focusing on rehabilitation and reintegration of children in conflict with the law as a result of OCSEA (see section 7 for more detail). These child justice obligations equally apply to children accused or convicted of OCSEA offences.

These Guidelines focus both on **OCSEA victims and children in conflict with the law as a result of OCSEA as both groups of children are entitled to special protection under the CRC and the RPA**. Considering that the guiding principles for services delivery as well as the services itself which a child victim and a child in conflict with the law as a result of OCSEA are entitled to differ significantly, these Guidelines will provide separate guidance for OCSEA victims and for children in conflict with the law as a result of OCSEA.

26 For example, 43% of children in Cambodia, 10% of children in the Philippines, and 82% of children in Thailand who were threatened or blackmailed to engage in sexual activities reported that the offender was a friend/acquaintance under 18 years. ECPAT International/INTERPOL/UNICEF, *Disrupting studies*, 2022.

27 CRC Committee, *General Comment No 24 (2019) on children's rights in the child justice system*, CRC/C/GC/24 (18 September 2019).

5. Guiding principles

5.1 For OCSEA victims

The following guiding principles are the foundation of any services provided to OCSEA victims and hence should be considered as guiding interpretative tool throughout these Guidelines.

All principles are derived from the **best interests of the child principle** as set out in Art 3 CRC.

5.1.1 Multi-sectoral and Integrated service delivery

In line with the RPA, these Guidelines promote the critical engagement and cooperation of various sectors with key roles in prevention of and response to OCSEA on the design, delivery and evaluation of services.²⁸ Given the inextricable linkages between online and offline harms for children, prevention and response initiatives aiming to protect children online should be integrated into the wider national child protection system,²⁹ instead of creating a separate child protection system which focuses solely on OCSEA victims. Therefore, service providers should always keep in mind the interacting online and offline dimensions of CSEA and provide tailored support which assist the victim holistically.

5.1.2 Rights-based, gender, age responsive and inclusive service delivery

Rights-based, gender, age responsive and inclusive service delivery means that any action or intervention is aimed at enhancing, protecting and fulfilling children's rights in accordance with the CRC or national legislation. Specific vulnerabilities based on the gender, or the age of the child will hereby be central in identifying the most appropriate course of action. Age responsive service delivery means that service providers take the age of the child and their individual capabilities into account, acknowledging the different needs and vulnerabilities of children of different age groups and the individual needs and vulnerabilities of each child. A holistic gender perspective should go beyond the vulnerability of girls and also aims to identify the sexual abuse and exploitation of boys, non-binary children and children of various sexual orientations.³⁰ The Disrupting Harm in the Philippines study indicated that even though girls are overrepresented in reported cases, boys and girls are almost equally affected by online child sexual abuse and exploitation.³¹ Among internet-using 12-17-year-olds in Thailand, boys and girls were equally likely to be subjected to each form of OCSEA measured in the Disrupting Harm household survey.³² Evidence shows that a higher portion of boys than girls in the Philippines receive unwanted requests to talk about sex in online games, which is a consistent pattern of potential grooming.³³ Furthermore, compared with girls, boys in Thailand appear to be less likely to disclose OCSEA incidents to anyone³⁴, which

28 ASEAN, *Regional Plan of Action for Protection of Children from All Forms of Online Abuse and Exploitation in ASEAN*, 2021.

29 CRC Committee, *General Comment No. 25 (2021) on children's rights in relation to the digital environment*, CRC/C/GC/25 (2 March 2021).

30 Mama Fatima Singhateh, *Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material*, A/75/210 (21 July 2021).

31 ECPAT International/INTERPOL/UNICEF, *Disrupting Harm in the Philippines – Evidence on online child sexual exploitation and abuse*, 2022.

32 ECPAT International/INTERPOL/UNICEF, *Disrupting Harm in Thailand – Evidence on online child sexual exploitation and abuse*, 2022.

33 ECPAT International/INTERPOL/UNICEF, *Disrupting Harm in the Philippines – Evidence on online child sexual exploitation and abuse*, 2022.

34 ECPAT International/INTERPOL/UNICEF, *Disrupting Harm in Thailand – Evidence on online child sexual exploitation and abuse*, 2022.

significantly delays the delivery of support and worsens the impact of the incident. In some AMS, children abused or exploited by offenders of the same sex may have difficulty in disclosing OCSEA due to stigma and penalties surrounding homosexuality. For example, this includes in one province of Indonesia, where religious law is upheld, in addition to the Penal Code³⁵ and Malaysia where boys abused or exploited by offenders of the same sex face stigma and the risk of self-incrimination, as sexual contact between males is illegal in the country and a male child could, therefore, be prosecuted under these laws if victimised by a male offender.³⁶

5.1.3 Victim-centred approach

A victim-centred approach creates a supportive environment in which the victim's rights and wishes are respected, their safety is prioritised and they are treated with dignity and respect. The best interests of the child are hereby the guiding principle. This includes that any provision of services is treated confidentially, and the victim has the right to choose with whom they share certain information. However, there might be limits to this confidentiality based on national legislation introducing mandatory reporting of violence against children cases for certain professions. All actions should be guided by respect for the choices, wishes rights and dignity of the victim.³⁷ The best interests of the child are a primary consideration. Each victim should be able to make a choice based on all available facts, freely and voluntarily. Depending on the age and maturity of the child, the parents' or legal guardians' consent for the sharing of information should be sought.

5.1.4 Non-discrimination

In service delivery, there should be no discrimination based on sex, gender, disability, socioeconomic background, ethnic or national origin, language or any other grounds. Service providers should also not discriminate against minority and indigenous children, asylum-seeking, refugee and migrant children, unaccompanied and separated children, children who are victims and victims of trafficking or sexual exploitation, children in alternative care, children deprived of liberty and children in other vulnerable situations. In addition, service providers should take the specific vulnerabilities of each child into account and adapt service delivery to respond to the needs of each child.³⁸ For this purpose, service providers should be equipped with adequate and relevant skills and resources to provide services to vulnerable children.

5.1.5 'Do no harm'

A 'do no harm' approach involves taking all measures necessary to avoid exposing OCSEA victims to further harm as a result of the actions of the service provider.³⁹ This particularly includes avoiding any secondary trauma to be inflicted on the child during the course of the service provision.

35 ECPAT International/INTERPOL/UNICEF, *Disrupting Harm in Indonesia – Evidence on online child sexual exploitation and abuse*, 2022.

36 ECPAT International/INTERPOL/UNICEF, *Disrupting Harm in Malaysia – Evidence on online child sexual exploitation and abuse*, 2022.

37 UNFPA, *Minimum Standards for the Prevention and Response to Gender-Based Violence in Emergencies*. New York, 2015.

38 CRC Committee, *General Comment No. 25 (2021) on children's rights in relation to the digital environment*, CRC/C/GC/25 (2 March 2021).

39 Adapted from ASEAN, *Gender sensitive Guideline for handling Women Victims of Trafficking in Persons*, 2016.

5.2 For children in conflict with the law as a result of OCSEA

Children differ from adults in their physical and psychological development. Such differences constitute the basis for the recognition of lesser culpability, and for a separate system with a differentiated, individualised approach for children in conflict with the law. Exposure to the criminal justice system has been noted to cause harm to children, limiting their chances of becoming responsible adults.⁴⁰

Against this background, children in conflict with the law as a result of OCSEA deserve special protection as set out under the CRC and relevant national legislation. The following guiding principles and approaches are the foundation of any services provided to children in conflict with the law as a result of OCSEA and hence should be considered as guiding interpretative tool throughout these Guidelines:

5.2.1 Child-rights based

Any service related to children in conflict with the law as a result of OCSEA must be grounded in the respect and protection for the rights of the child as set out in the CRC, other human rights law or under national legislation. Particular attention should be paid to the rights of the child as set out in Article 37 CRC (Prohibition of inhuman and degrading treatment/children deprived of their liberty) and Article 40 CRC (Children in conflict with the law). In addition, there are other Guidelines related to children in conflict with the law: the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the 'Beijing Rules'),⁴¹ the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the 'Havana Rules'),⁴² the United Nations Guidelines for the Prevention of Juvenile Delinquency (the 'Riyadh Guidelines')⁴³ and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women offender (the 'Bangkok Rules').⁴⁴

5.2.2 Rehabilitative

One of the aims of an intervention targeting children in conflict with the law as a result of OCSEA should be to restore the child to good health, often through psychosocial support and education. There is evidence that risks of re-offending are different for adults and children who have committed sexual offences. Children who have committed sexual offences have a low rate of sexual re-offending. Where a custodial sentence may be appropriate to protect the community and take account of the serious harm done to victims, support and therapeutic intervention services are important for children with harmful sexual behaviours, both during detention and upon release.⁴⁵ Such a rehabilitative approach is in the best interests of the child and will aid the child's reintegration into society.

40 CRC Committee, *General Comment No. 24 (2019) on children's rights in the child justice system*, CRC/C/GC/24 (18 September 2019).

41 United Nations General Assembly, *United Nations Standard Minimum Rules for the Administration of Juvenile Justice*, A/RES/40/33 (29 November 1985).

42 United Nations General Assembly, *United Nations Rules for the Protection of Juveniles Deprived of their Liberty*, A/RES/45/113 (14 December 1990).

43 United Nations General Assembly, *United Nations Rules for the Protection of Juveniles Deprived of their Liberty*, A/RES/45/112 (14 December 1990).

44 United Nations General Assembly, *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders*, A/RES/65/229 (21 December 2010).

45 UNICEF, *Action to end child sexual abuse and exploitation. A review of evidence*. New York, 2020.

5.2.3 Restorative

A restorative child justice approach is an approach in which the victim(s) and offender(s), and in some cases other persons affected by a crime, participate actively together in the resolution of matters arising from the crime, generally with the help of a facilitator.⁴⁶ However, it has to be considered that a restorative justice approach might not always be appropriate and its suitability should be informed by an overall assessment of the case and in particular the views of the child victim. It also has to be kept in mind that restorative justice approaches might not be available for sexual offences under national legislation, which might only authorise restorative justice approaches for minor offences.

⁴⁶ CRC Committee, *General Comment No 24 (2019) on children's rights in the child justice system*, CRC/C/GC/24 (18 September 2019).

6. Minimum package of services for OCSEA victims

The minimum package of services aims to provide OCSEA victims with services as well as social service programmes that are rights-based, non-discriminatory, and tailored to their specific needs in a multi-sectoral manner. Such services include a comprehensive system of case management, medical care, mental health and psychological support, alternative care arrangements, justice, law enforcement, legal aid, and other relevant social and educational resources. It is crucial for stakeholders from different sectors, such as government, NGOs, and private sector companies, to collaborate and help child victims overcome the impact of OCSEA incidents and reintegrate to normal living.

The below package of services is based on the activities set forth under the RPA under focus area 4 and aim to strengthen the delivery of integrated services by a skilled and sensitised workforce. Please note that the services discussed below are mentioned in these Guidelines in a non-sequential order and hence should not be interpreted as a referral pathway. As referral pathways need to be tailored to a specific national context, clear referral pathways including the services discussed below should be established on national level.

6.1 Case management⁴⁷

These Guidelines promote a systems-based approach to case management for OCSEA victims which builds on and strengthens existing procedures with specific capacities relating to OCSEA victims. Such an integrated case management mechanism for child victims of sexual abuse or exploitation generally consists of five stages: identification, assessment, intervention, implementation, and case closure and review.⁴⁸ Throughout this process, it is crucial to prioritise the child's best interests to prevent re-traumatisation and provide the most effective aid and support. In order to translate the below considerations for OCSEA victims in the case management process into national action, AMS should consider developing referral mechanisms and Standard Operating Procedures:

Stage 1: Identification

For *identification*, it is recommended to take a multi-disciplinary approach. That is, given the complexity of such cases, multiple personnel from different professions will be involved and ensuring meaningful collaboration and communication across departments and across public and private sector entities becomes therefore significant. Furthermore, since identification is generally conducted via reports through the education system, medical practitioners, police, NGOs, community, children themselves, families or helplines, it is crucial to strengthen the day-and-night availability and accessibility of reporting and referral mechanisms.

⁴⁷ ASEAN, *Regional Plan of Action for Protection of Children from All Forms of Online Abuse and Exploitation in ASEAN*, 2021, Activities 4.1.1, 4.1.3.

⁴⁸ International Justice Mission, *Best Practices in Case Management of Child Sexual Abuse and their Suitability for Online Sexual Exploitation of Children in the Philippines*, 2021.

Specific considerations for OCSEA victims:

- OCSEA cases might be identified by private sector companies, such as social media platforms or cloud storage providers, which detect OCSEA as content on their services and products. Therefore, referrals might be received from the private sector either directly or through another service provider, such as a hotline or a reporting portal.
- Another potential entry point for OCSEA cases are international platforms such as the INTERPOL International Child Sexual Exploitation (ICSE) data base, which flags potentially illegal content to law enforcement. As part of the investigation process, law enforcement should also engage with the case management system to help identify the victim and provider holistic support in line with the case management protocol.
- Where the referral is for any form of abuse that involves any images or videos which have been distributed online, these images should be reported to an Internet Hotline immediately such as the Internet Watch Foundation, INHOPE or other national reporting portals. These organisations will work with relevant companies and Government stakeholders worldwide to ensure that the content is not further circulated and removed/blocked.⁴⁹
- OCSEA victims might also be identified during big rescue operations targeting child trafficking or OCSEA rings. However, it needs to be kept in mind that for any case of child abuse or exploitation, the existence of an online dimension needs to be explored.

Stage 2: Assessment

Effective *assessment* is indispensable for arranging appropriate treatment and services. Common practice indicates that such an assessment should be conducted promptly after identifying the OCSEA victim so that time-sensitive needs can be promptly addressed.⁵⁰ Secondly, it is important to take a child-oriented approach throughout the assessment, such as using child-friendly language, adopting developmentally appropriate techniques, and respecting children's boundaries so that they can discuss the incident in their own pace. In some cases, the involvement of translators, either language translators or sign-language interpreters, might be needed. Furthermore, to prevent repeated assessments and induce re-traumatisation, information gathered from the initial assessment should be as comprehensive as possible. For this purpose, case workers should also involve other stakeholders such as law enforcement officers (where appropriate) at an early stage, to avoid repeated interviews with the child. Aside from the details of the incident, understanding children's background, history of abuse or exploitation, physical and mental condition, social and legal needs is also beneficial.

49 UNICEF, *Child Online Safety in Zimbabwe. Training Manual for Social Workers and other child protection officers* (unpublished).

50 Aaron J Miller/Janet Arnold-Clark/Kate Walker Brown/Mae Ackerman-Brimberg /Michelle Guymon, *Featured counter trafficking program: The law enforcement first responder protocol*, Child Abuse and Neglect, Vol. 100 (2020).

Special considerations for OCSEA victims⁵¹:

- As cases are categorised into the existing categories of sexual abuse, physical abuse, severe neglect, and children living or working on the streets, and others, an assessment should be made as to whether the case under investigation presents with any of signs of online abuse and exploitation or related risk factors. For example, if a case is referred for suspected online child sexual abuse, is there concurrent sexual abuse within the home occurring, or is the child neglected.
- Similarly, if a case of child sexual abuse is being screened, an assessment of whether there is ongoing or previous online sexual abuse and exploitation should be examined. There are specific factors that increase the risks that children and young people face online, including those that place children at risk for violence offline. These include children living on the street, those identifying as LGBTQ+, or those living with disabilities, just to name a few.
- It is important at this stage to establish, as much as possible considering the evidence available to the case worker, who is responsible for the abuse or violence, and if the offender is known to the child. When it comes to OCSEA, research from the region shows that the person committing the abuse is more likely to be someone known to the child than a stranger⁵². It is thus very important to establish if the person is known, and if they are in continued contact with the child, or in the child's immediate physical proximity, so that the appropriate action can be taken. Like other forms of sexual and physical abuse, it is also possible that the caregivers, or other adults in the household know about the abuse but allow it or ignore it. This should also be established at this stage.
- As mentioned in the identification stage, if the case involves any imagery or video of OCSEA, such content should be immediately reported to law enforcement and/or relevant reporting portals according to national Guidelines.

Stage 3: Intervention and implementation

After identifying OCSEA victims and conducting the assessment, *intervention and implementation* are the next critical part in case management to address child victims' needs. To begin with, OCSEA victims may manifest signs of post-traumatic stress, although it should be noted that different children experience distress and abuse in different ways. Therapeutic interventions such as abuse-specific therapy and support groups may be crucial in helping some children overcome the impact of the incident. It is also important to help OCSEA victims develop positive self-esteem through creative and sensory activities and through sport. Moreover, when alternative care is necessary for those who are victims of family induced OCSEA, family-based care such as foster and kinship care, if available, should be prioritised to provide children with a somewhat familiar and stable environment (further guidance on alternative care can be found in the section 6.3). If family-based care is provided, necessary support should be provided to the family taking care of the OCSEA victim, as appropriate.

51 UNICEF, *Child Online Safety in Zimbabwe. Training Manual for Social Workers and other child protection officers* (unpublished).

52 ECPAT International/INTERPOL/UNICEF, *Disrupting Harm in Thailand – Evidence on online child sexual exploitation and abuse, 2022*; ECPAT International/INTERPOL/UNICEF, *Disrupting Harm in the Philippines – Evidence on online child sexual exploitation and abuse, 2022*.

Specific considerations for OCSEA victims⁵³:

- Children with OCSEA experiences tend to share a common anxiety of having sexual-related texts, images, or videos involving them remain online or further disseminated. Such anxiety often leads to persisting trauma and fear of engaging in future online activities. Hence, in the *intervention* stage, it is crucial to help children overcome these feelings and develop coping mechanisms when content of the incident may still be online. It is also recommended to include online safety training sessions for those who want to know more about how to protect themselves from similar incidents in the future.
- The care plan should be careful not to take steps that do prevent or restrict access to social media or digital technology for the child, or in any other way appear to, or do, punish the child. It must be remembered through the case management and care planning process that the rights to education, health and information are protected online as much as they are offline, and the child should not be punished, or their rights restricted because of the behaviour of the perpetrator.
- In assessing and planning for the care and protective environment around the child, the social worker should work with the family and/or school to ensure that both environments are in a position to support the individual, and in the case of the school, other learners, to stay safe online through active supportive, empowering interventions, such as online safety training. This could include partnerships with those stakeholders not usually involved in protection cases, such as internet service providers, the Ministry responsible for Information and Telecommunications, and NGOs working in the field of digital skills and literacy.

Stage 4: Case closure and review

Case closure and review is the last step of case management, which generally focuses on child victims' recovery and reintegration. The review should include a multidisciplinary assessment of children's physical and mental health, economic status, whether they are receiving education or vocational training, whether family support is available, and whether they need any additional services after the case closes. What is worth noting is that such process should be led by victims at their own pace to strengthen self-reliance and sustain long-term reintegration.

Specific considerations for OCSEA victims:

- It is important to remember that once the review is done, one can go back to the initial assessment to determine if any vulnerabilities of causal factors were not identified and addressed, and whether any further support or action is required.
- Similarly, it is important to note that if even the in-person CSEA has stopped through rescue of the victim, the online victimisation might continue e.g. through the continued sharing of CSAM materials.

53 UNICEF, *Child Online Safety in Zimbabwe. Training Manual for Social Workers and other child protection officers* (unpublished).

Useful resources:

- International Justice Mission, *Best Practices in Case Management of Child Sexual Abuse and their Suitability for Online Sexual Exploitation of Children in the Philippines*, 2021.
- Committee for the Special Protection of Children, *Protocol for Case Management of Child Victims of Abuse, Neglect, and Exploitation*, 2014.

6.2 Social service workforce⁵⁴

The term 'social service workforce' covers governmental and nongovernmental professionals and paraprofessional, such as social workers, social educators, child and youth care workers, community development workers/community liaison officers, and case managers.⁵⁵ Special attention should be paid to the social service workforce engaging vulnerable children, such as children with disabilities, asylum-seeking and refugee children, unaccompanied and separated children.

Strengthening the social service workforce is a priority for ASEAN and AMS, as set out in the Ha Noi Declaration on strengthening social work towards cohesive and responsive ASEAN Community⁵⁶. These efforts have been further detailed by the ASEAN Road Map for the Implementation of the Ha Noi Declaration on Strengthening Social Work for Cohesive and Responsive ASEAN Community (hereafter: Ha Noi Roadmap), which sets out priority areas for the implementation of the Ha Noi Declaration.⁵⁷ These include:

1. Establishing and Strengthening the Legal and Policy Framework for Social Work;
2. Expanding and Strengthening Education and Regulation;
3. National Councils and Associations of Social Workers;
4. Increasing Professional Recognition, Development and Support;
5. Enhancing National, Regional and International Collaboration;
6. Increasing Resource Allocation to the Social Welfare System and for Social Work;
7. Developing Strategies to Enhance Positive Public Perception of Social Work.

In line with the above priority areas, the RPA specifically highlights the need for specialist training for the workforce to provide appropriate and timely support to OCSEA victims. Activity 4.1.4 RPA recommends to '*strengthen the capacities, skills and knowledge of the social service workforce and key frontline workers, including through the development and incorporation of modules on child online protection into pre- and in-service training for these workers*'. The term 'key frontliner workers' should hereby be understood to cover any professional staff potentially in contact with OCSEA victims, such as law enforcement officers, immigration officers, educators, health personnel, prosecutors, and the judiciary. Despite this focus on training and capacity building in the RPA, it should be noted that such interventions can only have a positive impact on service delivery if *all* the priority areas set out in the Ha Noi Roadmap are prioritised by AMS as these form the foundation for a functioning workforce.

⁵⁴ ASEAN, *Regional Plan of Action for Protection of Children from All Forms of Online Abuse and Exploitation in ASEAN*, 2021, Activity 4.1.4.

⁵⁵ ASEAN, *ASEAN Road Map for the Implementation of the Ha Noi Declaration on Strengthening Social Work for Cohesive and Responsive ASEAN Community*, 2022.

⁵⁶ ASEAN, *Ha Noi Declaration on strengthening social work towards cohesive and responsive ASEAN Community*, 2020.

⁵⁷ ASEAN, *ASEAN Road Map for the Implementation of the Ha Noi Declaration on Strengthening Social Work for Cohesive and Responsive ASEAN Community*, 2022.

Following the approach of integrated prevention and response to OCSEA, such training modules should be linked to and embedded in broader violence against children/child sexual abuse and exploitation training programmes. OCSEA training modules should cover the following aspects:

- Nature, scope and dynamics of OCSEA;
- Understanding linkages between OCSEA and CSEA;
- Special vulnerabilities of OCSEA victims throughout the service delivery chain;
- How OCSEA is conducted via different platforms and technologies as well as the specific impact of OCSEA, such as circulations of child victims' images and videos online;
- Dedicated interventions for OCSEA victims aimed at recovery and rehabilitation;
- Ecosystem of service providers and potential entry points for identification of OCSEA incidents (such as schools, hospitals, private sector companies);
- Role of other reporting mechanisms, such as role of internet reporting platforms such as Internet Watch Foundation, INHOPE or national reporting platform;
- Coordination with stakeholders relevant to the OCSEA incident, such as law enforcement, social or child service department, and healthcare services, to get a comprehensive understanding of the incident as well as the attribution of liabilities.

Specific considerations for OCSEA victims:

- Child sexual abuse and exploitation, including OCSEA, should be a key component of all capacity-building measures for the social service workforce at pre- and in-service training level.
- Training should be provided on a regular basis and take into consideration recent developments in OCSEA offending patterns and OCSEA service provision.
- Sufficient resources should be made available to attract specialised personnel trained in OCSEA case management and to retain personnel which received in-service training on OCSEA.

Useful resources:

- WeProtect Global Alliance, *Child protection workforce*.

6.3 Family-based care⁵⁸

Findings from multiple studies indicate that many OCSEA incidents are facilitated and conducted by the parents or relatives of the victims.⁵⁹ Consequently, when competent authorities determine that it is not in the best interests of the child to live with their immediate family, emergency and longer-term family-based care arrangements (such as kinship or foster care) for child victims become essential to ensure their safety. Placement with other family members or those whom child victims trust is most recommended, and placement in residential care should be the measure of last resort. Priority should be given to the removal of the offender. Removing children from their familiar surroundings after the incident took place might be interpreted as a form of punishment by the child. The child might feel like he or she did something wrong and hence needs to leave its family. This can trigger heavy guilt and self-blame, therefore negatively impacting their recovery process.

When making family or alternative care arrangements, children's best interests should be the primary consideration and their opinions taken into consideration. Removal of a child from the care of the family and placement in any form of alternative care should, wherever possible, be temporary and for the shortest possible duration. Family-based alternative care arrangements, such as foster and kinship care, should also be promoted as appropriate to ensure children's stability as well as their well-being. On the other hand, older children can also opt for participating in independent living programmes to receive skills training and become economically independent, simultaneously reducing the risks of recurring or re-exploitation from the family. Moreover, removal decisions should be regularly reviewed as appropriate so that children can return to their original homes once the causes of removal have been resolved.

Specific considerations for OCSEA victims:

- If the child victim and the OCSEA offenders share the same home, it is crucial to arrange alternative care for children in need to ensure their well-being and effective recovery from the incident.
- In this regard, family-based placement should be prioritised where appropriate, and institutionalisation should be considered as a last resort. Such arrangements should be reviewed on a regular basis as appropriate and make sure that children can return to their original homes when the causes of removal no longer exist.

Useful resources:

- International Justice Mission, *A Study on Online Sexual Exploitation of Children for Aftercare Reintegration*, 2020.
- International Justice Mission, *Best Practices in Case Management of Child Sexual Abuse and their Suitability for Online Sexual Exploitation of Children in the Philippines*, 2021.
- UN General Assembly, *United Nations Guidelines for the Alternative Care of Children*, 2010.

⁵⁸ ASEAN, *Regional Plan of Action for Protection of Children from All Forms of Online Abuse and Exploitation in ASEAN*, 2021, Activity 4.1.2.

⁵⁹ Terre des Hommes, *Fullscreen on view: An Exploratory Study on the Background and Psychosocial Consequences of Webcam Child Sex Tourism in the Philippines* (2013); Liza S. Garcia/Florence Y. Manikan, *Gender Violence on the Internet: The Philippine Experience* (2014); IJM, *Online Sexual Exploitation of Children in the Philippines: Analysis and Recommendations for Governments, Industry, and Civil Society* (2020).

6.4 Mental health and psychosocial support⁶⁰

Child victims of sexual abuse or exploitation may experience negative psychological consequences, including pathological distress (fear, sadness, anger, self-blame, shame, or guilt), anxieties, depression, psychosomatic complaints, alcohol and other substance use disorders, self-harm, and suicidal ideation.⁶¹ Consequently, mental health and psychosocial support (hereafter: MHPSS) is crucial in helping children cope with distress and safeguarding their well-being. What is worth noting is that such support should be rights based and respect children's decisions in what kind of support they would like to receive. It is also recommended to avoid specific targeting of victims with MHPSS support, to reduce the likelihood of stigma and protect confidentiality and anonymity. Instead, supports should be integrated into broader systems, such as general health services and existing community support mechanisms.⁶²

MHPSS can be both individual and group focused, including community based MHPSS support. Specialist support for individuals should be provided by mental health clinicians or mental health professionals, with referrals to health and reintegration supports. Group and community based MHPSS focuses on strengthening community and family support so that child victims can access a variety of psychological support, and be referred for specialist support if necessary. Common examples of MHPSS interventions include setting up peer support groups for children to share their experiences and feelings with others who have gone through similar events, organising relevant campaigns to raise awareness about sexual abuse or exploitation and reduce stigma, and support from social workers, group counsellors and specially trained health workers.

Specific considerations for OCSEA victims:

- It is important to break the myths around limited psychological impact of OCSEA. Children with OCSEA experiences tend to share a common anxiety of having sexual-related texts, images, or videos involving them remain online or further disseminated. They oftentimes face great difficulties in 'closing the chapter', as they are continually exposed to abuse and exploitation through the circulation of their material and live in constant anxiety that someone will recognise or expose them.⁶³ This is important to consider when providing MHPSS support to an OCSEA victim and will require a response from experienced teams who understand the experiences and feelings of victims.
- In all cases in which images are circulating (or may do so in the future), steps should be taken to explore whether these images could be removed. New and adaptive conceptualisations of the images can be explored – for example, they can be thought of as images separate from oneself, communicating only something about the offender and not the young person depicted in the images.⁶⁴
- A majority of CSEA victims report feelings of shame or self-blame and they may be particularly intense following online abuse involving images or 'victim participation'.⁶⁵ For example, if a child produced self-generated images with a perpetrator as a result of an online grooming process, the child might feel like they played an active role in the abuse. This might be further exacerbated through initial responses from caregivers or service providers who questioned the child's action and indirectly put blame on the child.

60 ASEAN, *Regional Plan of Action for Protection of Children from All Forms of Online Abuse and Exploitation in ASEAN*, 2021, Activity 4.1.1.

61 World Health Organisation, *Mental health and psychosocial support for conflict-related sexual violence: principles and interventions*. Geneva, 2012.

62 World Health Organisation, *Mental health and psychosocial support for conflict-related sexual violence: principles and interventions*. Geneva, 2012.

63 Ateret Gewirtz-Meydana et al., *The complex experience of child pornography survivors*, *Child Abuse and Neglect*, Vol. 80 (2018); Alisdair A. Gillespie, *Child Pornography. Law and Policy*, London 2011; UNICEF, *The State of the World's Children 2017*.

64 International Justice Mission, *Best Practices in Case Management of Child Sexual Abuse and their Suitability for Online Sexual Exploitation of Children in the Philippines*, 2021.

65 International Justice Mission, *Best Practices in Case Management of Child Sexual Abuse and their Suitability for Online Sexual Exploitation of Children in the Philippines*, 2021.

Useful resources:

- WHO, UNFPA, UNICEF & UN Action, *Responding to the Psychosocial and Mental Health Needs of Sexual Violence Survivors in Conflict-Affected Settings*. Geneva, 2011.
- UNFPA, *Minimum Standards for Prevention and Response to Gender-Based Violence in Emergencies*. New York, 2015.

6.5 Health

Considering that online and offline CSEA often take place at the same time, the health system plays an important role in identifying and responding to CSEA. Health care providers often have a close relationship to the children and families they serve and therefore can be among the first points of contact for children who experience violence. As such, they should be alert to signs, symptoms and health conditions known to be associated with experiences of violence whether or not they are enabled or facilitated by technology. While health services might not be a primary consideration for cases of OCSEA which solely took place online, they are crucial when it comes to cases with elements of offline CSEA, for example where a child is raped and this sexual abuse is filmed and shared online.

First of all, healthcare services should be provided in a timely manner and take children's gender, age, and any specific needs into account. It is therefore important to have medical personnel who are experienced in identifying and treating CSEA victims on site, including being knowledgeable of informed consent, confidentiality, providing victim-centred care, and referral systems. Secondly, healthcare services delivered in such cases should focus on the impact of CSEA. Namely, post-rape and genital injuries treatment, emergency contraception, post-exposure prophylaxis (PEP) for HIV and sexually transmitted infections (STIs), and collection of forensic evidence. Furthermore, given the age and maturity of CSEA victims, parents and the child, depending on age and development stage, should be informed of the potential long-term reproductive health implications as well as other available treatment and resources.

Specific considerations for OCSEA victims:

- Cases of OCSEA might have an offline CSEA element to it, e.g., where a child is raped, filmed, and shared online. Therefore, even in cases first identified as OCSEA, it is key that service providers assess and identify the full spectrum of abuse, to ensure the child receives relevant health services if required.
- Further, during medical examination and conversation between medical practitioner and OCSEA victim, the child might reveal online elements to the abuse and exploitation which the case management worker was not aware of. In such a case, the medical practitioner should inform the case management or law enforcement officer of this aspect of the case so that necessary actions can be taken. For this purpose, mandatory reporting requirements of CSEA cases by medical practitioners should include both online and offline CSEA suspicions.

Useful resources:

- UNFPA, *Minimum Standards for Prevention and Response to Gender-Based Violence in Emergencies*. New York, 2015.
- WHO, *Violence against children online. What health systems and health providers can do*, New York, 2022.

6.6 Justice and law enforcement⁶⁶

Justice and law enforcement are a crucial part of the victim-centred approach and should establish a safe, child-friendly, and non-stigmatising environment for OCSEA victims to seek justice.

To facilitate children's access to the criminal justice systems, state parties should provide legal aid and support services to OCSEA victims and their families. Further, they should offer a variety of reporting mechanisms, which should clearly define the referral pathway for reported cases and case management. This should also include telephonic and online reporting mechanisms, as well as the opportunity to report anonymously.⁶⁷

The speediness of the justice process is one of the core principles of child-friendly justice.⁶⁸ In order to meet this standard, OCSEA cases should be fast-tracked where possible, and any delays should be avoided. Interviews with OCSEA victims should be conducted in a child-friendly environment using evidence-based protocols. Avoiding multiple interviews with the child wherever possible is equally important, to avoid giving the child the impression that they are not being believed.⁶⁹ A key component of a child-friendly justice system is to avoid direct confrontation between the child and the accused. Suitable measures may reach from one-way mirrors between witness room and court room, or simply alternating the presence between child and accused in the court room.⁷⁰ CCTV systems should be used with caution in cases where digital means, such as cameras, were involved in the abuse of the child⁷¹, as it might remind them of their abuse and hence lead to distress of the OCSEA victim. In these cases, the suitability of the use of such measures should be discussed with the child in an age-appropriate manner. Child victims of OCSEA might often feel a sense of not being in control of their own lives, as they have been robbed of this control and agency by the violence they experienced. Keeping the child informed at all stages of the criminal trial is therefore key to ensure the child is at the centre of the proceedings.

Further, specialised and trained personnel should conduct the proceedings and interact with OCSEA victims in a child-sensitive approach. For example, using clear and easy-to-understand language to explain the investigation process and children's rights in legal procedures. It is also important to pay special attention to child victims' physical and mental health so that they are not overly stressed or re-traumatised. Pre-trial preparation can be a useful intervention to familiarise the child with the court environment, the criminal justice actors and procedure.

66 ASEAN, *Regional Plan of Action for Protection of Children from All Forms of Online Abuse and Exploitation in ASEAN*, 2021, Activity 2.1.2.

67 CRC Committee, *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*, CRC/C/156 (10 September 2019).

68 Ibid.

69 CRC Committee, *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*, CRC/C/156 (10 September 2019); UN Economic and Social Council, *Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime*, E/CN.15/2005/L.2/Ref.1.

70 CRC Committee, *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*, CRC/C/156 (10 September 2019); UN Economic and Social Council, *Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime*, E/CN.15/2005/L.2/Ref. 1.

71 ECPAT, *Explanatory Report to the 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*. Bangkok, 2019.

Furthermore, legal aid and social services should be provided to children in need to enable them to fully exercise their rights as well as receive relevant services to safeguard their well-being during the criminal justice process. It is also helpful to involve informal justice actors, such as organisations specialising in combating OCSEA, in responding to child victims' needs.

Specific considerations for OCSEA victims:

- Measures such as video-interviewing and testifying through CCTV systems are usually considered best practices for CSEA victims as they limit the number of interviews and avoid direct exposure to the perpetrator. Nevertheless, considering that video cameras might have played a considerable role in the commission of the OCSEA offence, such measures should be used with caution and only after consultation with a social worker and the affected child.
- When collecting digital evidence, such as child victims' chat history or images and videos shared with the offenders, it is crucial to take children's privacy into account and avoid excessive process of their personal data. Preventing the distribution of CSEA material online should also be a priority during investigative work.

Useful resources:

- CRC Committee, *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*, CRC/C/156 (10 September 2019).
- UN Economic and Social Council, *Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime*, E/CN.15/2005/L.2/Ref. 1.
- INTERPOL, *Our response to crimes against children*.

6.7 Removal of online child sexual exploitation and abuse content⁷²

As mentioned in the previous sections, continuously circulating CSAM online can be a main cause of distress to OCSEA victims. Promptly removing such content becomes therefore crucial in such cases. In this regard, AMS are encouraged to establish the legal requirement for private sector companies to report and remove child sexual abuse and exploitation material from their platforms and services once they are aware of it. Criminal penalties and civil penalties for non-compliance where appropriate are also essential in ensuring effective enforcement. Furthermore, private sector companies should make sure that reporting system of OCSEA incidents or material on their platforms is clear and accessible to users so that any report can be reviewed and handled without delay.

⁷² ASEAN, *Regional Plan of Action for Protection of Children from All Forms of Online Abuse and Exploitation in ASEAN*, 2021, Activity 7.2.

Specific considerations for OCSEA victims:

- Since the continued circulation of CSAM is one of the root causes of distress for OCSEA victims, removing of such content is crucial.
- Private sector companies should establish accessible report mechanisms for OCSEA material on their platforms and promptly take it down upon notification to prevent further dissemination.

Useful resources:

- UNICEF, *Legislating for the Digital Age*, New York 2022.
- ASEAN Guidelines for Harmonised and Comprehensive National Legislation against All Forms of Online Child Sexual Exploitation and Abuse, Tier 2, 5. *Obligations for private sector companies offering digital services, products and platforms* (forthcoming).
- Council of Europe, *Member state responses to prevent and combat online child sexual exploitation and abuse*, Strasbourg 2019.

6.8 Compensation⁷³

Under Art 9 OPSC, child victims of offences described in the OPSC should have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible. The RPA recommends that AMS consider improvements to victim compensation mechanisms (including, as appropriate, developing victim compensation Guidelines) for child victims of OCSEA, and consider the establishment of a victims' compensation fund. In this regard, AMS should consider establishing detailed legal standards and Guidelines on the various victim compensation scheme, such as compensation via criminal trials, civil cases, or victim compensation funds. The advantages and disadvantages of different compensation schemes should be understandable to children so that they can opt for the most feasible path. Given the complexity of the process, it is also recommended to provide children with additional support, such as legal aid. AMS should ensure that children are not considered as ineligible for compensation schemes if they suffered injuries due to the offences, even if they were also involved in the offences in question.

Furthermore, it has to be considered that OCSEA victims suffer multi-dimensional harm in these offences, which can be difficult to quantify. Physical and psychological harm, including costs for counselling or loss of earnings due to the victim's inability to work, and the continuous violation of the victim's privacy and dignity are not easily quantifiable. However, the financial compensation, especially when it comes directly from the perpetrator, is an important aspect in the reparation paid to the victim.⁷⁴ Besides the financial reparation, additional measures need to be put in place to assist the victim's restoration, such as specialised counselling by trained personnel who understand the complex trauma victims of online child sexual abuse experience.⁷⁵

⁷³ ASEAN, *Regional Plan of Action for Protection of Children from All Forms of Online Abuse and Exploitation in ASEAN*, 2021, Activity 4.1.5.

⁷⁴ Suzanne Ost, *A new paradigm of reparation for victims of child pornography*, Legal Studies, Vol. 36 (2016).

⁷⁵ Ibid.

Specific considerations for OCSEA victims:

- OCSEA victims should have access to adequate procedures to seek compensation. Even though the damages suffered might be difficult to calculate in some cases, the financial compensation, especially when it comes directly from the perpetrator, is an important aspect in the reparation paid to the victim.
- Responding to the borderless nature of OCSEA offenses, AMS should consider to specifically address the execution of foreign judgements as well as foreign-sourced compensation in national Guidelines to ensure OCSEA victims have access to compensation where appropriate. When extraterritorial compensation is not possible due to anonymity or failures in cross-border criminal justice cooperation, victim compensation funds could be used as an alternative.

Useful resources:

- ASEAN Guidelines for Harmonised and Comprehensive National Legislation against All Forms of Online Child Sexual Exploitation and Abuse, Tier 2, 5. *Obligations for private sector companies offering digital services, products and platforms* (2023).
- Council of Europe, *Member state responses to prevent and combat online child sexual exploitation and abuse*. Strasbourg 2019.
- ECPAT, *Barriers to Compensation for Child Victims of Sexual Exploitation: A discussion paper based on a comparative legal study of selected countries*. Bangkok, 2017.

6.9 Education and vocational skills

Education is an effective tool in preventing and responding to online and offline CSEA.⁷⁶ Aiming to equip children, teachers, parents, caregivers, guardians, the wider community and officials of local administration units with skills in Recognising risks online and developing coping mechanisms for experiences of violence, there are a variety of feasible programmes for AMS' consideration:⁷⁷

- Curriculum-based education programmes for children: specially designed school curricula for in and out-of-school children focusing on the prevention of OCSEA, either conducted independently or integrated as part of the existing national curriculum; such curricula should be closely linked with comprehensive sexuality education and its online dimensions;
- Awareness-raising programmes for teachers, parents, caregivers, guardians and officials of local administration units: In collaboration with Government representatives, NGOs and private sector, awareness-raising programmes should be offered to teachers, parents, caregivers, guardians and officials of local administration units focusing on digital literacy, opportunities and risks of digitalisation and how to provide appropriate support to children.

⁷⁶ See UNICEF, *What Works to Prevent Online and Offline Child Sexual Exploitation and Abuse? Review of national education strategies in East Asia and the Pacific*. Bangkok, 2020.

⁷⁷ UNICEF, *What Works to Prevent Online and Offline: Child Sexual Exploitation and Abuse? Review of national education strategies in East Asia and the Pacific*. Bangkok, 2020.

- Awareness-raising campaigns for the general public: often partnering with private sector technology companies or child protection organisations, these campaigns focus on promoting risk management in the digital environment and introducing OCSEA reporting systems; the impact of such campaigns should be evaluated to measure its effectiveness in changing children's behaviour online⁷⁸;
- Online hubs: provision of information and resources on online safety (such as preventing cyberbullying, cyberstalking, and harassment) for children, parents, caregivers, guardians, teachers and officials of local administration units, including a comprehensive list of referral networks; the impact of such interventions should be evaluated to measure its effectiveness in changing children's behaviour online⁷⁹.

In addition to the preventative measures described above, schools also play a crucial role in identifying OCSEA. This applies to both OCSEA taking place in the school setting as well as OCSEA being disclosed in the school setting, for example a child telling a trusted teacher about an OCSEA incident. As mentioned in section 6.1, referral pathways from the education system into the broader child protection system are therefore key to leverage the important role schools play in prevention and response to OCSEA. Further, as OCSEA victims often find it hard to go back to school due to social stigma or financial difficulties,⁸⁰ AMS should ensure that they can re-enter the education system without barriers and are given essential aid in schools as appropriate, such as receiving peer support, access to tutoring, and meeting up with school psychologist. Access to vocational training should also be made available.

Specific considerations for OCSEA victims:

- It should be ensured that children at all levels of the educational system receive comprehensive digital literacy training, paired with sexuality education with an online specific dimension, which include receiving appropriate materials about the risks and dynamics of OCSEA and how to protect themselves online and offline. They should also be informed of concrete and practical ways of reporting, seeking help and support when relevant events take place.⁸¹
- Awareness raising is another crucial element in mitigating online risks, especially those in relation to sexual content. This can include guiding children to identify early signs of grooming (such as presentation or request of inappropriate sexually explicit content or conversation, display of manipulative or deceitful behaviours, or increased demands for time and intimacy online), operating online support mechanisms (such as blocking and reporting inappropriate content), and developing trusted relationships with family and peers so that they have someone to turn to if OCSEA incidents happen.⁸²
- However, the overall objective of such campaigns should go, where appropriate, beyond OCSEA specific information and tackle the underlying harmful norms and attitudes that enable child sexual abuse, for example through comprehensive sexuality education.⁸³ Awareness raising campaigns should be evaluated to measure its effectiveness in changing children's behaviour online⁸⁴.

78 UNICEF, *Evaluating Online Safety Initiatives: How to build the evidence base on what works to keep children safe online*. Bangkok, 2022.

79 UNICEF, *Evaluating Online Safety Initiatives: How to build the evidence base on what works to keep children safe online*. Bangkok, 2022.

80 ECPAT International, *Disrupting Harm – Conversations with Young Survivors about Online Child Sexual Exploitation and Abuse*. Bangkok, 2022.

81 CRC Committee, *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*, CRC/C/156 (10 September 2019).

82 UNICEF, *Evaluating Online Safety Initiatives: How to build the evidence base on what works to keep children safe online*. Bangkok, 2022.

83 ASEAN, *Regional Plan of Action for Protection of Children from All Forms of Online Abuse and Exploitation in ASEAN*, 2021, Activity 6.1.1.

84 UNICEF, *Evaluating Online Safety Initiatives: How to build the evidence base on what works to keep children safe online*. Bangkok, 2022.

Useful resources:

- UNICEF, *What Works to Prevent Online and Offline Child Sexual Exploitation and Abuse? Review of national education strategies in East Asia and the Pacific*, Bangkok 2020.
- ECPAT International, *Disrupting Harm – Conversations with Young Survivors about Online Child Sexual Exploitation and Abuse*. Bangkok, 2022.
- UNICEF, *Evaluating Online Safety Initiatives: How to build the evidence base on what works to keep children safe online*. Bangkok, 2022.
- WHO, *What works to prevent online violence against children?*. Geneva, 2022.

6.10 Social Protection

Poverty can be a driver for OCSEA since the additional income caregivers might earn from the sexual exploitation of their child can be significant to support the family.⁸⁵ Hence, connecting vulnerable families and children to the social protection system is particularly crucial in preventing OCSEA victims (or their siblings) from returning to the commercialised forms of OCSEA in the long term.

To extend social safety networks to OCSEA victims, it is recommended that existing financial assistance schemes or grants and vocational training programmes for small business owners are leveraged for OCSEA victims and their families. This should be integrated in the existing services for the protection of women and children. Such support will be essential to combat the root causes of poverty and assist in ensuring that families and communities can support children without having to resort to financial gains generated from OCSEA. Furthermore, AMS should collaborate with internet and financial service providers to hamper the merchant side of such a business. For instance, developing coordinated strategies which allow law enforcement to trace the distribution of CSEA material and detect payment methods used by offenders.⁸⁶

85 ECPAT International/INTERPOL/UNICEF, *Disrupting Harm in the Philippines – Evidence on online child sexual exploitation and abuse*, 2022; WeProtect Global Alliance, *Global Threat Assessment 2021*.

86 European Cybercrime Centre (EC3) – Europol, *Commercial Sexual Exploitation of Children Online: A Strategic Assessment*. The Hague, 2015.

Specific considerations for OCSEA victims:

- Ensure sufficient financial support for OCSEA victims and their family so that they are not forced to return to the commercialised forms of OCSEA for additional income.
- At the same time, private sector companies should actively prevent the use of their services to perform OCSEA by working law enforcement to trace the distribution of CSEA material and detecting payment methods used by offenders.

Useful resources:

- European Cybercrime Centre (EC3) – Europol, *Commercial Sexual Exploitation of Children Online: A Strategic Assessment*. The Hague 2015.
- UNICEF, *What Works to Prevent Online and Offline Child Sexual Exploitation and Abuse? Review of national education strategies in East Asia and the Pacific*. Bangkok, 2020.
- ECPAT International, *Disrupting Harm – Conversations with Young Survivors about Online Child Sexual Exploitation and Abuse*. Bangkok, 2022.

7. Minimum package of services for children in conflict with the law as a result of OCSEA

Recognising the specific needs of children in conflict with the law as a result of OCSEA, the RPA recommends that AMS to *'review, revise and enact, as relevant and necessary, policies, laws, regulations and procedures to ensure that throughout investigation and judicial proceedings related to OCSEA, children in conflict with the law are provided with emotional, psychological and social support, and measures taken focus on their rehabilitation and reintegration into families and communities'*.⁸⁷

To achieve this result, any services provided for children in conflict with the law as a result of OCSEA should be embedded within the existing child protection and child justice system. Similar to the services provide to OCSEA victims, the child justice system should hence take an integrated and streamlined approach to children in conflict with the law as a result of OCSEA.

As mentioned above, the CRC sets clear standards on the protection of children in conflict with the law. This includes due process rights such as: to be presumed innocent until proven guilty according to the law; to be informed promptly and directly of charges against him or her and, if appropriate, through his or her parents or legal guardians; legal or other appropriate assistance in the preparation and presentation of his or her defence; to have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians; to have and examine witnesses, to have a conviction and sentence reviewed by a higher competent, independent and impartial authority or judicial body according to law; to have a free interpreter if necessary; and to have his or her privacy fully respected at all stages of the proceedings. Article 40 also addresses the need: for States to set a Minimum Age of Criminal Responsibility (MACR); for diversion from judicial proceedings and from the courts, whenever appropriate and desirable; and for children to be dealt with in “a manner appropriate to their well-being and proportionate to the offence”.

These Guidelines will build on the standards set out in the CRC and focus on the ones most relevant for children in conflict with the law as a result of OCSEA. In addition, these Guidelines will identify specific needs for children in conflict with the law as a result of OCSEA and how these can be supported in the child justice process.

7.1 Minimum age of criminal responsibility

Under Art 40 (3) CRC, States parties shall seek to promote the establishment of a minimum age of criminal responsibility (hereafter: MACR). Setting a clear MACR through law is a fundamental step in the establishment of a child justice system, as it sets the age above which children in conflict with the law can be held criminally liable. When deciding which MACR is appropriate, considering child development is a key step in developing an evidence-based approach to MACR.

⁸⁷ ASEAN, *Regional Plan of Action for Protection of Children from All Forms of Online Abuse and Exploitation in ASEAN*, 2021, Activity 1.2.3.

Documented evidence in the fields of child development and neuroscience indicate that maturity and the capacity for abstract reasoning is still evolving in children aged 12 and 13 years due to the fact that their frontal cortex is still developing.⁸⁸ Therefore, they are unlikely to understand the full impact of their actions or to comprehend criminal proceedings. Further, it has to be noted that adolescence is a defining stage of human development characterised by rapid brain development, and this affects risk-taking, certain kinds of decision-making and the ability to control impulses.⁸⁹ Against this background, the CRC Committee recommends setting the MACR at a minimum at 14 years of age. Further, some countries apply two minimum ages of criminal responsibility (for example, 7 and 14 years), with a presumption that a child who is at or above the lower age but below the higher age lacks criminal responsibility unless sufficient maturity is demonstrated.⁹⁰ Initially devised as a protective system, it has not proved so in practice. Although there is some support for the idea of individualised assessment of criminal responsibility, the Committee has observed that this leaves much to the discretion of the court and results in discriminatory practices.⁹¹

Against this background, AMS should consider setting the MACR at, as a minimum, 14 years for all criminal offences.⁹²

While the MACR should generally be set at 14 years or above, specific consideration should be given to children consensually engaging in the production of self-generated sexualised materials. According to the CRC Committee, any material which is ‘self-generated’ as a result of coercion or blackmail, should be categorised as child sexual abuse material⁹³, meaning that the child’s consent is irrelevant. In contrast to this stands self-generated material which is produced and shared on a *voluntary* basis between consenting adolescents as part of a developmentally appropriate sexual relationship. The CRC in its Guidelines makes it clear that ‘States parties should not criminalise adolescents of similar ages for consensual sexual activity’⁹⁴ and applies the same standard to online sexual activity, stating that ‘children should not be held criminally liable for producing images of themselves’.⁹⁵ The CRC Committee further recommends the establishment of child-friendly channels to allow children to safely seek advice and assistance where it related to self-generated sexually explicit content.⁹⁶ Therefore, it is recommended to include an exemption clause for sexual material produced amongst consenting adolescents who have reached the age of consent and who produce and possess this material for their private use only (for more information on this matter, see the legal Guidelines).

88 Sara B. Johnson/Robert W. Blum/Jay N. Giedd, *Adolescent maturity and the brain: the promise and pitfalls of neuroscience research in adolescent health policy*, Journal of Adolescent Health, Vol. 45 (2009).

89 CRC Committee, *General Comment No. 24 (2019) on children’s rights in the child justice system*, CRC/C/GC/24 (18 September 2019).

90 The majority of East Asian and Pacific Island countries have more than one MACR, see UNICEF, *Diversion not detention: A study on diversion and other alternative measures for children in conflict with the law in East Asia and the Pacific*, Bangkok 2017.

91 CRC Committee, *General Comment No. 24 (2019) on children’s rights in the child justice system*, CRC/C/GC/24 (18 September 2019).

92 CRC Committee, *General Comment No. 24 (2019) on children’s rights in the child justice system*, CRC/C/GC/24 (18 September 2019).

93 CRC Committee, *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*, CRC/C/156 (10 September 2019).

94 See also CRC Committee, *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*, CRC/C/156 (10 September 2019); acknowledging that the setting of an age of sexual consent recognises children’s evolving capacities, ECPAT International, *Explanatory Report to the 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*. Bangkok, 2019.

95 CRC Committee, *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*, CRC/C/156 (10 September 2019).

96 CRC Committee, *General Comment No. 25 (2021) on children’s rights in relation to the digital environment*, CRC/C/GC/25 (2 March 2021).

Specific considerations for children in conflict with the law as a result of OCSEA:

- AMS should consider setting the minimum age of criminal responsibility at least at 14 years of age;
- Under narrow circumstances, children above the MACR should not be held criminally liable for engaging in production and possession of consensually self-generated sexual materials (see the legal Guidelines for detailed information).

7.2 Diversion mechanisms

As set out in Art 40 (3) (b) CRC, States parties are required to promote the establishment of measures for dealing with children without resorting to judicial proceedings, whenever appropriate and desirable, providing that human rights and legal safeguards are fully respected.

Measures dealing with children that avoid resorting to judicial proceedings have been introduced into many systems around the world and are generally referred to as diversion. Diversion involves the referral of matters away from the formal criminal justice system, usually to programmes or activities. In addition to avoiding stigmatisation and criminal records, the CRC Committee notes that this approach yields good results for children, is congruent with public safety and has proved to be cost-effective.⁹⁷

Opportunities for diversion should be available from as early as possible after contact with the system, and at various stages throughout the process. States parties should continually extend the range of offences for which diversion is possible, including serious offences where appropriate.⁹⁸

OCSEA offences are considered serious offences under many jurisdictions across ASEAN, with severe penalties imposed on offenders. As diversion mechanisms within the child justice system are often only available in the case of less serious offences, children accused of OCSEA offences might not have access to diversion programmes which might lead to their incarceration.

Special considerations for children in conflict with the law as a result of OCSEA:

- Incorporate where appropriate a wide variety of possible community/family-based alternatives to sentencing, alternatives to deprivation of liberty and alternatives to institutional care, treatment and rehabilitation for children in conflict with the law in national (child-specific) law, including for recidivists and children involved in serious offences such as OCSEA (for example alternatives like 'conditional suspended sentence', 'probation', 'guidance/supervision order', 'community service', 'attendance at a treatment programme', 'day report centre').⁹⁹
- Develop long-term special therapeutic and/or rehabilitation programmes that reduce sexual re-offending. Evidence suggests that diversion out of the court system is unlikely to have an impact on young people's harmful behaviours without follow up remedial support programmes.¹⁰⁰

97 CRC Committee, *General Comment No. 24 (2019) on children's rights in the child justice system*, CRC/C/GC/24 (18 September 2019).

98 CRC Committee, *General Comment No. 24 (2019) on children's rights in the child justice system*, CRC/C/GC/24 (18 September 2019).

99 UNICEF, *Diversion not detention: A study on diversion and other alternative measures for children in conflict with the law in East Asia and the Pacific*. Bangkok, 2017.

100 UNICEF, *Action to end child sexual abuse and exploitation. A review of evidence*. New York, 2020.

7.3 Availability of support services

As set out in the RPA, children in conflict with the law should be provided with emotional, psychological and social support. This can be provided for by Government institutions, NGOs, community networks or the children's parents or family members, as appropriate.

In this context, the CRC Committee recommends that States parties explicitly legislate for the maximum possible involvement of parents or legal guardians in the proceedings because they can provide general psychological and emotional assistance to the child and contribute to effective outcomes. The CRC Committee also notes that many children are informally living with relatives who are neither parents nor legal guardians, and that laws should be adapted to allow genuine caregivers to assist children in proceedings, if parents are unavailable.¹⁰¹

Further, AMS should, where appropriate, ensure that the child is guaranteed legal or other appropriate assistance from the outset of the proceedings, in the preparation and presentation of the defence, and until all appeals and/or reviews are exhausted. The CRC Committee recommends that States provide effective legal representation, free of charge, for all children who are facing criminal charges before judicial, administrative or other public authorities. Child justice systems should not permit children to waive legal representation unless the decision to waive is made voluntarily and under impartial judicial supervision.¹⁰²

Special considerations for children in conflict with the law as a result of OCSEA:

- Children in conflict with the law as a result of OCSEA should be provided with emotional, psychological and social support, either by Government institutions, NGOs, community networks or the children's parents or family members depending on the level of support needed.
- Children in conflict with the law as a result of OCSEA should be guaranteed legal or other appropriate assistance from the outset of the proceedings, in the preparation and presentation of the defence, and until all appeals and/or reviews are exhausted.

7.4 Prohibition of death penalty and life imprisonment without parole

OCSEA offences are considered severe criminal offences in many jurisdictions across ASEAN. However, any sentence imposed on children in conflict with the law as a result of OCSEA needs to be aligned with the CRC. Article 37 (a) CRC prohibits the death penalty for a crime committed by a person who is under 18 years of age. A few States parties assume that the rule prohibits only the execution of persons who are below the age of 18 years at the time of execution. Other States defer the execution until the age of 18. The CRC Committee's view is that the explicit and decisive criterion is the age at the time of the commission of the offence. If there is no reliable and conclusive proof that the person was below the age of 18 at the time the crime was committed, he or she should have the benefit of the doubt and not incur the death penalty.¹⁰³

101 CRC Committee, *General Comment No. 24 (2019) on children's rights in the child justice system*, CRC/C/GC/24 (18 September 2019).

102 CRC Committee, *General Comment No. 24 (2019) on children's rights in the child justice system*, CRC/C/GC/24 (18 September 2019).

103 CRC Committee, *General Comment No. 24 (2019) on children's rights in the child justice system*, CRC/C/GC/24 (18 September 2019).

Further, the CRC Committee's view is that no child who was below the age of 18 at the time he or she committed an offence should be sentenced to life imprisonment without the possibility of release or parole. The period to be served before consideration of parole should be substantially shorter than that for adults and should be realistic, and the possibility of parole should be regularly reconsidered. The CRC Committee reminds States parties that sentence children to life imprisonment with the possibility of release or parole that in applying this sanction they should strive for the realisation of the aims of article 40 (1) of the CRC. This means, inter alia, that a child sentenced to life imprisonment should receive education, treatment and care appropriate to promote his or her release, reintegration and ability to assume a constructive role in society.¹⁰⁴ This also requires a regular review of the child's development and progress to decide on his or her possible release.

Special considerations for children in conflict with the law as a result of OCSEA:

- Even though OCSEA offences are considered severe offences under many national jurisdictions, national legislation should not impose the death penalty on children in conflict with the law as a result of OCSEA.
- Children in conflict with the law as a result of OCSEA should not be sentenced to life imprisonment without parole.

Useful resources:

- CRC Committee, *General Comment No. 24 (2019) on children's rights in the child justice system*, CRC/C/GC/24 (18 September 2019).
- UNICEF, *Diversion not detention: A study on diversion and other alternative measures for children in conflict with the law in East Asia and the Pacific*. Bangkok, 2017.

¹⁰⁴ CRC Committee, *General Comment No. 24 (2019) on children's rights in the child justice system*, CRC/C/GC/24 (18 September 2019).

8. Governance and Accountability

Clear governance structures and accountability mechanisms are crucial for the provision, quality and accessibility of **rights-based, gender, age responsive and inclusive** rescue, recovery, care and support services for children impacted by OCSEA (both as victims and as offenders). This section will describe relevant governance and accountability structures on national and regional level.

8.1 National Governance and Accountability Mechanisms

On a national level, a multi-stakeholder, national, cross-sectoral body should be mandated for mobilising and coordinating the national response to OCSEA. In particular, the body should be led by government and comprise senior-level representation from relevant government departments (such as the Ministries of Interior, Justice, Education, Health, Telecommunications, and Social Welfare); law enforcement, judiciary, non-governmental organisations (NGOs), the ICT industry and other relevant industry sectors (such as finance and tourism); faith-based organisations, and other specialised agencies working on child sexual exploitation and abuse and violence against children.¹⁰⁵ Such a diverse representation is crucial to ensure that all actors mentioned in the minimum package of services are present and participate in a coordinated, cross-sectoral OCSEA prevention and response strategy.

The mandate and modus operandi, as well as the roles and responsibilities of the Chair and the members of such a coordination body should be clearly set out in its Terms of Reference. Where applicable, such a body could also be established by an Act of Parliament or through delegated legislation. The coordination body should have access to sufficient human and financial resources required for its effective operation.

The overall governance structure of such a body varies from country to country. In some countries, the coordination body solely focus on OCSEA or issues around Child Online Protection (hereafter: COP), without a broader focus on CSEA or violence against children. If this is the case, it is crucial that the OCSEA/COP coordination body is well linked with the overall child protection system strengthening work, especially any coordination bodies dedicated to child protection or violence against children more broadly. Such linkages are key to establish a streamlined and integrated approach to OCSEA and avoid the creation of an online-specific, parallel child online protection system. Ideally, any OCSEA/COP coordination body should be streamlined into the broader child protection/violence against children governance structures, for example as a sub-group to the broader governance structures.

8.2 Regional Governance and Accountability Mechanisms

According to activity 5.6 RPA, ASEAN should encourage the establishment of a regional coordination mechanism to control and prevent online child abuse crimes. The RPA further sets out that the ASEAN Ministerial Meeting on Social Welfare and Development (hereafter: AMMSWD) is tasked, with the support SOMSWD and ACWC, to review, coordinate, monitor and report the progress of the RPA. This includes facilitating cross-pillar and cross-sectoral cooperation on a regional level, while acknowledging the work of the different national coordination bodies.¹⁰⁶

¹⁰⁵ UNICEF, *Ending Online Child Sexual Exploitation and Abuse. Lessons learned and promising practices in low- and middle-income countries*. New York, 2021.

¹⁰⁶ ASEAN, *Regional Plan of Action for Protection of Children from All Forms of Online Abuse and Exploitation in ASEAN*, 2021.

In order to assess progress on the implementation of the RPA, in particular the activities relevant for the minimum package of services as set out above, a mid-term review (2023) and an end of term review (2025) of the RPA indicators will be undertaken. The below RPA indicators are particularly relevant for the interventions related to the minimum package of service and should hence be closely monitored on national and regional level for the purpose of these Guidelines.

LEVEL	INDICATOR
National	<i>Indicator 1.2.3.: Number of AMS that have reviewed, revised and/or enacted policies, laws, regulations and procedures to ensure that throughout investigation and judicial proceedings related to OCSEA, children in conflict with the law are provided with psychosocial support, and measures taken focus on their rehabilitation and reintegration (National)</i>
National	<i>Indicator 4.1.1: Number of AMS with safeguarding, support and recovery services, including psychosocial support, that meet the specific needs of child victims of OCSEA, and are governed by a referral protocol between social welfare, law enforcement, justice and health. (National)</i>
National	<i>Indicator 4.1.2.: Number of AMS with family based emergency and longer term care available for child victims of OCSEA (National)</i>
National	<i>Indicator 4.1.3: Number of AMS with protocols or Guidelines for case management of OCSEA cases by a) social workers, b) healthcare workers and c) teachers. (National)</i>
National	<i>Indicator 4.1.4: Number of AMS with a) in service training courses, b) modules integrated in pre service training, for social workers and para social workers on detection and management of cases of OCSEA. (National)</i>
National	<i>Indicator 4.1.5: Number of AMS that a) have created or improved the victim compensation mechanism³⁰, or b) are considering creation or improvements to the victim compensation mechanism, including as appropriate, developing victim compensation Guidelines. (National)</i>
Regional	<i>Indicator 4.1.6 ASEAN Guidelines developed for the provision of protective and support services for all child victims and children in contact with the law as a result of OCSEA (Regional)</i>

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1. ASEAN, *ASEAN Road Map for the Implementation of the Ha Noi Declaration on Strengthening Social Work for Cohesive and Responsive ASEAN Community*, 2022.
2. ASEAN, *ASEAN Regional Plan of Action on Elimination of Violence against Children (ASEAN RPA on EVAC)*, 2016.
3. ASEAN, *Gender sensitive Guideline for handling Women Victims of Trafficking in Persons*, 2016.
4. ASEAN, *Ha Noi Declaration on strengthening social work towards cohesive and responsive ASEAN Community*, 2020.
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