

**THE RELATIONSHIP BETWEEN CHILD WITNESS TESTIFYING IN  
COURT AND PANIC ATTACK**

**A case study of The Kenyan High court**

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## DECLARATION

This report is my original work and has not been presented for a degree in any other University.

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This report has been submitted for the review with my approval as University supervisor.

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## **DEDICATION**

This project is dedicated to my family for their support throughout my studies.

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I specially want to thank all the children and parents who so generously shared their experiences, and through doing so, enabled this research to be written. I would like to express my deepest gratitude to my supervisor, Dr. Mwaura Lucas for friendly and knowledgeable support, encouragement, and giving me confidence in my moments of doubt. I also would like to thank the Kenya High court staff more so the office of the register and the children court department for giving me the opportunity to interact with the witness as well as sharing their invaluable experience with child witness.

Thank you

## **ABBREVIATIONS**

ACRWC:	African Charter on the Rights and Welfare of the Child
CVSA	Child victims of sexual abuse
CJS	Criminal Justice System
SCT:	Social Cognitive Theory
UNGJMCVWC.	United Nations Guidelines on Justice Matters involving Child Victims and Witnesses of Crime
UNCRC:	United Nations Convention on the Rights of the Child

## **ABSTRACT**

This study examines the relationship between child witness testifying and panic attack in the Kenyan court. Over the last few years there has been a steady increase in the number of children who testify in court due to a number of factors. In this study the historical and current impact of the children's courts procedures were explored in various jurisdictions. It was observed that despite the enactment of child-friendly procedures and policies, their implementation has not received enough support by the court personnel. It was also observed that some jurisdiction enjoyed modern court facilities like; forensic interview, interview being videotaped, video links, receiving information concerning the courtroom procedure and having a supportive person in court while testifying. The theoretical framework for the study is based on Social cognitive theory (Albert Bandura 1977; 1986) and the Cannon-Bard theory of emotion (Walter Cannon 1932). Findings suggest that despite several legal amendments child witness still face challenges when testifying in a court of law. This is because there are aspects of the court process which continue to frustrate, confuse and cause distress to the child witnesses while testifying, hence child witnesses often found coming to court and giving evidence an overwhelming task that is characterised with intimidation and frustration resulting to panic attack. There is need for support to be enhanced so that witnesses to be better informed about the court process, and to be able to make their voices heard. The Kenyan criminal justice system should ensure that child witnesses feel they are valued and the provisions that accommodate and support child witnesses on the stand should be implemented.

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# CHAPTER ONE

## INTRODUCTION

### 1.1 Background to the Study

This chapter provides an overview of the Kenyan Criminal Justice system in line with Child witness and discusses its background; defines the problem statement, the purpose of the study as well as the objectives of the study. The chapter also provides justification for the study and scope and limitation upon which the study was based.

According to (Emily Hill, 2011) observation that last two decades there has experienced an increase of children giving their testimony in as a result of the courts recognizing the crimes done against children. Minors testimony and related issues do not often reach the public eye until Far-reaching crimes occur, in which children the only witnesses are required to provide testimony or give evidence (Turquoise Watkins 2012).

A child testifies when he or she answers questions about what happened while on the witness stand during a trial or formal inquiry (Saywitz, 1995). According to Lousie Sas, majority of child witnesses don't get any formally inducted and are not specifically informed anything about court procedures and the legal terms that is employed in the courtroom.(Louise Sas 2002)

Throughout the testimony, the child is expected to successfully retrieve memories of the event in question and communicate those memories to adults in a courtroom, an environment that is often highly stressful, even for adults (Saywitz, 1995). Sweet and Maxwell (2007) equips that it is widely acknowledged that some child witnesses are vulnerable in the sense that their experiences as victims of crime, or their personality traits or their susceptibility to intimidation may make them suffer more than the normal amount of stress associated with being a witness. They further reiterates that consequently, such witnesses may not have the ability to provide the best evidence with no assured protective procedures (Sweet & Maxwell, 2007).

According to Flin, Davise et al(1988) there was available proof within England and Wales that confirmed a lot of children find courtroom appearances upsetting and that this had consequences for the quality of their testimonies (Flin, Davies, & Tarrant 1988; Goodman et al., 1998). The relationship between child witness stress in court and the criminal justice system in Australia is further demonstrated by a study conducted by Eastwood and Patton which interviewed sexually abused Children in the Australian. Children narrated their experiences as another level of children being ill-treated, institutionalised by the adversarial legal system. It was reported that cross-examination of Child Victims of Sexual Abuse left them more intimidated than before the trial. Due to the negative experience they had while undergoing cross examination some children reportedly held that they would never report further sexual abuse if they had to undergo the court experience again (Eastwood and W Patton 2002).

Research done by Sas and Whitcomb et al (1994) demonstrated that being in front of the accused is considered by the child witness as the most severe fear of all the courtroom related fears. These studies were further confirmed by research done by Louise Sas (2002) who narrated that children are frequently threatened by abusers not to tell others about the abuse, and are scared for their personal safety while on the stand and are required to describe what happened. This is further empahsised by the bench book for children giving evidence in Australian courts (2012) that narrates that the child witness normally becomes very stressed once they are informed that they will see the accused in the court.

The stressful and potentially damaging effects of criminal processes upon the reliability of child witnesses and the subsequent credibility of their evidence raised concern amongst different quarters. This gave way to a number of transformations in investigative and legal procedures in an attempt to accommodate the susceptibilities and vulnerabilities, whilst protecting the integrity of these systems, and the rights of the accused (Westcott, Davies, & Bull, 2002). The instituto of WCF Brasil reiterated that different countries around the globe are trying out new convenient ways on how to apply theoretical best practices, particularly the one's that have a different approach that concentrates on not re traumatizing children (Instituto WCF-Brasil, 2009).

Scholastic Omonidi narrates that Kenya inherited its criminal procedure law from Britain, she further poses that Britain is among the countries that have found the classical adversarial legal system in need of reform in the trial of CSA cases (Scholastica Omondi 2014). Since the early 1960s the formal Kenyan child protective system has been developing, this involves the development of child minded legislation that includes ; Young Person's Act, the Guardianship of Infants Act, the Adoption Act and the Children's Act of 2001. Kenya has ratified and domesticated several international conventions and guidelines that include; Economic and Social Council resolution 2005, United Nations Convention on the Rights of the Child (UNCRC), African Charter on the Rights and Welfare of the Child (ACRWC)

Article 3(1) of the UNCRC requires that the best interests of the child should take center stage in all administrative and legal proceedings that involves children.

The UNCRC provides two important principles of child protection that courts in member states are obligated to observe in the trial of the child witness and victims. They are the principle of the best interests of the child and the right of children to be heard in any matter affecting them. According to Biejer and Liefwaard (2011) when considering child friendly judicial system they can be summarized to Participation, protection and proof.

Biejer & Liefwaard further observes that, the aim for being child friendly are not only out of respect but also evidence illustrates that the best quality of evidence is obtained when children are relaxed and the interviewer is well trained and using appropriate techniques. Scholastic Omonidi ( 2014) affirms this by asserting that when children are aided in giving their responses they are more likely to reveal instances of victimization. (Scholastic Omonidi 2014).

## **1.2 Statement of the Problem**

Blackmun et al notes that children who are involved in testifying may undergo psychological injury during the process itself and become so overwhelmed with fear so as to hinder the child to give valuable statement, thereby jeopardize the truth finding function of the trial itself (Blackmun, J. and Rehnquist, C.J., dissenting 1988). Children fear and anxiety in court is further exhibited by Dawn Hathaway

when he notes that children are harmed by anxiety and it also weakens their testimony, which results to subversion of justice; hence advocates who work with child witness should endeavor reduce the child's anxiety (Dawn Hathaway Thoman 2014)

According to Scholastica Omonidi Kenya inherited its criminal procedure law from Britain, one of the countries that have found the classical adversarial legal system in need of reform in the trial of CSA cases ( Scholastica Omondi 2014). Laurence Wrightsman notes that, the trial outcome is highly influenced with the child witness testimony therefore the child's anxiety is predominantly significant (Lawrence S. Wrightsman 2002). Since child witnesses in Kenya continue to appear before the courts it is critical to ensure that the child witness is given a fair hearing according to their challenges and their interest is observed in consideration of the UNHCR 2006 Guideline.

### **1.3 Objectives of the Study.**

#### **1.3.1 General Objective**

The objective of the study is to examine the relationship between child witness testifying and panic attack in the Kenyan court.

#### **1.3.2 Specific objective**

1. To determine whether there is a relationship between child witness testifying in court and fear.
2. To establish if there is the presence of anxiety by the child witness while testifying in court.
3. To identify whether there is an existence of avoidant behaviour towards courtroom procedures as a result of previous testimony experience.

### **1.4 Research questions**

1. What is the relationship between child witness testifying in court and fear?
2. Do child witnesses experience anxiety while testifying in court?
3. Does the child witness exhibit avoidance behaviour towards the courtroom procedures as a result of previous testimony experience?



### **1.5 Research Hypothesis**

1. Child witnesses experience a significant amount of fear while testifying in court.
2. There is significant amount of anxiety in child witness when they testify in the courtroom.
3. There is a significant relationship between child witness previous testifying experience and avoidance behaviour towards the courtroom procedures.

### **1.6 Rationale / Justification of the Study**

Studies that have been conducted concerning child witness have been done from either psychological or legal perspective. Legal concentration has always been centred on the exposition of the pertinent statutes or giving an account of their chronological development, while psychologists have predominantly been interested with the experimental investigation of the reliability of children's testimony. Since children during the trial process are simultaneously affected by both the legal statutes and psychological experiences there is an immense need for a study that takes account of both experiences into consideration and thus this study intends to fill this gap.

Dawn Hathaway (2014) asserts that harm to children diminishes when anxiety has been reduced, educes improved testimony, and enhances justice therefore lawyers should sought for opportunities to minimise anxiety in child witnesses when viable. The information obtained from this study will be of use to courtroom personnel on how their informed participation can enhance favourable courtroom environment to child witness. Secondly, other stakeholders like Non-Governmental Organisations will gain from knowledge obtained from this study on the means and ways that they can aid children to be able to present their testimony appropriately. The finding of the study can also be utilised as the basis for a further study on the participation of minors within the criminal justice system.

### **1.7 Scope of the study**

The study mainly focused its interview and observation on children who are/were witnesses in court and within the Kenyan judicial system. The primary data relating to this study was collected at the Kenyan High Court. The study location was selected because of the comparatively high number children who go through the High court and also the resources that are available within the court. The study had an Indicative and exploratory approach hence the view of participants of this study was obtained based on their personal experience and input within the criminal justice system in Kenya.

### **Delimitation of the study**

Due to challenges of time and financial resources, the primary data relating to this study was only collected at the Kenyan High Court. The researcher also had the challenge of availability of the respondents to participate in the research.

### **1.8 Limitations of the Study.**

During the study, information gathering was conducted by administering questionnaire and observing the children who are/have been witnesses in court within the Kenyan judicial system. The researcher experienced some challenges during the research that included unwillingness of some respondents to be interviewed and lack of interest in filling the questionnaire. These challenges were mitigated by the researcher taking time to create rapport with the respondents and assuring them that the research was pure academic work and will not have any effects on their ongoing cases. The children's court social worker was also instrumental in making the respondents at ease.

## **1.9 Definitions of Terms**

**Anxiety**- is anticipation of future threat

**Conventions** - an official agreement between countries.

**Court**- the place where legal trials take place and where crimes are judged.

**Fear** - is the emotional response to real or perceived imminent threat.

**Jurisdiction** - the authority that an official organisation has to make legal decisions about something/somebody.

**Justice**- Faire treatment of people

**Testify** – to make a statement that something happened as a witness.

**Treaties** - a formal agreement between two or more countries.

**Trial** - a formal examination of evidence in court by a judge to decide if somebody (accused) of crime or not.

**Victims** - Person who has been attacked, injured or killed as a result of crime.

**Victimisation** - to make somebody suffer unfairly because you do not like them, their opinions or something they have done.

**Witness** - person who gives evidence in court.

## **CHAPTER TWO**

### **LITERATURE REVIEW**

#### **2.1 Introduction**

In this section, the researcher will review published literature on the participation of children in the court process within different jurisdictions. It is divided into sections; each of the sections focuses on a particular aspect concerning children participation in the trial process. The analysis kicks off on the discussion of the review of practice and implication of the children's court in different jurisdictions, then discusses the children court in Cambodia, then in the united king dom and finally Australia. Finally the researcher wraps up the chapter with theoretical framework followed by the conceptual framework.

According to Diagnostic and Statistical Manual of Mental Disorders Fifth Edition(2013) panic attack is described to be an abrupt surge of intense fear or intense discomfort that reaches a peak within minutes, and during which time four (or more) of the following symptoms occur; Feelings of choking, light-headed, Chest pain or discomfort, Palpitations, Derealization (feelings of unreality) or depersonalization, Paresthesias, Fear of losing control or “going crazy.” pounding heart, Nausea or abdominal distress, Feeling dizzy, unsteady, Sweating, faint, Trembling, Sensations of shortness of breath, Fear of dying and Chills or heat sensations.

Jodi A. Quas and Gail S. Goodman (2012) theorised, the effectiveness of children participation in the legal process depends on how much anxiety the child endures, thus children should be aided to fully participate in the legal process. Dawn Hathaway affirms Jodi. A comments by stating that anxiety impairs children testimony and harms children which leads to subversion of justice; he further insists that any legal officer who interacts with a children should endeavor to reduce the child’s anxiety (Dawn Hathaway Thoman (2014).

Children who testify in court undergo various psychological challenges as Covy Iowa (1998) narrates that the truth finding function of the trial may be undermined by fear and trauma associated with the presence of the defendant when the child is testifying.

This may cause psychological injury to the child and overwhelm the child as to prevent the prospect of effective testimony, (Coy v. Iowa 1998).

### **2.1.1 Child witness testifying in court and fear**

According to Jessica Jacobson (2014) having to stand up and speak in a room with strangers scare some witnesses, while others the possibility of seeing the defendant face-to-face scares them a lot. Lisa Buting(2011) affirms this by stating that it was problematic for many young people being questioned in court. Testifying was found to be confusing and distressing.

A qualitative study carried out by J.K. Reimer (2015) the researcher interviewed 103 respondents cluster in five groups that included, two members of the bar association, three police officers, fifty four child witnesses, fifteen judicial authorities and twenty nine NGO staff. The respondents were asked to describe their feelings both physical and psychological when they were in court virtually all children said that all features of court hearings were frightening for them. They recommended that procedures should be enforced so as to have more child friendly process. Nearly all the children reported being fearful or afraid. Some of children had an intense response to the fear they experienced. A ten year old girl narrated that she was so afraid that she vomited while testifying. Another 12 year old witness recounted that her body was trembling and her heart was beating fast and she was thinking what the defendant did to her and the possibility of future attacks. A young witness also said that he wanted to go to court and testify but at the same time he had the urge to run away. From the study a rape victim narrated that she felt afraid when she took the stand because it was a new experience and also it felt like a cage. The judge spoke in a voice that was very loud. She was as well afraid of making mistakes or saying the wrong thing.

Most of the cases that were addressed in the research the child was physically close to the defendant in the court room. This was the most cited challenge cited. It was noted by the researcher that almost all respondents were being supported and prepared to go to the court by NGO staff. It is possible that the experience for children who do not have support would be worse.

### **2.1.2 Child witness testifying court and anxiety**

According to Jennifer K. Robbennolt & Jean R. Sternlight (2012), children on the stand can be tearful, ill and inarticulate as a result of being anxious. Children when testifying can become preoccupied with invasive opinions about the process of testifying, which instigates more imprecise responses and young children who might freeze becoming not capable to answer to even easy inquiries. (Deborah Davis & William T. O'Donohue 2004). This notion is further emphasised by Barbara A et al when she states that nervous child witnesses appear less believable and more confrontational (Barbara A. Spellman & Elizabeth R. Tenney 2010). Frequently the trial conclusion rests exclusively on a child's testimony, hence the child's anxiety is of great importance. (Lawrence S. Wrightsman, Et al 2002) Children who must proceed to trial feel less control over their environment and dubious about the process. (Dawn Hathaway Thoman 2014).

In order to demonstrate how the court room environment creates high anxiety on child witnesses a study was conducted using two groups A and B. To start with the researchers arranged an event for the 2 groups. Group A was instructed to perform their task in a private room. Group were instructed to perform their task in a mock courtroom that included observers. Group B reported greater anxiety in comparison to A. Group B worried about not being believed, crying in court, presences of strangers when they were being questioned. others not believing them, and answering questions while strangers watched and listened. Later the researcher conducted similar experiment while tracking participants heart rates. They discovered an incredible physiological difference between the two groups: At rest all the respondents heart rates averaged from 60 to 90 beats per minute. During the experiment group B demonstrated great heart rate variability. During the exercise the heart rate of group A averaged between 60 to 90 beats per minute whereas group B heart rate averaged from 60 to 240 beats per minute. Generally the hearts of the children who used the mock courtroom beat considerably faster than those who used the private room. Notably, the respondents did not testify about a traumatic event that they individually experienced. It's likely that testifying about a personally traumatic experiment would increase more anxiety. Consequently, it can be rationally concluded that child witnesses endure greater anxiety than the research study participants, ( Karen J.

Saywitz & Rebecca Nathanson, Children's Testimony and Their Perceptions of Stress In and Out of the Courtroom, 17 Child Abuse & Neglect 1993).

### **2.1.3 Avoidant behaviour towards courtroom procedures**

Growing detection of the potentially harmful effects of criminal process and the trauma experienced by juvenile witnesses in the court settings has resulted into many Western countries to come up legislation and policies designed to improve protection given to child witnesses (Hoyano & Keenan, 2007). According to Jessica Jacobson et al, majority witnesses dread cross-examination, expecting it to be tough, and find that, in reality to be so. (Jessica Jacobson, Gillian Hunter ,Amy Kirby 2014)

Christine Eastwood did a research with the aim of investigating significant processes and consequences of sexual abuse from the view point of child victims. From the perspective of child complainants of sexual abuse, significant processes and consequences of involvement in the criminal justice system. The research engaged 130 respondents. The aim was to methodically obtain data through interviews from child complainants aged eight to seventeen years who sought for justice using the criminal justice system. Interviews were also done with legal personnel and parents/guardians.

Some of the Key Findings were, following their experience with the justice system would they ever report sexual abuse, only 47 percent indicated they would. It is of importance to acknowledge that the conclusion of the trial was not necessarily an indicator of answers to this query, as two-third of children who witnessed convictions claimed they would not report sexual abuse again. The children indicated that the distress they suffered because of the process was not worth.

Some of the responses that Christine received included; they are not interested in what you say, it is a difficult process that you never forget because it ruins your life. Another child commented that no one should put themselves through the trauma because instead of feeling free you feel more caged up. A sixteen year old commented that he wouldn't want to go though it again because it is too hard. Some of the parents comments included: many children are left disillusioned and damaged by the way

they are treated in court. Another parent said that her child is still very traumatized and cannot talk about the process.

Legal personnel were asked if their children were victims of serious sexual assault if they would want them participate in the criminal justice system. Two thirds of the legal respondents indicated they would not like their children be involved in the system. This is because they believed that the process is horrible and cruel and its not worth the trauma the child suffers. A judiciary office indicated that the rights of the children are invincible and they are denied very basic rights. He conclude by stating that there is plenty of flaws in the trial process for anybody, though the children's its more than flawed that it is cruel.

Provided with the considerable percentage of children who wouldn't re-enter the system if abused once more, and the percentage of legal personnel who would not want their own children in the system, it is not unanticipated that the point on which child victims and defense counsel were in agreement was that the process does not offer either protection or care to the child. According to one of the defense counsel interviewed he said that the Crown does not care about the child neither do the police care about the child and i don't care about the child because the trial is not about the child.

The research identified several issues for child complainants including problems with legal language, challenges in reporting the abuse, pre-recording evidence, scarcity of child-friendly courtroom facilities, giving evidence in chief, judges and magistrates, verdict and sentence (see Eastwood &Patton 2002).

It's worth noting that Australia has been having systematic reforms of its judicial system. Despite the robust review of its judicial system it still has challenges when dealing with child witness. Secondly the research had a bias by only concentrating on respondents who had sexually abused background. In contrast Kenyan judicial system has not undergone similar transformation in comparison with the Australian. The current research dealt with every child witness irrespective of the type of case that took them to court.



## **2.3 Theoretical framework**

### **2.3.1 Social Cognitive Theory**

Social cognitive theory (SCT) refers to the behavior concept developed by Albert Bandura. It is a psychological model of behaviour that came out mainly from the work of Albert Bandura (1977; 1986). Primarily it was developed with focus on the development of social behaviours, SCT lay emphasis on that learning happens in a social context and that observation is the key ingredient to learning. SCT has been practiced widely to various areas of human performance as, organisational behaviour, mental and physical health, athletics, and career choice; it can as well be applied to understanding children courtroom behaviour.

SCT has several basic assumptions about behaviour and learning. The assumptions include triadic reciprocal-ity, or the thought that environmental factors and individual behaviour influence one another. That is, there is a continuous relationship between individual cognition and contextual factors that results to a person's on-going functioning. Hence the courtroom experience behaviour is shaped by factors within the court environment, particularly the reinforcements experienced by a person and by those around him. Also, learning is influenced by oneself thoughts and self-beliefs and their understanding of the issue at hand.

### **2.3.2 Social Cognitive Theory Core Concepts**

Social Cognitive Theory incorporates numerous distinct concepts, ideas and sub-processes into a general structure for perceiving human functioning. Five of the key concepts are;

**1. Observational Learning/Modeling.** From the time when launched, one key foundation of SCT was that observation is fundamental when people are learning. This procedure is also known as vicarious learning or modeling due to learning is construed to be an outcome of observing the behaviour and its effects of models in the environment. There are four inter-related processes that influence learning and observation, they include attention, retention, production, and motivation. Hence children who participate in the criminal justice system observe what is happening around them and eventually learn to adapt according to their understanding.

**2. Outcome Expectations.** Outcome expectations mirror individuals' beliefs about what outcome are highly likely to arise when particular behaviours are carried out. For example, children may think that if they give expected responses during the trial they will receive positive attention from the court personnel. These beliefs are portrayed en-actively during individuals' own history experiences and vicariously through the observation of others. Individuals behavior are influenced by outcome and expectation according to what they perceive to be irrelevant or unfavorable. Distinct

**3. Perceived Self-efficacy.** Self-efficacy reveals persons thinking about whether they can accomplish a given level of successful at a distinct task (Bandura, 1997). Juveniles with positive self-efficacy are more confident in their capability to carry out themselves better in court compared to other children with lower self-efficacy. Children will become more effective witness when they are certain in their ability to behave suitably in court. Thus the courtroom environment should be planned in a way that aids them to develop and sustain their self-efficacy for participating in the trial process.

**4. Goal Setting.** Goal setting is core process within SCT, since they reflect cognitive representations of expected, preferred result. Therefore, goals demonstrate the agency view within SCT that people not only learn, they use foresight to envision the future, recognize preferred outcomes, and produce strategy of action. Goals are also closely connected to other essential processes within SCT. Goals are a function of the outcomes children expect from engaging in particular behaviours and the confidence they have for completing those behaviours successfully. When children witness and victims observe the trial process to be helpful and would bear desirable outcome they are more likely to be willing to fully take part in the process.

**5. Self-regulation** it depends upon goal setting, in that a person is considered to manage their thoughts and actions so that they can reach a particular outcome (Schunk, 2001; Zimmerman, 2000). Child witnesses should be supported in their efforts to self-regulate hence that they can individually participate fully in the trial process effectively without easily being influenced by other negative factors within the environment.

### **2.3.2 The Cannon-Bard theory of emotion**

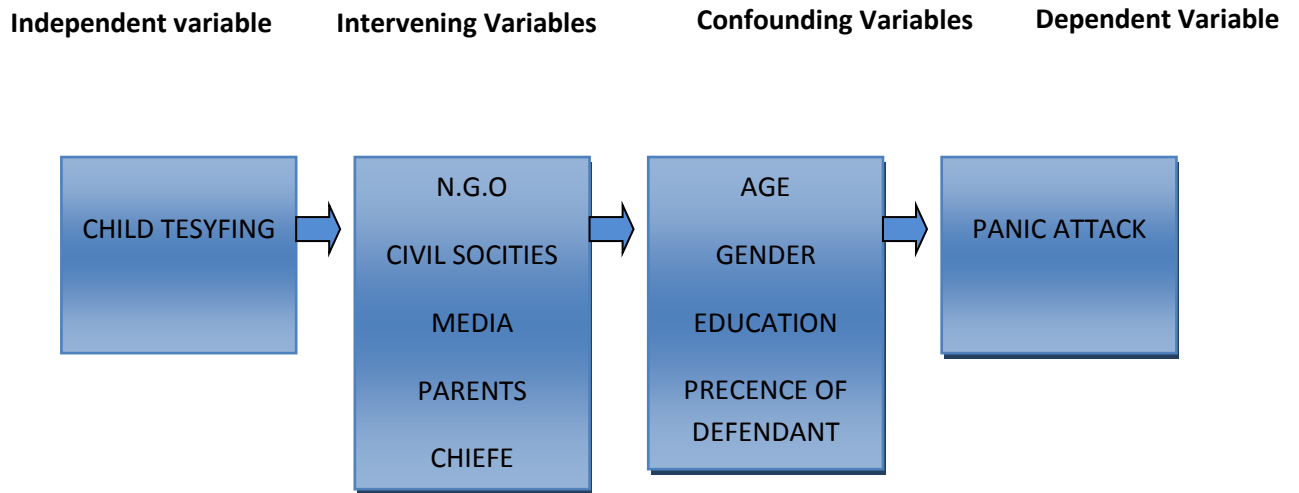
Walter Cannon and Philip Bard developed the Cannon-Bard theory of emotions. It is a physiological explanation of the development of emotions. Cannon-Bard theory states that emotions are felt and we experience psychological reactions simultaneously (Kendra Cherry 2016) according to the theory it suggests that emotions is as a result of the thalamus sending a message to the brain to respond to a stimulus resulting in a physiological reaction

For instance, I see a lion – I get scared, and I start to tremble or I see the defendant – I am frightened and I start feeling palpitations. vehicle

In accordance with the Cannon-Bard theory of emotion, we respond to a stimulus and exhibit the associated emotion at the concurrently. For example, imagining that you are strolling to your vehicle through a dimly lit parking garage. You suddenly hear the sounds of footsteps approaching behind you, and see a shadowy shape gradually following you as you walk towards your car, or you enter the courtroom and see several unfamiliar faces staring at you. According to the theory of emotions by Cannon-Bard, you are likely to experience feelings of fright and physical reaction at the same time. You will start to feel frightened, and your heart will start to race.

The theory suggests that the body needs not to portray physiological reactions while under the experience of various emotions. Cannons' theory noted that in other cases there can be similar physiological reactions to different emotions. An individual may experience racing heartbeat, increased respiration and sweating in response to excitement, anger and fear. These physiological responses emotions are very different, but the physiological responses are the same. Cannon and Bard believed that physical response and emotions occur simultaneously thus one was not dependant on the other. He suggested that interpreting the body's physiological reactions should not be dependent on the experience of emotions.

## 2.4 Conceptual Frame Work



**Figure 2.1: Conceptual Framework**

## **CHAPTER THREE**

### **RESEARCH METHODOLOGY**

#### **3.1 Introduction**

The main objective of the study is to examine the relationship between child witness testifying in the Kenyan court process and panic attack. This chapter describes the research methodology applied, criteria for sample selection, the procedure used in designing research instrument and consequently data collection. This section will also describe statistical procedures applied in the final data analysis.

#### **3.2 Research Design**

This study adopted a mixed method approach to collect both qualitative and quantitative data to enable the researcher to examine the impact of criminal justice system in Kenya in relation to child witness testifying in court. Jonhnsnon et al (2007) as cited in Creswell & Clark (2011) define mixed method research as a type of research whereby the researcher uses a blend of both quantitative and qualitative designs to achieve in-depth understanding and corroboration of a topic. Data collected by qualitative approach will be helpful in examining the challenges children witnesses undergo during the trial process, the quantitative design will help in the interpretation of the data thus guard against biases. The researcher used a mixed method approach because “it provides strengths that offset the weaknesses of both quantitative and qualitative research” (Creswell & Clark 2011, p.12). [=

The essence of empirical research is to measure and compare characteristics of a phenomenon, an individual, a group or an organization that is being studied and to generate a description of the research subject based on the measurement of the said attributes, notes Channels (1985 p. 33) who goes further to define variables as “concrete indicators of the broader concepts of interest to the researcher”. Variables can either be dependent or independent. The child witness testifying in court is the independent variables whereas the panic attack is the dependent variable. A cause-and-effect relationship exists between independent and dependent variable whereby a change in independent variables. Consequently causes a change in the dependent variable notes Johnson & Christensen (2012). Because variables will tend to change they exist in varying levels known as attributes, notes Channels (1985).

### **3.3 Location of the Study**

This study was carried out at the Kenya High Court Nairobi. Purposive sampling method was used to select participants and Nairobi County was picked based on that it is representative of the entire country and the only county that hosts the Kenya High Court. Nairobi is also Metropolitan County with a population that is representative of the diverse social, economic and political attributes of the larger Kenyan society. The research was conducted at the High Court cognisance that children court cases are mostly referred to this court from other lower courts within and beyond Nairobi county .

### **3.4 Target Population**

The specific population upon which information is desired is referred to as Target population in statistics. Ngechu (2004) describes population as a well defined set of services, people, events, elements, households and group of things that are being investigated. The target population for the study is 1564 children. These are the children witnesses between the age of 7 years and 17 years, who have gone through the court process at the Kenyan High Court within 2016- 2017.

### **3.5 Sampling Techniques**

A sample design is a "definite plan for obtaining a sample from a given population", notes Kothari (2004 p. 54). Population or universe, as it is sometimes known, can be defined as all the items under the sample unit (i.e Nairobi County). In this case, the target population is 1564 children who have appeared at the children's court. The researcher used purposive sampling technique to pick the sample population of the participants from target population to be part of the study. When using survey method and targeting individuals who are considered knowledgeable about subject matter under investigation purposive sampling is considered useful (Engel & Schutt, 2010) The reason for purposive sampling approach in this study is because the researcher will be only interviewing children respondents who have had a direct experience with the court process.

### **3.6 Research instruments**

Empirical research method relies on data to help in answering research questions and consequently in achieving the research objective, notes Pawar (2004). As such the

effectiveness of any research depends heavily on the accuracy of data collected. According to (Pawar, 2004) observations the quantity, adequacy, appropriateness and quality of research is affected by the data collecting methods. Thus, so as to attain high-quality research results, this study will use a mix of research tools to collect both primary and secondary data. Kothari (2004) defines primary data as that which is collected by researcher first hand from respondents, whereas secondary data is defined as data which have already been collected by another person and is relevant to the subject of inquiry. Primary data in this study was obtained using questionnaires and observation, whereas secondary data was collected through review of related literature such court files, children Act, related books, online sources among others.

### **3.6.1 Questionnaires**

A questionnaire is defined by Pawar (2004 p. 21) as a document consisting of closed-ended questions or open-ended questions "covering research objectives, variables and research questions." Questionnaires were instrumental in evoking attitudes, feelings, beliefs, perceptions and experiences of the respondents regarding the judicial process in Kenya. This was essential as it enabled the researcher to make an assessment of judicial process in relation to the impact they have on child witness.

### **3.6.2 Observation Method**

Johnson & Christensen (2012 p. 206) describes observation as the watching of behavioural patterns of people in definite situations to obtain information about the phenomenon of interest. Although observation is a day to day activity that everyone does, it can be used as a scientific method of data collection if it is planned in a systematic manner, recorded and is subjected to checks to ensure that data collected are scientifically valid and reliable (Kothari 2004). Through observation, the researcher was able to observe how the children behaves during the testimony period and how the court is structured, its atmosphere and the use of the court facilities. Kothari (2004) opines that this method is effectiveness because it does not rely on the respondent's willingness to cooperate or participate in the study as is the case with interviews and questionnaires above.

### **3.7 Piloting of research Instruments**

Mugenda and Mugenda (2003) States that the validity and reliability of the data collection instrument largely influences the accuracy of the data to be collected. In order to establish the reliability of the questionnaire a pilot study was carried out on a sample of 10 witnesses at Kibera Law courts. The piloting research was done using test-retest method. This was done through the researcher administering the questionnaire twice with a brief time lapse between the first and the second test. The respondents. Cronbach's alpha was used to assess internal consistency and reliability of the questionnaire based on the feedback of the pilot test.

### **3.8 Data Collection Techniques**

The researcher relied on questionnaires and observation as the primary data collection methods. Questionnaires was delivered by hand to respective respondents to complete. Gravetter & Forzano (2009 p. 165) define validity as “the truth of the research or the accuracy of the conclusions” of a research. Thus validity can be viewed as the truth value of research based on how research questions connect with the proposed research methods. A piece of research is considered to be valid when it achieves the objective for which it was conducted. Thus this particular research is valid when its conclusions are true and communicate the correct state of the court process in Kenya in relation to child witness testifying. To achieve this, the researcher sort to demonstrate a logical cause-and-effect relationship between dependent variable and the independent variables.

Validity can be viewed as internal or external validity. McBurney & White (2010) note that a piece of research is said to have met internal validity when it provides undebatable evidence that independent variable causes change on the dependent variable. Meanwhile, external validity is measured by how much the findings of a study can be applied or generalised to other situations or settings outside the study. The extent to which we can generalize research findings to settings, measures, people, times and characteristics other than those used in the study is known as external validity (Gravetter & Forzano, 2009).



Meanwhile, a research design is considered to be reliable if the error margins between various methods used to arrive at its findings are minimal and does not greatly vary from one observation to another. For example, if an interview schedule is repeated on a respondent its findings should remain consistent with the first interview conducted on the very respondent.

Reliability is defined as the “degree to which an instrument accurately and consistently measures whatever it measures”, (Connaway & Powell 2010 p. 64). To ensure that research instruments deliver accurate and consistent data and thus reliable, the researcher conducted test-retest correlation of data collection tools whereby an instrument is used to collect data twice from the same group in order to test its reliability.

### **3.9 Data Analysis**

Data was analysed using both descriptive and inferential statistics. This is because descriptive statistics aids in the description of data collected with the aim of summarizing the information to be easily understood by the reader. while inferential statistics is utilized to used to interpret the meaning of descriptive statistics other than making proposition about the data collected and helps in population and so aids in making conclusions. Responses were arranged against each research question. The data were edited coded and classified so as to present the results of the data analysis in a systematic way. Standard deviation was obtained to determine and check how the items scatter around the mean. In order to verify the existence of a relationship between independent variable and dependent variables ANOVA and regression analysis were used, as well as to test the hypotheses.

Statistical Package for Social Science (SPSS) computer package was used to run data input into output in form of frequency tables, percentage means for quick and easy interpretation of the findings. Analysed quantitative data have been presented using tables, graphs and charts while qualitative data were analysed through narrations.

### **3.10. Ethical Considerations**

The researcher sought informed consent of respondents by including an ethical statement in the research data collection tool. Best (2012) notes that the codes of research ethics place greater emphasis on consent, anonymity, confidentiality and selection of respondents. As a measure to against violation of the set codes of research ethics, the researcher will introduce to the respondents the research subject and its intended purpose and encourage them to read the ethical statement before they can proceed to participate in the research. Best (2012) observes that ethical codes are necessary for guiding researchers on the appropriate approach to take, thus guarding against disagreements over morality mostly common in social research.

## CHAPTER FOUR

### RESULTS AND DISCUSSION

#### 4.1 Introduction

The study sought to investigate the relationship between child witness testifying and panic attack in the Kenyan courts. This chapter presents the empirical findings and the results of the application of both descriptive and inferential statistics. It begins with the presentation of the response rate, the demographic characteristics of the respondents and followed by results analysis.

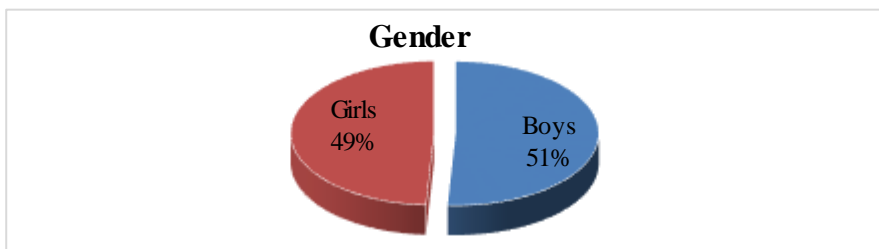
#### 4.2 Response rate

For the purpose of this study, only child witnesses were primary respondents and completed the survey (n=112). The samples were distributed equally and each respondent had an equal and independent chance and each respondent was only chosen once.

#### 4.3 Demographics

Demographics give the quantifiable characteristics of a given population that is the study size, structure, and distribution of these populations. The responses are as stated below.

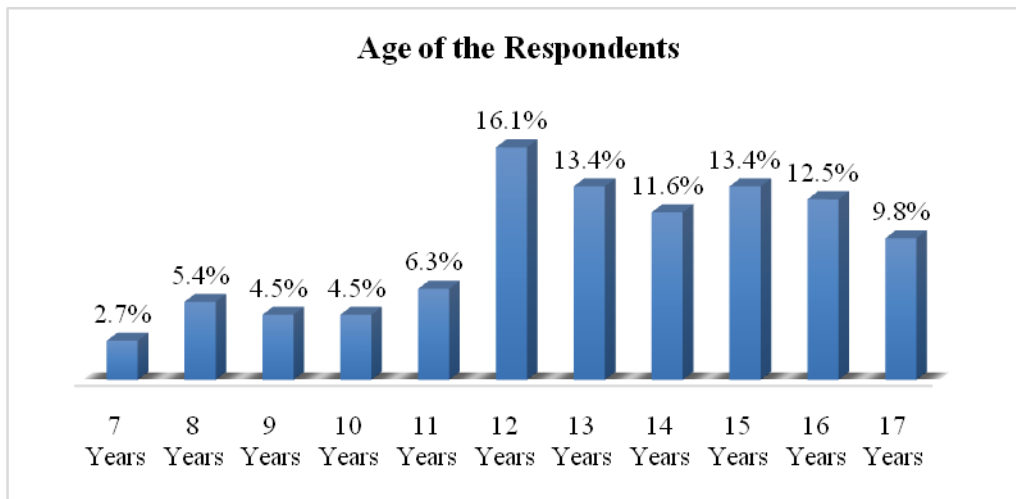
##### 4.3.1 Gender of the respondents



**Figure 1: Gender of the respondents**

Figure 1 shows that from the total number of the respondents, 51% are boys whereas 49% are girls. This implies that majority of the respondents are boys

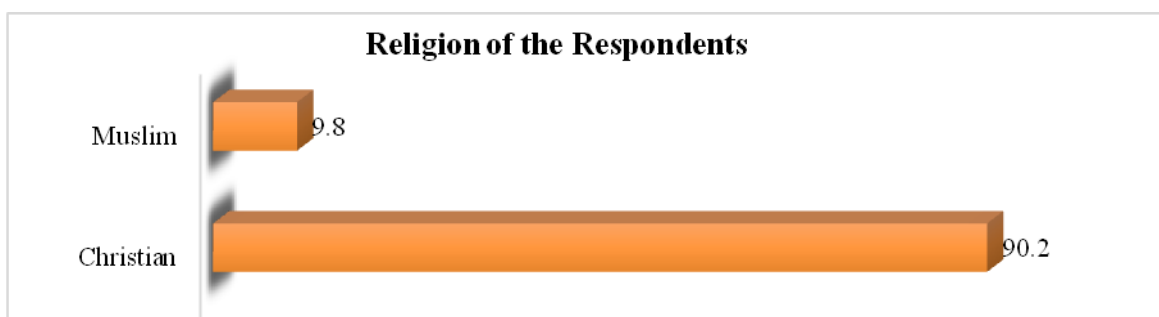
### 4.3.2 Age of the respondents



**Figure 2: Age of the respondents**

Figure 2 shows that 2.7% of the respondents were 7 years of age, 5.4% of the respondents being 8 years of age, 4.5% of the respondents being 9 and 10 years of age each, 6.3% of the respondents being 11 years of age, 16.1% of the respondents being 12 years of age, 13.4% of the respondents being 13 and 15 years of age each, 11.6% of the respondents being 14 years of age, 12.5% of the respondents being 16 years of age and finally 9.8% of the respondents being 17 years of age. This indicates that majority of the respondents were 12 years of age with the least number of respondents being 7 years of age.

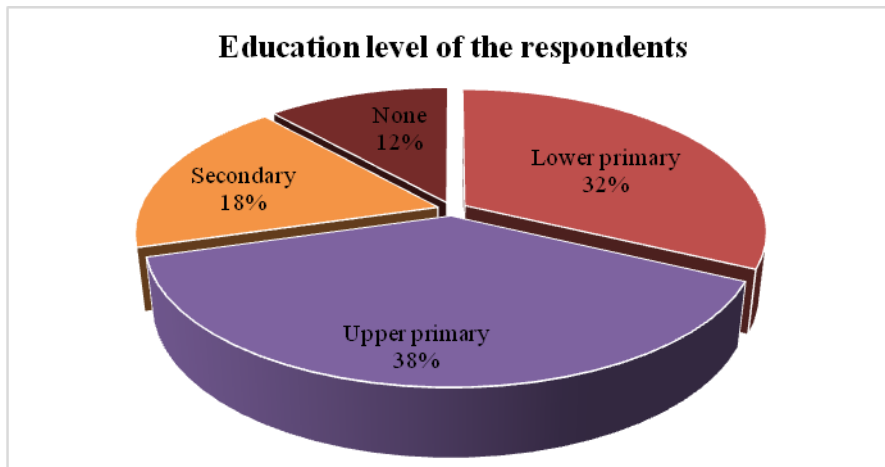
### 4.3.3 Religion of the respondents



**Figure 3: Religion of the respondents**

A bigger proportion of respondents 90.2% were Christians and Muslims were minority respondents at 9.8%

#### 4.3.4 Education level of the respondents



**Figure 4: Education level of the respondents**

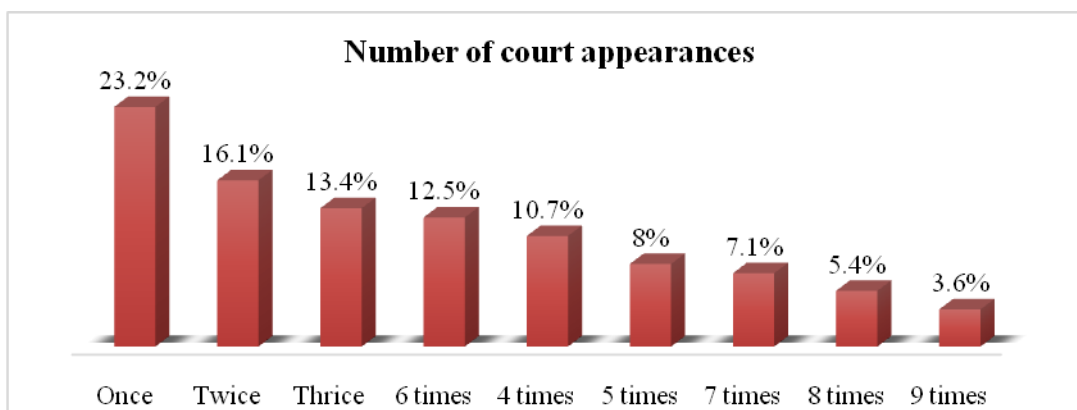
Most of the respondents (38%) were in their upper primary level of education. This was followed by the respondents who were in their lower primary (32%) then respondents who had attained secondary education (18%) and finally a small fraction of the respondents (12%) had not attained any education.

#### 4.4 Children testifying in Court

A child testifies when he or she answers questions about what happened while on the witness stand during a trial or formal inquiry where they do not receive any formal preparation and are not specifically taught anything about court procedures and the legal terminology that is employed in the courtroom

##### 4.4.1 Number of appearances in Court

Appearance in court is when an a person/ persons goes to be part in a suit either individually or by being represented by an attorney. The person/ persons may be the plaintiff or the defendant. In our study we sought to find the number of times the witnesses appeared in court to testify in court in regards to a case. The findings are as shown below:



**Figure 5: Number of court appearances**

Most of the children had appeared in court as witnesses only once (23.2%) with 16.1% of the children appearing in court as witnesses twice and 13.4% of the children appearing in court as witnesses thrice. This is then followed by the children who appeared in court as witnesses 6 times (12.5%), then the children who appeared in court as witnesses 4 times (10.7%), the children who appeared in court as witnesses 5 times (8%), the children who appeared in court as witnesses 7 times (7.1%), the children who appeared in court as witnesses 8 times (5.4%), and finally and the least proportion of children who appeared in court as witnesses 9 times (3.6%).

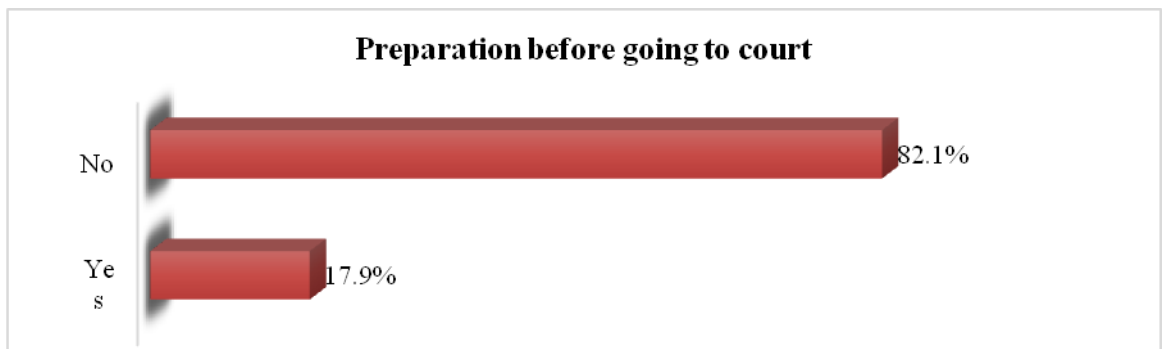
#### 4.4.2 Decision maker for the child to appear in court and testify

Decision to go to Court		
	Frequency	Percentage
Mother	50	44.6%
Civil society	17	15.2%
Father	16	14.3%
Self	11	9.8%
NGO	8	7.1%
Other	6	5.4%
Chief	4	3.6%
<b>Total</b>	<b>112</b>	<b>100%</b>

**Table 1: Decision maker for the child to appear in court and testify**

A greater proportion of the children have had to testify in court based on the decision made by their mothers (44.6%) which is followed by those who had the civil society (15.2%) as their decision makers of the children to testify in court whereas 14.3% of the children had their fathers as the decision makers for them to testify in court. Similarly in that order, 9.8% of the children made their own decisions to testify in court, then those who had the NGOs (7.1%) make decisions for them to testify in court and then 3.6% of the children had the chiefs (3.6%) as their decision makers of the children to testify in court whereas 5.4% of the children had other people as decision makers for them to testify in court.

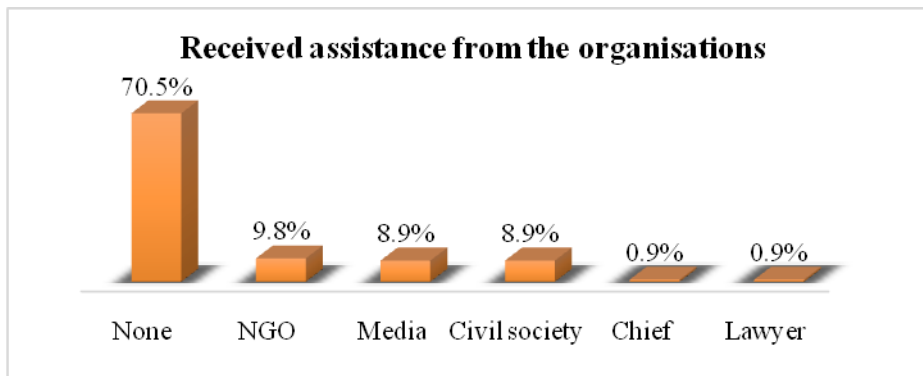
#### 4.4.3 Children witnesses being prepared before appearing in court



**Figure 6: Preparation before going to court**

Figure 6 shows that from the total number of the children, 82.1% of the children hadnot been prepared before they go to testify in court whereas 17.9% of the children had been prepared before they go to testify in court. This implies that majority of the of the children hadnot been prepared before went go to testify in court.

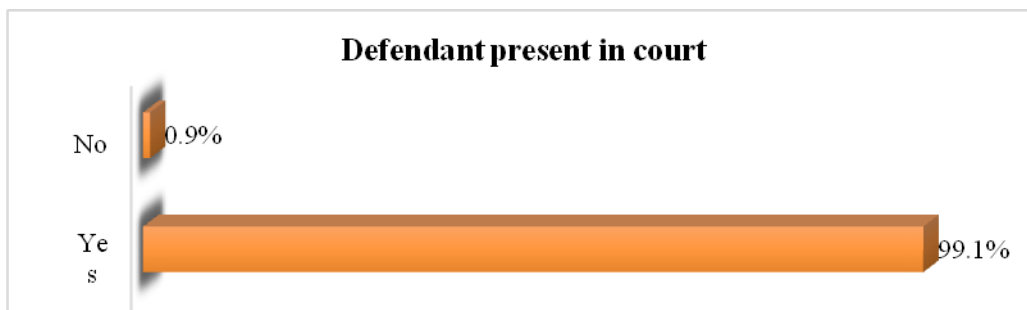
#### 4.4.4 Assistance to the children while testifying in Court



**Figure 7: Received assistance from the organizations**

Figure 7 shows that 70.5% of the children never received assistance while testifying in court whereas 29.5% of the children received assistance while testifying in court. Of the 29.5% who received assistance while testifying in court, 9.8% received assistance from an NGO while testifying in court, with 8.9% received assistance from media and civil society each while testifying in court. 0.9% received assistance from the chief and lawyer each while testifying in court.

#### 4.4.5 Presence of the defendant in Court as the children witnesses were testifying

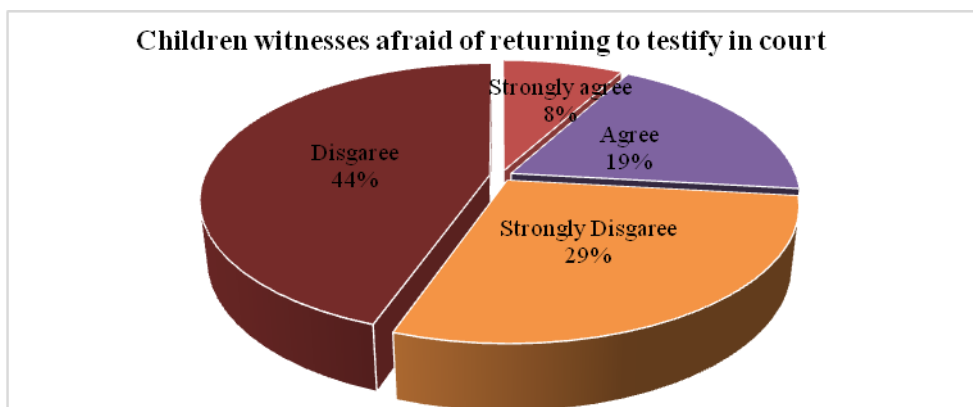


**Figure 8: Defendant present in court**

Figure 8 shows that from the total number of the children, 99.1% of the children had the defendant present in Court as the children were testifying whereas 0.9% of the children had the defendant absent in Court as the children were testifying. This implies that majority of the children had the defendant present in Court as the children were testifying



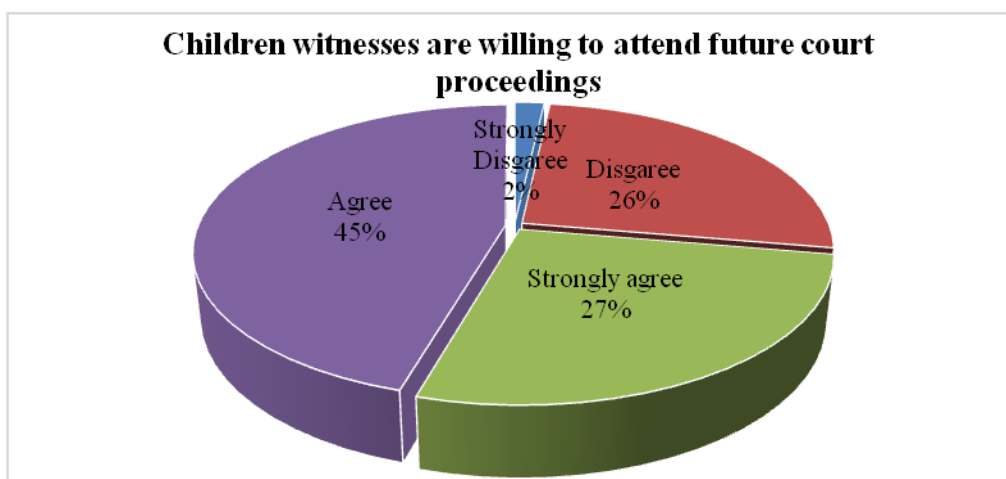
#### 4.5 Children witnesses afraid of returning to testify in court



**Figure 15: Children witnesses afraid of returning to testify in court**

Most of the children (45%) disagreed on being afraid to return and testify in court. This is then followed by those who strongly disagreed (28%) on being afraid to return and testify in court. Then those who agreed(19%) on being afraid to return and testify in court and finally 8% of the children strongly agreed on being afraid to return and testify in court.

#### 4.5.1 Children witnesses willingness to attend future court proceedings

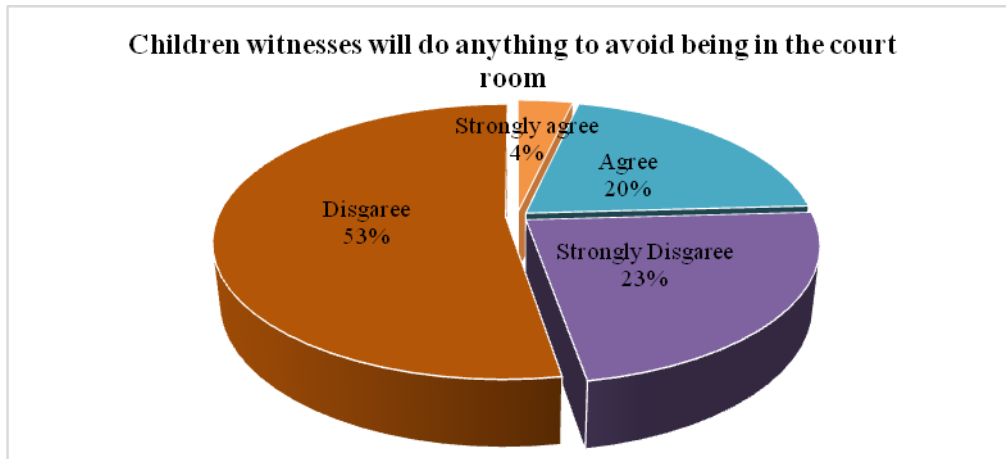


**Figure 16: Children witnesses are willing to attend future court proceedings**

Most of the children (45%) agreed on being willing to attend court proceedings in future. This is then followed by the children who strongly agreed (27%) on being willing to attend court proceedings in future. Then those who disagreed(26%) on

being willing to attend court proceedings in future and finally 2% of the children strongly disagreed on being willing to attend court proceedings in future.

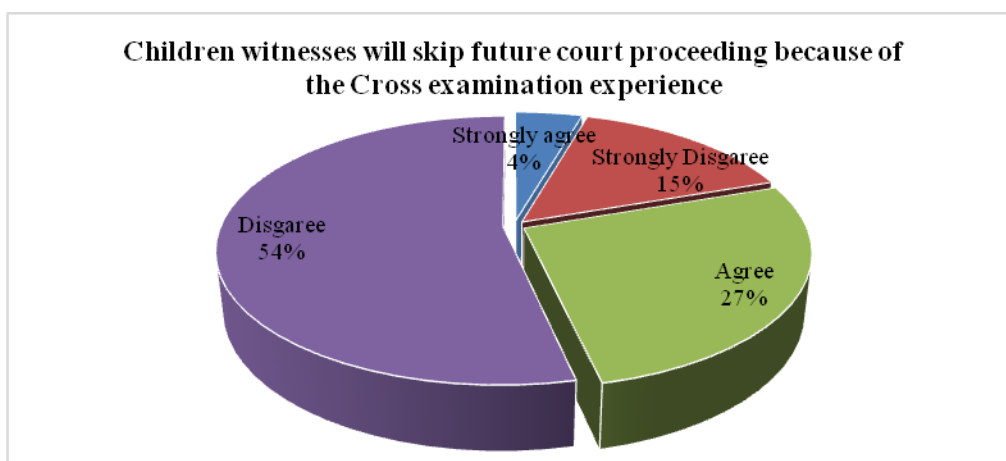
#### 4.5.2 Children witnesses will do anything to avoid being in the court room



**Figure 17: Children witnesses will do anything to avoid being in the court room**

A bigger number of the children (53%) disagreed on the willingness to do anything to avoid being in the court room. This is then followed by the children who strongly disagreed (23%) on the willingness to do anything to avoid being in the court room. Then those who agreed (20%) on the willingness to do anything to avoid being in the court room and finally 4% of the children strongly agreed on the willingness to do anything to avoid being in the court room.

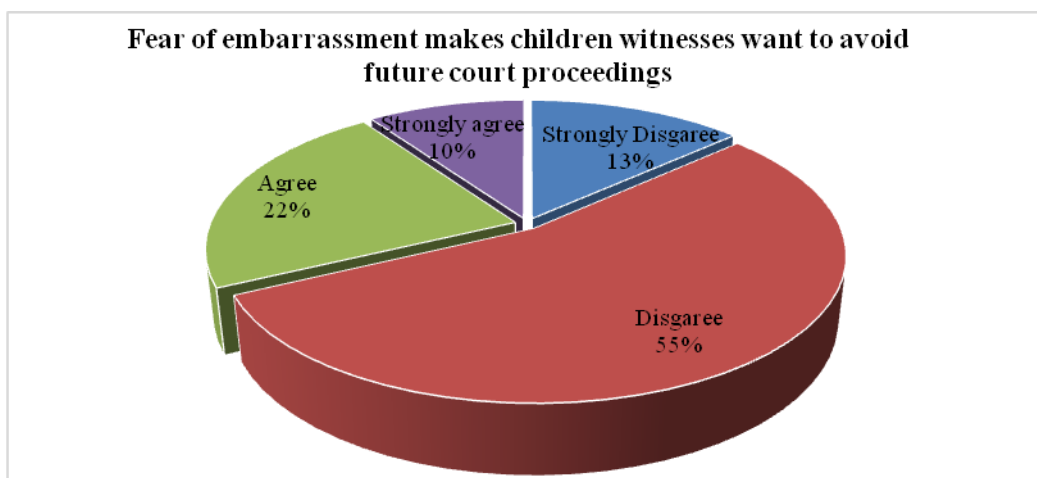
#### 4.5.3 Children witnesses will skip future court proceeding because of the Cross examination experience



**Figure 18: Children witnesses will skip future court proceeding because of the Cross examination experience**

A greater proportion of the children (54%) disagreed on the will skip future court proceeding because of the Cross examination experience. This is then followed by the children who agreed (27%) on the on the will skip future court proceeding because of the Cross examination experience. Then those who strongly disagreed (20%) on the on the will skip future court proceeding because of the Cross examination experience and finally 4% of the children strongly agreed on the on the will skip future court proceeding because of the Cross examination experience.

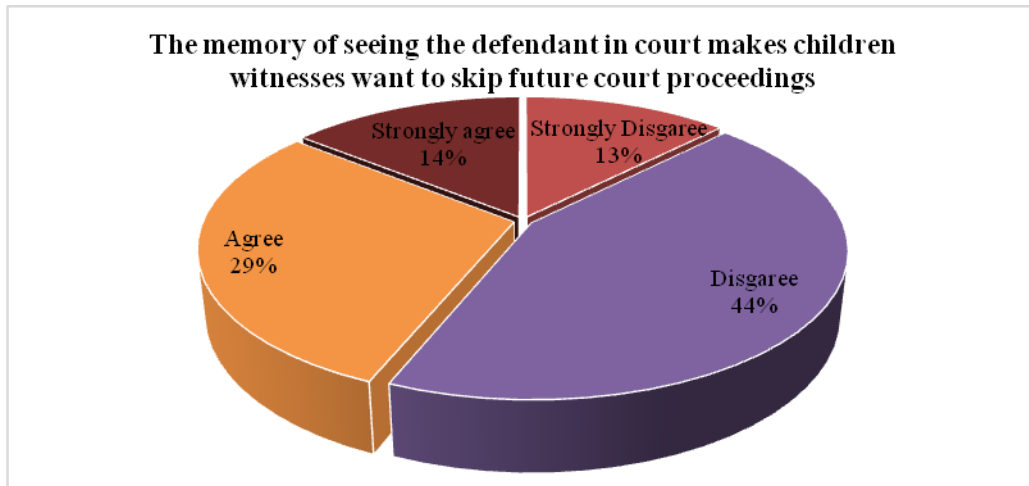
#### 4.5.4 Fear of embarrassment makes children witnesses want to avoid future court proceedings



**Figure 19: Fear of embarrassment makes children witnesses want to avoid future court proceedings**

Majority of the children (55%) disagreed that the fear of embarrassment make them want to avoid future court proceedings. This is then followed by the children who agreed (22%) that the fear of embarrassment make them want to avoid future court proceedings. Then those who strongly disagreed (13%) that the fear of embarrassment make them want to avoid future court proceedings and finally 10% of the children strongly agreed that the fear of embarrassment make them want to avoid future court proceedings.

#### 4.5.5 The memory of seeing the defendant in court makes children witnesses want to skip future court proceedings



**Figure 20: The memory of seeing the defendant in court makes children witnesses want to skip future court proceedings**

A bigger fraction of the children (44%) disagreed that the memory of seeing the defendant in court makes them want to skip future court proceedings. This is then followed by the children who agreed (29%) that the memory of seeing the defendant in court makes them want to skip future court proceedings. Then those who strongly agreed (14%) that the memory of seeing the defendant in court makes them want to skip future court proceedings and finally 13% of the children strongly disagreed that the memory of seeing the defendant in court makes them want to skip future court proceedings.

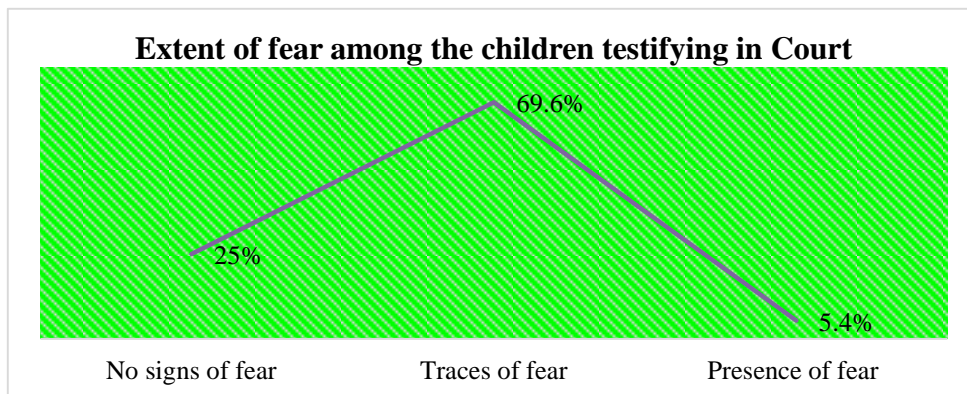
#### 4.6 Court Process

The court process is divided into different segments each section of process requires the participation of the child witness. Some aspect of the court process include; witness submitting their case, the witness being questioned by the defendant, or his or her lawyer, the court prosecutor cross examining the witness. Throughout the process the witness is challenged by different aspects of the court process that they may find frustrating and intimidating. The judge is finally required to make a ruling after all the submissions.

#### 4.6.1 Fear among children testifying in Court

Throughout the testimony, the child is expected to successfully retrieve memories of the event in question and communicate those memories to adults in a courtroom in an environment that is often considered stressful.

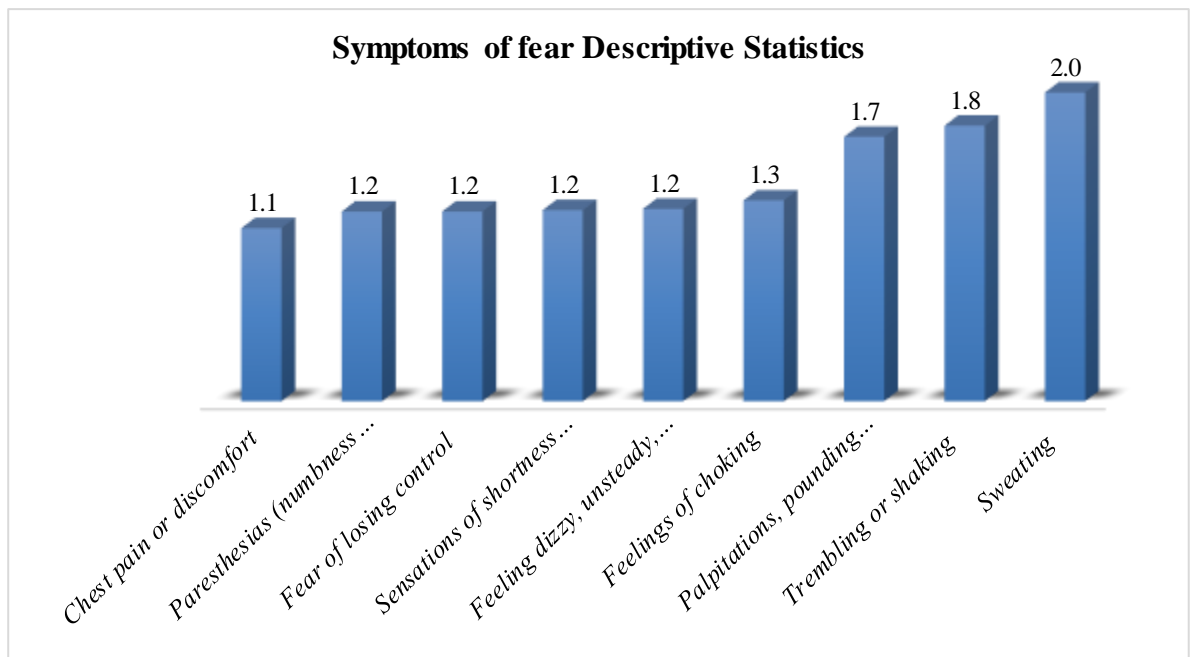
#### 4.6.2 Extent of fear among the children testifying in Court



**Figure 9: Extent of fear among the children testifying in court**

Figure 15 shows that from the whole proportion of the children testifying in court, 25% of the children had no signs of fear while testifying in Court whereas 69.6% of the children had some traces of fear while testifying in Court and finally 5.4% were full of fear while testifying in Court. This implies that majority of the children had some traces of fear while testifying in Court.

#### 4.6.3 Symptoms of fear among the Children testifying in Court



**Figure 10: Symptoms of fear among the Children testifying in Court**

Sweating (mean of 2.0) is the symptom that had the greatest manifestation of fear, followed by trembling or shaking (mean of 1.8) symptom with the second greatest manifestation of fear. Then Palpitations, pounding heart, or accelerated heart rate symptoms (mean of 1.7), Feelings of choking symptoms (1.3), Paresthesia (numbness or tingling sensations) symptom, Fear of losing control symptom, Feeling dizzy, unsteady, light-headed, or faint symptom and Sensations of shortness of breath or smothering symptom each had a mean of 1.2. Finally, the least manifestation of fear is seen through the Chest pain or discomfort symptoms (mean of 1.1).

#### 4.6.4 Relationship between child witness testifying in court and fear.

In determining the relationship between the child witness testifying in court and fear, we run the regression analysis and the output was divided into three parts that is the model summary (giving the correlation coefficient and squared R), the ANOVA analysis and finally the regression analysis.

#### 4.6.5 Model summary on children testifying in court and fear

##### Model Summary

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.543 <sup>a</sup>	.294	.261	.444

a. Predictors: (Constant), Education level, Gender, No. of court appearances, Age

##### Table 2: Model summary on children testifying in court and fear

Multiple coefficient of correlation (R) for the model was 0.543. This suggests that the degree of relation between fear in testifying in court to education level of children, gender of children, age of children, and number of court appearance to testify is moderate. The ( $R^2$ ) was 0.294 which means that 29.4% of the variations in the fear to testify in court can be explained by changes in education level of children, gender of children, age of children, and number of court appearance to testify and 70.6% of variations in the fear to testify in court can be explained by other factors that are not within the control of the research.

#### 4.6.6 ANOVA analysis on children testifying in court and fear

##### ANOVA<sup>b</sup>

Model		Sum of Squares	Df	Mean Square	F	Sig.
1	Regression	8.737	5	1.747	8.844	0.000 <sup>a</sup>
	Residual	20.942	106	.198		
	Total	29.679	111			

a. Predictors: (Constant), Education level, Gender, No. of court appearances, Age

##### Table 3: ANOVA analysis on children testifying in court and fear

This is the table shows the output of the ANOVA analysis and whether there is a significant difference statistically between the group means in regards to fear on children testifying. We can see that the significance value (p) is (F (5, 106) = 8.844, p = 0.00). Which is less than 0.05, and thus means that there is a statistical significant difference in the means on fear among children testifying in court at 95% confidence interval.

#### 4.6.7 Regression analysis on children testifying in court and fear

##### Regression Coefficients

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.	
	B	Std. Error	Beta			
1	(Constant)	2.545	0.351	7.243	0.000	
	Gender	-0.100	0.093	-0.097	-1.072	0.286
	Age	-0.014	0.021	-0.071	-0.641	0.523
	Religion	0.047	0.144	0.027	0.327	0.744
	No. of court appearances	-0.119	0.020	-0.555	-5.946	0.000*
	Education level	-0.007	0.058	-0.014	-0.127	0.900

a. Dependent Variable: Extent of fear  
 p < 0.05\*, p < 0.01\*\*

**Table 4: Regression analysis on children testifying in court and fear**

Religion is found to have the greatest influence on fear among the children testifying in court ( $\beta=0.027$ ,  $t=0.327$ ,  $p=0.744$ ). Hence, religion is a significant predictor of fear among the children testifying in court. Number of court appearances makes the smallest contribution to fear among the children testifying in court ( $\beta=-0.555$ ,  $t=-5.946$ ,  $p=0.000$ ) then gender ( $\beta=-0.097$ ,  $t=-1.072$ ,  $p=0.286$ ), then age ( $\beta=-0.071$ ,  $t=-0.641$ ,  $p=0.523$ ) and finally education level ( $\beta=-0.014$ ,  $t=-0.127$ ,  $p=0.900$ ).

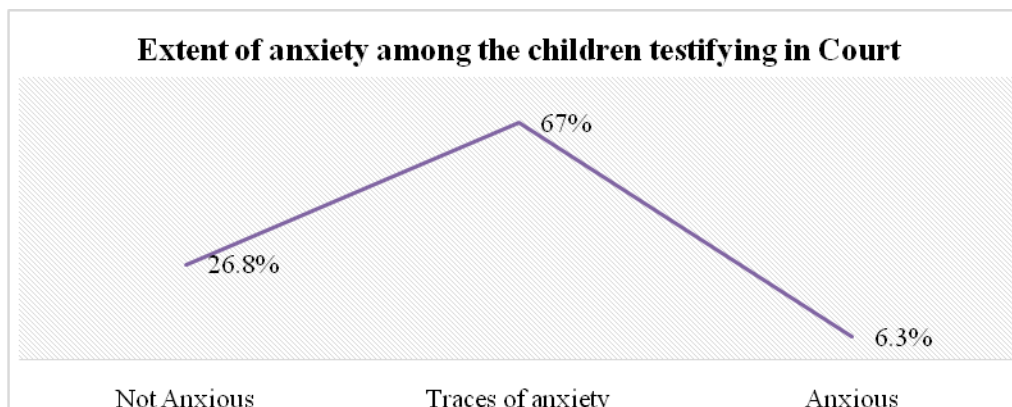


However, only the number of court appearances was found to be statistically significant in influencing fear among the children testifying in court.

An increase in education level of the children, the probable decrease in the fear among the children testifying in court ( $\beta = -0.007$ ). Similarly, the increase in the number of appearances of the children in court, the probable decrease fear among the children testifying in court ( $\beta = -0.119$ ). The more the male children, the less the fear among the children testifying in court ( $\beta = -0.100$ ). and then the increase in age of the children there is a probable decrease in fear among the children testifying in court ( $\beta = -0.014$ ), Whereas, as the number of occurrences of the children in court increases there is a probable increase in the fear among the children testifying in court ( $\beta = 0.047$ ).

#### 4.7 Anxiety among the children testifying in Court

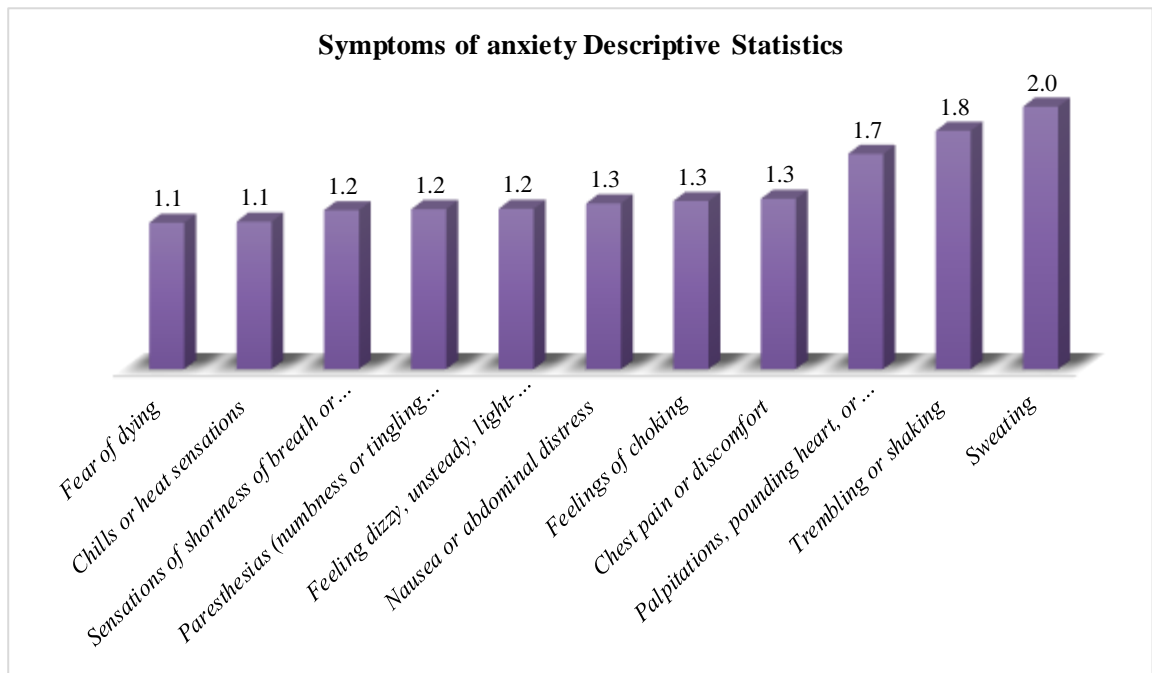
Anxiety is anticipation of future threat. Among the children witnesses, the following are the symptoms of anxiety:



**Figure 11: Extent of anxiety among the children testifying in court**

Figure 11 shows that from the whole proportion of the children testifying in court, 26.8% of the children were not anxious while testifying in Court whereas 67% of the children had some traces of anxiety while testifying in Court and finally 6.3% were anxious while testifying in Court. This implies that majority of the children had some traces of anxiety while testifying in Court.

#### 4.7.1 Symptoms of anxiety among the children testifying in Court



**Figure 12: Symptoms of fear among the Children testifying in Court**

Sweating (mean of 2.0) is the symptom that had the greatest manifestation of anxiety, followed by trembling or shaking (mean of 1.8) symptom with the second greatest manifestation of fear. Then Palpitations, pounding heart, or accelerated heart rate symptoms (mean of 1.7), Chest pain or discomfort symptoms, Nausea or abdominal distress and Feelings of choking symptoms each had a mean of 1.3. Then Paresthesia (numbness or tingling sensations) symptom, Feeling dizzy, unsteady, light-headed, or faint symptom and Sensations of shortness of breath or smothering symptom each had a mean of 1.2. Finally, the least manifestation of anxiety is seen through the Chills or heat sensations and Fear of dying symptoms each with a mean of 1.1.

#### 4.7.2 Relationship between child witness testifying in court and anxiety.

In determining the relationship between the child witness testifying in court and anxiety, we run the regression analysis and the output was divided into three parts that is the model summary (giving the correlation coefficient and squared R), the ANOVA analysis and finally the regression analysis.

#### 4.7.3 Model summary on children testifying in court and anxiety

##### Model Summary

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.515 <sup>a</sup>	.265	.230	.473

a. Predictors: (Constant), Education level, Religion, Gender , No. of court appearances, Age

**Table 5: Model summary on children testifying in court and anxiety**

Multiple coefficient of correlation (R) for the model was 0.515. This suggests that the degree of relation between anxiety in testifying in court to education level of children, gender of children, age of children, and number of court appearance to testify is moderate. The ( $R^2$ ) was 0.265 which means that 26.5% of the variations in the anxiety while testifying in court can be explained by changes in education level of children, gender of children, age of children, and number of court appearance to testify and 73.5% of variations in the anxiety, while testifying in court can be explained by other factors that are not within the control of the research.

#### 4.7.4 ANOVA analysis on children testifying in court and anxiety

##### ANOVA<sup>b</sup>

Model		Sum of Squares	Df	Mean Square	F	Sig.
1	Regression	8.558	5	1.712	7.650	0.000 <sup>a</sup>
	Residual	23.718	106	.224		
	Total	32.277	111			

a. Predictors: (Constant), Education level, Religion, Gender , No. of court appearances, Age

**Table 6: ANOVA analysis on children testifying in court and anxiety**

This is the table shows the output of the ANOVA analysis and whether there is a significant difference statistically between the group means in regards to anxiety among children testifying. We can see that the significance value (p) is (F (5, 106) = 7.650, p = 0.00). Which is less than 0.05, and thus means that there is a statistical significant difference in the means of anxiety among children testifying in court at 95% confidence interval

#### 4.7.5 Regression analysis on the children testifying in court and anxiety

##### Regression Coefficients

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.
	B	Std. Error	Beta		
1 (Constant)	2.136	0.374		5.711	0.000
Gender	-0.027	0.099	-0.025	-0.277	0.783
Age	0.024	0.023	0.117	1.033	0.304
Religion	0.075	0.153	0.042	0.490	0.625
No. of court appearances	-0.120	0.021	-0.538	-5.645	0.000*
Education level	-0.114	0.062	-0.207	-1.828	0.070*

a. Dependent Variable: Extent of anxiety

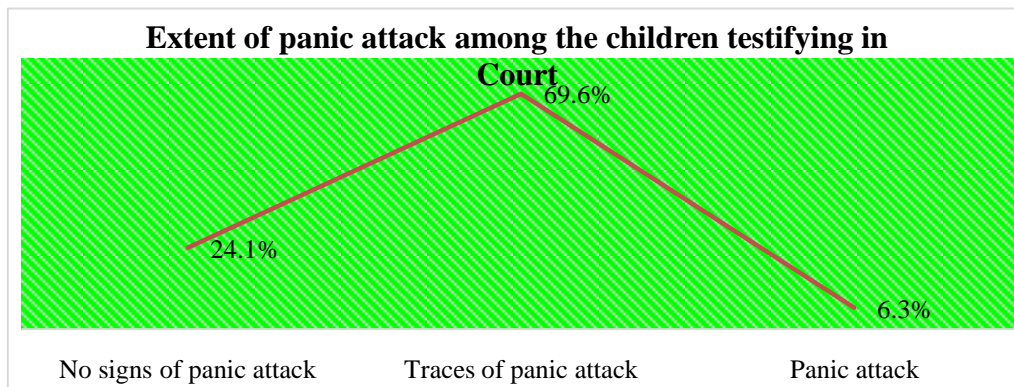
**Table 7: Regression analysis on children testifying in court and anxiety**

Age is found to have the greatest influence on anxiety among the children testifying in court ( $\beta=0.117$ ,  $t=1.033$ ,  $p=0.304$ ). Hence, age is a significant predictor of anxiety among the children testifying in court. Number of court appearances makes the smallest contribution to anxiety among the children testifying in court ( $\beta=-0.538$ ,  $t=-5.645$ ,  $p=0.000$ ) then education level ( $\beta=-0.207$ ,  $t=-1.828$ ,  $p=0.070$ ) and finally gender ( $\beta=-0.025$ ,  $t=-0.277$ ,  $p=0.783$ ). However, the number of court appearances and education level was found to be statistically significant in influencing anxiety among the children testifying in court.

An increase in education level of the children, the probable decrease in anxiety among the children testifying in court ( $\beta = -0.114$ ). Similarly, the increase in the number of appearances of the children in court, the probable decrease in anxiety among the children testifying in court ( $\beta = -0.120$ ). The more the male children, the less the anxiety among the children testifying in court ( $\beta = -0.027$ ). However, as there is an increase in age of the children there is a probable increase in anxiety among the children testifying in court ( $\beta = -0.014$ ), Whereas, as the number of Christian children in court increases there is a probable increase in the anxiety among the children testifying in court ( $\beta = 0.075$ ).

#### 4.8 Panic attack among the children testifying in Court

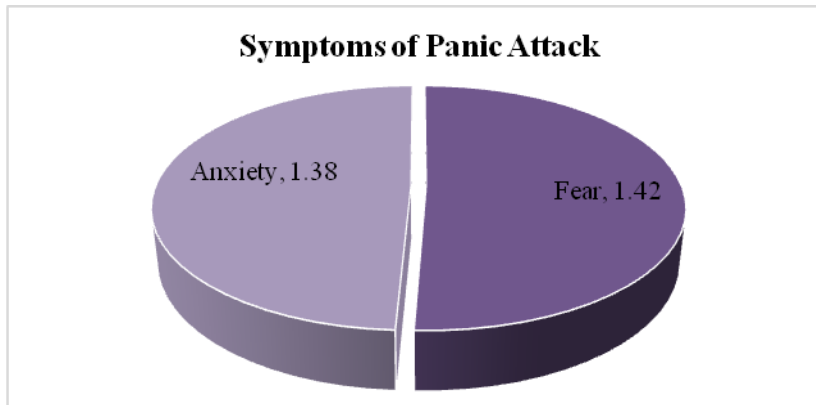
Among the children witnesses, the following is the extent of panic attack:



**Figure 13: Extent of panic attack among the children testifying in court**

Figure 13 shows that from the whole proportion of the children testifying in court, 24.1% of the children had no signs of panic attack while testifying in Court whereas 69.6% of the children had some traces of panic attack while testifying in Court and finally 6.3% had panic attack while testifying in Court. This implies that majority of the children had some traces of panic attack while testifying in Court.

#### 4.8.1 Symptoms of anxiety among the children testifying in Court



**Figure 14: Symptoms of panic attack among the Children testifying in Court**

Panic attack (mean of 1.42) is the symptom that had the greatest contribution to panic attack, whereas anxiety (mean of 1.38) had the least contribution to panic attack.

#### 4.8.2 Relationship between children testifying in court and panic attack.

In determining the relationship between the child witness testifying in court and panic attack, we run the regression analysis and the output was divided into three parts that is the model summary (giving the correlation coefficient and squared R), the ANOVA analysis and finally the regression analysis.

#### 4.8.3 Model summary on children testifying in court and panic attack

**Model Summary**

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.526 <sup>a</sup>	.277	.243	.456

a. Predictors: (Constant), Education level, Religion, Gender , No. of court appearances, Age

**Table 8: Model summary on children testifying in court and panic attack**

Multiple coefficient of correlation (R) for the model was 0.526. This suggests that the degree of relation between panic attack in testifying in court to education level of children, gender of children, age of children, and number of court appearance to

testify is moderate. The ( $R^2$ ) was 0.277 which means that 27.7% of the variations in the panic attack to testify in court can be explained by changes in education level of children, gender of children, age of children, and number of court appearance to testify and 70.6% of variations in the panic attack to testify in court can be explained by other factors that are not within the control of the research.

#### 4.8.4 ANOVA analysis on children testifying in court and panic attack

##### ANOVA<sup>b</sup>

Model		Sum of Squares	Df	Mean Square	F	Sig.
1	Regression	8.419	5	1.684	8.109	.000 <sup>a</sup>
	Residual	22.010	106	.208		
	Total	30.429	111			

a. Predictors: (Constant), Education level, Religion, Gender, No. of court appearances, Age

b. Dependent Variable: Panic Attack

**Table 9: ANOVA analysis on children testifying in court and panic attack**

This is the table shows the output of the ANOVA analysis and whether there is a significant difference statistically between the group means in regards to panic attack on children testifying. We can see that the significance value (p) is (F (5, 106) = 8.109, p = 0.00). Which is less than 0.05, and thus means that there is a statistical significant difference in the means on panic attack among children testifying in court at 95% confidence interval

#### 4.8.5 Regression analysis on children testifying in court and panic attack

##### Regression Coefficients

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.
	B	Std. Error	Beta		
1 (Constant)	2.422	.360		6.723	.000
Gender	-.051	.095	-.049	-.532	.596
Age	-.006	.022	-.030	-.267	.790
Religion	.029	.148	.017	.199	.843
No. of court appearances	-.116	.020	-.538	-5.691	.000
Education level	-.019	.060	-.035	-.312	.755

a. Dependent Variable: Panic Attack

**Table 10: Regression analysis on children testifying in court and panic attack**

Religion is found to have the greatest influence on panic attack among the children testifying in court ( $\beta=0.017$ ,  $t =0.199$ ,  $p = 0.843$ ). Hence, religion is a significant predictor of panic attack among the children testifying in court. Number of court appearances makes the smallest contribution to panic attack among the children testifying in court ( $\beta =-0.538$ ,  $t =-5.691$ ,  $p =0.000$ ) then gender ( $\beta= -0.049$ ,  $t=-0.532$ ,  $p= 0.596$ ), then education level ( $\beta= -0.035$ ,  $t=-0.312$ ,  $p= 0.755$ ) and finally age ( $\beta= -0.030$ ,  $t=-0.267$ ,  $p= 0.790$ ). However, only the number of court appearances was found to be statistically significant in influencing panic attack among the children testifying in court.

An increase in education level of the children, the probable decrease in the panic attack among the children testifying in court ( $\beta= -0.019$ ). Similarly, the increase in the number of appearances of the children in court, the probable decrease panic attack among the children testifying in court ( $\beta =-0.116$ ). The more the male children, the less the panic attack among the children testifying in court ( $\beta= -0.051$ ). and then the increase in age of the children there is a probable decrease in panic attack among the



children testifying in court ( $\beta=-0.006$ ), Whereas, as the number of Christians increases there is a probable increase in the panic attack among the children testifying in court ( $\beta=0.047$ ).

## CHAPTER FIVE

### SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

#### 5.1 Introduction

This chapter summarises the findings of the study on the presence of fear, anxiety and resistance to go back to court to testify by child witness in the Kenyan courts. It also addresses the drawn conclusion, recommendation and suggestions of future area of study.

#### 5.2 Internal and external validity

##### Internal validity

The Multiple coefficients of correlation (R) for the model was 0.526. This suggests that the degree of relation between panic attack in testifying in court to education level of children, gender of children, age of children, and number of court appearance to testify is moderate. The ( $R^2$ ) was 0.277 which means that 27.7% of the variations in the panic attack to testify in court can be explained by changes in education level of children, gender of children, age of children, and number of court appearance to testify. The results obtained from the study indicated that there was a cause and effect relationship between the independent variable and the dependent variable. Thus indicating that the study has a good internal validity.

##### External validity

When the researcher did ANOVA analysis and whether there is a significant difference statistically between the group means in regards to anxiety among children testifying. The significance value (p) is ( $F(5, 106) = 7.650, p = 0.00$ ). Which is less than 0.05, and thus means that there is a statistical significant difference in the means of anxiety among children testifying in court at 95% confidence interval

However, the number of court appearances and education level was found to be statistically significant in influencing anxiety among the children testifying in court.

An increase in education level of the children, the probable decrease in anxiety among the children testifying in court ( $\beta = -0.114$ ). Similarly, the increase in the number of appearances of the children in court, the probable decrease in anxiety among the

children testifying in court ( $\beta = -0.120$ ). The more the male children, the less the anxiety among the children testifying in court ( $\beta = -0.027$ ).

ANOVA analysis on whether there is a significant difference statistically between the group means in regards to panic attack on children testifying. It was observed the significance value (p) is ( $F(5, 106) = 8.109, p = 0.00$ ). Which is less than 0.05, and means that there is a statistical significant difference in the means on panic attack among children testifying in court at 95% confidence interval.

An increase in education level of the children, the probable decrease in the panic attack among the children testifying in court ( $\beta = -0.019$ ). Similarly, the increase in the number of appearances of the children in court, the probable decrease panic attack among the children testifying in court ( $\beta = -0.116$ ). The more the male children, the less the panic attack among the children testifying in court ( $\beta = -0.051$ ). and then the increase in age of the children there is a probable decrease in panic attack among the children testifying in court ( $\beta = -0.006$ ). Considering that majority of the analysis done had a significant level of less than 0.05 it portays therefore that the study can be generalized to other courts within the country.

### **5.3 Summary of Findings**

The purpose of this study was to examine the relationship between child witness testifying and panic attack in the Kenyan court. Chapter one provides an outline of the scope of the study, explains the genesis of the prevailing statutes and court procedures. It enumerates how Kenya as a country developed its legal structures since independence to date and how international policies influenced Kenyan legal system to the extent of adopting and domesticating the policies. Over the last few years there has been a steady increment in the number of children who are willing to testify in court as a result of various distinct reasons. Some of the factors that contribute to the number of children testifying in court include; improved identification of child witness and victims, legislative amendments that have considered child specific provisions designed to adjust the way children evidence is received and applied in court. Chapter two dealt with literature review. The historical and current impact of the children's courts procedures were explored in various jurisdictions. It was

investigated how different courts procedures and practices have been shaped by the interaction of progressive and liberal initiatives, asserting the need to combat the repugnant procedures in existence within some jurisdictions. Through the literature review it was observed that despite the enactment of child-friendly procedures and policies, their implementation has not received enough support by the court personnel. Through the literature review it was also observed that some jurisdiction enjoyed modern court facilities like; forensic interview, interview being videotaped, video links, receiving information concerning the courtroom procedure and having a supportive person in court while testifying. Chapter three discusses the research methodology that was adopted in this study. The method that was adopted being mixed method research design was carefully implemented so as to mesh well with the area being investigated. The area of study being concerned with the child witness testifying vis a vis panic attack. The valuable participation of the key informants was very much helpful to the study so as to arrive at the findings that explored the effectiveness of current judicial procedures and policies when dealing with child witness. Hence, basic statistical and advanced analytical tools were employed to evaluate the data collected so as to arrive at informed conclusions. In chapter different statistical procedure were undertaken to analyse the data obtained. The researcher used both descriptive and inferential statistical method to make inferences. From the data collected it was observed that from the whole proportion of the children testifying in court, 24.1% of the children had no signs of panic attack while testifying in Court whereas 69.6% of the children had some traces of panic attack while testifying in Court and finally 6.3% had panic attack while testifying in Court. This implies that majority of the children had panic attack while testifying in Court. From the analysis of the data the researcher was able to come up with informed conclusions and recommendations.

#### **5.4 Similar findings in relation to the study.**

Research conducted by European Union Agency for fundamental Rights underscores this study when they assert that Participating in judicial proceedings is likely to be stressful for everyone, and even more so for children. They further narrate that the justice systems are not designed to specifically address the needs of children though

several measures can be taken to make children feel safe and comfortable (European Union Agency for fundamental Rights 2017)

The findings of the third objective are further elaborated by American Psychological Association when they did a study on trauma and reported that most of children and adolescents show resilience after traumatic experiences. From their research they observed that despite children being exposed to traumatic experiences and events majority of them return to their former levels of functioning after several days, weeks or months. The children and adolescents resume their normal developmental course. The resilience exhibited by the children results to a reduction in both physiological arousal and psychological distress. (American Psychological Association 2008)

## **5.5 Conclusion**

Witnesses are central component in the criminal justice system. Their collaboration and engagement make the system work. The findings of the study demonstrated that there are challenges that child witnesses face when testifying in a court of law. The child witness is required by the Kenyan law to narrate to the court about the crimes they have been subjected to as well as to answer the questions raised by the defendant and the prosecutor. According to the study findings the courtroom atmosphere evokes emotions that include fear and anxiety to most of the respondents. This study demonstrated that witnesses frequently found coming to court and testifying an overwhelming task that is characterised with intimidation and frustration resulting to panic attack. It is difficult for most of them to speak with ease while they were in an environment they considered hostile and intimidating thereby alluding to the notion that there are features of the court process that continue to distress and confuse child witnesses. Some of the participants spoke of their fright at meeting the defendant in court, aggressively cross-examination and having scanty information about the court process. The criminal justice system can ensure that witnesses feel they are valued by providing clear, consistent and timely information about the court process. The use of provisions that accommodate child witnesses on the stand should be highly encouraged. These will make the difficulties and frustrations of coming to court more manageable, and helps to reduce any sense of fear and anxiety associated with testifying.

## **5.6 Recommendations**

### **1. Children's witness court manual**

The significance of preparing child witnesses to attend court proceedings cannot be overstated. Most children lack adequate knowledge in criminal justice system procedures and traditions. They therefore need support to induct them through the system in general. A court Manual should be introduced to the children's court which will outline the procedures and expectations of the court.

### **2. Provision of court support service**

Children social service in court should be introduced to provide critically supporting services to the child witness while attending court. Their services will ease what is often considered alien and stressful experience. Practical assistance and information would be offered before during and after trial. Services to be provided to the child witness may include, hosting pre-trial visits, providing waiting facilities and information on availability of court amenities.

### **3. Special equipments and facilities**

To reduce fear and anxiety by child witnesses when they are testifying, the courts should provide special equipments as stipulated and in compliance with law. Such equipments may include witness screen, closed circuit television and admission of videotaped statements.

## **5.7 Future Research**

From the areas covered in this research, it would appear that more study needs to be conducted in order to improve the quality and effectiveness of child witness testimony. One possibility of study to be conducted that appears urgently needed within the Kenyan jurisdiction is the development of a specific guideline for questioning child witnesses that recognizes their developmental abilities, vulnerability to intimidation and susceptibility to suggestion. Another area of study that would be important is the examination of the implementation of existing legislation provisions across the country. The children courts would also benefit from a research that will examine the training and performance of court personnel in relation to best practices and interest of the child.

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## APPENDICES

### Appendix A: Parent/Guardian Consent Sheet

I am a student at The University of Nairobi and am looking at cases in the Kibera Court which involve children giving evidence. I am researching to find out whether there is a relationship between children testifying in court and panic attack .Your son/daughter opinion, based on their experiences, would be invaluable to me. I will be very grateful if you would agree to talk to me. I realise that being involved in a court case can be very distressing and want to reassure you that I would not need to talk to you or your son/daughter about the details of the case. I only want to know how your son/daughter experience during the courtroom process. Thank you.

Yes, I am willing for my child to participate.

Name..... Sign.....

No, I don't want my child to participate.

Name..... Sign.....

## Appendix B: Child Witness Questionnaire

I am a Master of psychology student at The University of Nairobi carrying out a study to examine the relationship between the Kenyan court process and panic attack in child witnesses. I would appreciate your co-operation in completing my questionnaire. The information you give will be treated confidentially and will only be used for the purposes of the research study. Thank you for taking the time to tell us your thoughts about the experience in court and Your feedback is very important.

Code name.....

Gender Male  Female

Age 9 - 12  13 - 16  17- 18

Religion.....

Education Level - 1. Lower Primary  2.Upper primary  3.Secondary  4.None

1. Who made the decision for you to go to Court?

a. Self  b. Father  c. Mother  d. NGO  e. Chief  f. Civil Society

2. Have you received assistance from any of the following organizations during your court appearances?

a) NGO  b. Chief  c. Lawyer  d. Media  e, Civil Society  f. None

3. Below is a list of symptoms of fear. Please carefully read each item in the list. Indicate how much you have been bothered by that symptom while in the courtroom, by ticking the number in the corresponding space in the column next to each symptom.

		<b>Not At All</b>	<b>Mildly but it didn't bother me much</b>	<b>Severely – it bothered me a lot</b>
A	Palpitations, pounding heart, or accelerated heart rate			
B	Sweating			
C	Trembling or shaking			
D	Sensations of shortness of breath or smothering			
E	Feelings of choking			
F	Chest pain or discomfort			
G	Feeling dizzy, unsteady, light-headed, or faint			
H	Paresthesias (numbness or tingling sensations).			
I	Fear of losing control			

4. Below is a list of symptoms of anxiety. Please carefully read each item in the list. Indicate how much you have been bothered by that symptom when giving testimony in the courtroom, by ticking the number in the corresponding space in the column next to each symptom.

		<b>Not At All</b>	<b>Mildly but it didn't bother me much</b>	<b>Severely – it bothered me a lot</b>
A	Palpitations, pounding heart, or accelerated heart rate			
B	Sweating			
C	Trembling or shaking			
D	Sensations of shortness of breath or smothering			
E	Feelings of choking			
F	Chest pain or discomfort			
G	Nausea or abdominal distress			
H	Feeling dizzy, unsteady, light-headed, or faint			
I	Chills or heat sensations			
J	Paresthesias (numbness or tingling sensations).			
K	Fear of dying			

5. Below is a list of statements. Please carefully read each statement and select the appropriate response to indicate how you feel about courtroom proceedings,

		<b>Strongly Disagree</b>	<b>Disagree</b>	<b>Agree</b>	<b>Strongly Agree</b>
A	I am afraid of returning to testify in court				
B	I will be willing to attend future court proceedings				



C	I would do anything to avoid being in the court room				
D	Cross examination experience in court makes me want to skip future court proceedings				
E	Fear of embarrassment makes me want to avoid future Court Proceedings				
F	The memory of seeing the defendant in court makes me want to skip future court proceedings				

6. Did you receive any preparation before going to court? YES  NO

7. Was the defendant present during the court process? YES  NO

8. Which part of courtroom process do you find stress full?

a .....

b .....

c.....

d .....

Any other comments

.....

.....

.....

.....

.....

**Thank you for your co-operation**

Edwin Wambo

University of Nairobi.

## APPENDIX C: RESEARCH AUTHORIZATION



### NATIONAL COMMISSION FOR SCIENCE, TECHNOLOGY AND INNOVATION

Telephone: +254-20-2213471,  
2241349, 3310571, 2219420  
Fax: +254-20-318245, 318249  
Email: [dg@nacosti.go.ke](mailto:dg@nacosti.go.ke)  
Website: [www.nacosti.go.ke](http://www.nacosti.go.ke)  
When replying please quote

9<sup>th</sup> Floor, Utalii House  
Uhuru Highway  
P.O. Box 30623-00100  
NAIROBI-KENYA

Ref: No **NACOSTI/P/17/33088/20112**

Date: **22<sup>nd</sup> November, 2017**

Edwin Ariz Wambo  
University of Nairobi  
P.O. Box 30197-00100  
**NAIROBI.**

#### **RE: RESEARCH AUTHORIZATION**

Following your application for authority to carry out research on *“The relationship between child witness testifying in court and panic attack,”* I am pleased to inform you that you have been authorized to undertake research in **Nairobi County** for the period ending **20<sup>th</sup> November, 2018.**

You are advised to report to **the County Commissioner and the County Director of Education, Nairobi County** before embarking on the research project.

Kindly note that, as an applicant who has been licensed under the Science, Technology and Innovation Act, 2013 to conduct research in Kenya, you shall deposit **a copy** of the final research report to the Commission within **one year** of completion. The soft copy of the same should be submitted through the Online Research Information System.

*G.P. Kalerwa*

**GODFREY P. KALERWA MSc., MBA, MKIM  
FOR: DIRECTOR-GENERAL/CEO**

Copy to:

The County Commissioner  
Nairobi County.

The County Director of Education  
Nairobi County.

## APPENDIX D: RESEARCH PERMIT

**THIS IS TO CERTIFY THAT:  
MR. EDWIN ARIZ WAMBO  
of UNIVERSITY OF NAIROBI, 43649-100  
nairobi, has been permitted to conduct  
research in Nairobi County**

**on the topic: THE RELATIONSHIP  
BETWEEN CHILD WITNESS TESTIFYING  
IN COURT AND PANIC ATTACK**

**for the period ending:  
20th November, 2018**

  
.....  
**Applicant's  
Signature**

**Permit No : NACOSTI/P/17/33088/20112  
Date Of Issue : 22nd November, 2017  
Fee Received :Ksh 1000**



  
.....  
**Director General  
National Commission for Science,  
Technology & Innovation**