

UNIVERSITY OF NAIROBI
DEPARTMENT OF SOCIOLOGY

**CHILD SEXUAL ABUSE: CHALLENGES OF PROSECUTING CHILD
SEX OFFENDERS IN NAIROBI.**



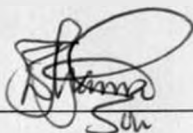
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**A research project paper submitted in partial fulfillment of the
requirement for MA (Sociology) degree of University of Nairobi**

Declaration:

This research project paper is my original work and has not been presented for a degree in any other university.

Bunusu Shamala Benson

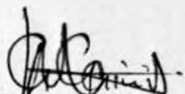


Date

October 26, 2011

This research project has been submitted for examination with my approval as the university supervisor.

Dr. Gidraph Wairire



Date

14/11/2011

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Dedication

This project paper is dedicated to all children who suffer the cruelty of sexual abuse in the hands of their perpetrators.

Acknowledgement

I would like to acknowledge Dr. Gidraph Wairire for his tireless guidance, input and encouragement towards the completion of this project.

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Abbreviations and Acronyms

ANPPCAN: African Network for the Prevention and protection against Child Abuse and Neglect.

CID: Criminal Investigation Department

CLAN: Child Legal Aid Network

CPC: Criminal Procedure Code

CPS: Child Protection Services

CRADLE: Child Rights Advisory, Documentation and Legal Centre

DNA: Deoxyribonucleic Acid

GBVRC: Gender Based Violence Recovery Centre

JICA: Japan International Cooperation Agency

IJM: International Justice Mission

KNH: Kenyatta National Hospital

MSF: Medecins Sans Frontieres

NCCAN: National Center on Child Abuse and Neglect

NWH- GVRC: Nairobi Women Hospital Gender Violence Recovery Centre

OB: Occurrence Book

PRC: Post Rape Care form

SAFE: Sexual Assault Forensic Examiner

SANE: Sexual Assault Nurse Examiner

SOA: Sexual Offences Act

TSC: Teachers Service Commission.

UNICEF- ESARO: United Nations Children Fund- East and Southern African Region Office

WJEI: Women Justice and Empowerment Initiative

WRAP: Women Rights Awareness Program

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Abstract:

Prosecution of child sex offenders is one way of putting in practice provisions that are contained in the Sexual Offences Act. The Sexual Offences Act has excellent provisions that could be utilized to protect children from sexual violence, however if the challenges of prosecutions are not addressed, the provisions in this Act remain just good laws. The study recognized that despite having very good laws as contained in Sexual Offences Act, deterrence is yet to be reached as witnessed by an upsurge in child sexual abuse cases reported every day.

The main objective of the study was to examine the major challenges encountered while prosecuting child sex offenders in Nairobi with the view of finding solutions to those challenges. It also aimed at identifying some of the difficulties experienced by sexually abused children while going through the legal system and analyzed the inter-linkages of various stakeholders when handling these cases.

Since there are several players involved in handling child sexual abuse cases, the study used a heterogeneous sample of 45 respondents that was purposively selected to give key information to the topic under study. In-depth interviews and questionnaires were the two main data collection tools used. The study yielded qualitative data as the respondents shared their personal experiences.

There are several challenges that need serious attention if justice for sexually abused children is to be realized. There is need for a concerted

effort by all players in this field to ensure that sexually abused children receive comprehensive services in a sensitive manner. The difficulties children experience result from the way they are handled after the abuse more than the abuse itself. Several recommendations have been made on the basis of these findings. The government and other agencies involved in children matters need to see to it that there is a unified protocol of handling child sex abuse cases among all the concerned parties. Some of the recommendations need to be effected immediately as a matter of urgency.

CHAPTER ONE: INTRODUCTION

1.1 BACKGROUND INFORMATION:

Child sexual abuse covers a range of sexual activities directed to a child, it include exhibitionism, defilement, exposure to pornography, sex tourism among others. Whereas Child sexual abuse has been on the rise world over, its frequency and duration vary (Wickham et al 2002). Like any other social deviance, it is very difficult to estimate the extent of this vice in the society. Most estimates of the distribution of this deviance are from forensic sources.

Researchers in this field have a general agreement that child sexual abuse is the most underreported phenomenon. It is a vice that is hidden in high secrecy; it shocks and traumatizes both the victim and the immediate care givers when discovered. Though child sexual abuse has received considerable media coverage, there are still many individuals and child care professionals who continue to minimize or even deny the scope and severity of the problem (Sgroi 1992). This problem occurs across a broad range of social, cultural and socio-economic boundaries. It can be seen as an abuse of power and the targets in most cases are the vulnerable and those at risk.

The impact of this problem on child survivors is far reaching. Child victims of sexuality, beyond their emotional and physical developmental levels, are violated in every sense of the word, i.e. physically, psychologically, emotionally and spiritually. It is clear that victims of child sexual abuse suffer long term negative consequences as a result of the violation (Fergusson and Mullen 1999:54-7). It is essential to learn how to respond effectively to the child victim in a sensitive and timely

fashion. This requires an effective and efficient criminal justice system to prosecute the child sexual offenders and ensure that they are held to account for their acts. There is need to strengthen existing legal frameworks and to generate new ones. These legal frameworks should embrace the need for a multi disciplinary approach in addressing child sexual abuse.

Professionals in different disciplines need to be adequately trained on child sensitivity when handling the survivors of child sexual abuse. They ought also to be committed to their work in order to bring healing to these survivors in a well coordinated fashion (Wickham 2002: 2-3). The world congress on commercial sexual exploitation of children held in Stockholm Sweden in 1996 put the problem of child sexual abuse on the international political agenda. The conference which was the first of its kind led to the adoption of an international action plan against the commercial sexual exploitation of children. This action plan received the endorsement of UN agencies, NGOs and many governments, Kenya included. The declaration provided that commercial sexual exploitation of children is a fundamental violation of children rights.

In July 2002, The African Network for Prevention and Protection against Child Abuse and Neglect (ANPPCAN) and the United Nations Children Fund- East and Southern African Regional Office (UNICEF-ESARO) gave a detailed report on the horrific sexual abuse that children in Kenya and all over Africa are forced to endure in the hands of the perpetrators. The report titled 'Situational Analysis of Sexual Exploitation of Children in Eastern and Southern Africa Region', notes that although the commercial sexual exploitation of children cannot easily be quantified due to lack of adequate data and surveillance mechanism; there is an overwhelming

amount of anecdotal evidence that sexual exploitation of children is an extensive global problem. The report noted that children were being abused in homes, community, schools, workplaces and in brothels. It cited poverty, tribal clashes, lack of education, disintegration of families and social values, and lack of protection mechanisms to be the major causes of child sexual abuse in Kenya.

1.2 PROBLEM STATEMENT

Legal framework is of paramount importance in an effort to ensure that children in any given country are protected from abuse. However, the Kenya Criminal Justice System does not adequately protect children from sexual abuse in Nairobi. Despite the passing of Children Act of 2001 and the Sexual Offences Act of 2006, incidences of child sexual abuses are continually on the rise. The Sexual Offences Act of 2006 has an expanded definition of sexual offences; it also introduced new offences that were previously not criminal. These two pieces of legislation were hoped to reduce the rampant cases of child sexual abuse in the society. However that does not seem to be the case. There seems to be a disjoint between the law and its practice.

Crime statistics from the police department attest to the fact that child sexual abuse has been on the increase since the passing of the Sexual Offences Act in 2006. The big question therefore is why the Kenya Criminal Justice system is unable to protect children in Nairobi from sexual abuses. Conviction rate of Child Sexual abuse has remained low; offenders have walked free from court rooms. Deterrence and retribution are no longer achievable. This phenomenon has a far reaching effect to the victims, family as well as the entire society. Confidence in the rule of

law is quickly being eroded among the community and people are resorting to alternative forms of redress.

Police officers are not properly trained to investigate sexual offences. This results in poorly investigated cases, thus missing out very crucial evidence that would lead to a conviction. Consequently the victims suffer additional psychological trauma by the way they are insensitively handled at the police stations. Legal procedures on the other hand are lengthy and cumbersome as well as insensitive to the victims. Prosecutors are burdened with a heavy workload; this makes it difficult for them to have pre-trial preparations with the victims. This exposes the victims to be re- victimized during trial process.

Presentation of medical evidence is another major hurdle in Nairobi County. According to police procedures, medical evidence need to be contained in a Police form (commonly known as P3 form) unfortunately Nairobi county with a population of 3.1 million is only served with one police doctor. The ill equipped doctor is overwhelmed and unmotivated. He examines all cases of assault, accidents, rape as well child sexual abuse. To get the P3 form filled out victims wait with 100-120 other patients to be seen by the one police doctor¹ He has to document the findings in P3 forms and present the same to various court rooms in Nairobi including High Court, Makadara Court, Kibera Court, Kikuyu court, as well as Kiambu and Thika Courts.

¹ Kweyu, Dorothy "A day in the life of a forensic doctor" *Daily Nation*, May 1, 2010 pg 5

By the time this police doctor gets to examine the victim almost all the bruises have healed and he will have nothing to document. This was noted by the conflicting medical reports that he would prepare. This compromises the child sexual offence cases. Most magistrates have difficulties convicting a suspect with scanty medical evidence. They would rather err on acquitting than err on convicting. Upon the acquittal of the offenders, victims suffer regret of having reported the case; they are consequently viewed by the society as liars.

The Sexual Offences Act has a provision in Chapter 38 that gives room for the offenders to sue the victim for lying. In some cases offenders keep threatening victims that they could sue and the victims could end up serving the same sentence the offender could have served had he been found guilty. This phenomenon has a far reaching consequence to the victims. The victims end up living in perpetual fear and regret. If not well counseled the survivor may experience severe drop in school performance as well as regress in their development. Some of the victims suffer a myriad of psychological problems; some victims may inadvertently turn out to be child sexual abusers. Some may bottle up the pain and suffering and later resort to destructive, high risk behaviors as a way of revenging against the society. With the increase in number of child sexual abuse incidences, with no proper mechanism to deal with the offenders and the victims, it's only but a matter of time when the time bomb will explode.

Psycho-social support is one major aspect that has been neglected by government. Victims of child sexual abuse are left to heal on their own. Shelter and rescue centers are very few. Most of them are run by Non-Governmental Organizations. This means is that children who are abused

in their very homes have little hope of getting help, even if they report the matter for lack of a facility, they are returned to the same abusive environment. On top of this, there is poor coordination of services among the government key stakeholders. Incidences of children who report sexual abuse being stranded at police stations are high, at best a sympathetic police officers take them home or at worst they are send back to the same abusive environment. There are cases where victims have been locked up in police cells for a lack of shelter to be taken. The victim ends up being punished for reporting and thus become uncooperative in course of legal redress. This study therefore aimed at identifying major challenges encountered by various stakeholders in the prosecution process of Child sex offenders. The study identified some of the best practices to handle the issue of Child sexual abuse.

1.3 RESEARCH QUESTIONS

The study was guided by the following research questions:

1. What are the specific challenges experienced while reporting, investigating and prosecuting child sex offenders?
2. Is the Kenya Criminal Justice system well equipped to protect children against child sexual abuse?

1.4 OBJECTIVES OF THE STUDY

a) General objective

The general objective of this study was to examine the major challenges in prosecuting child sex offenders with the view of finding solutions to those challenges.

b) Specific objectives:

The following were the specific objectives of the study:

1. To identify the difficulties faced by Kenya Criminal Justice System in intervening in cases of child sexual abuse.
2. To identify effects of a flawed criminal justice system on the victims of child sexual abuse.
3. To analyze the inter-linkages among key stakeholders that respond to Child Sexual Abuse.

1.5 JUSTIFICATION FOR THE STUDY

The study acts as the missing link between the various legislations on child protection and the implementation of the same. It sought to identify the challenges of prosecuting child sex offenders, and came up with tangible solutions to it. The findings should be used to bring about change in policies regarding intervening in cases of child sexual abuse. The findings and recommendations should be used by key stakeholders in establishing community structures that are responsive to the Child sexual abuse as well as improve their collaboration. Highlighting these challenges should enhance the awareness level among the different key players. The findings will specifically help police investigators and prosecutors to navigate through the impediments of seeking justice for the victims of child sexual abuse. This is hoped to eventually lead to an increase in conviction rate. The confidence level in criminal justice system by the general public will ultimately be enhanced.

The study has also generated literature that will be used by various child protection agencies in coming up with interventions strategies that are holistic in nature. This study has highlighted the inadvertent effects that

children suffer while seeking justice in the criminal justice system. This should provide insights to child protectors to handle child survivors with sensitivity during trial process thus reducing the trauma that they might have suffered as well as avoid re-traumatizing them. The study has provided insights as to why adults sexually abuse children. This information will act as a basis for understanding the various motivations of child sex offenders and can help in designing rehabilitation program for child sex offenders. It was noted that some of the abuser are young and are most likely to be given shorter sentences, so it means that proper rehabilitation programs need to be in place to help them reform. The information generated in this study should form a basis for further study on the effect of minimum sentencing on sexual offenses.

1.6 SCOPE AND LIMITATION OF THE STUDY

The topic of child abuse is so wide and could not be adequately covered under one study; therefore this study dwelled specifically on child sexual abuse and not other forms of child abuse.

Child sexual abuse is still a broad topic that may include prevention; detection; medical treatment; counseling; prosecution of offenders as well as rehabilitation of convicts. In this study the focus was on the process of prosecuting child sex offenders and the challenges experienced and not other forms of intervention.

The challenges of prosecuting child sex offenders are experienced all over Kenya, however due to limited financial resources and time; this study was carried out within Nairobi County.

1.7 DEFINITION OF KEY TERMS:

Best practices: Tested ways of responding to cases of child sexual abuse that yield the best outcomes.

Child: Any person below age of 18 years, according to Kenya laws, a child does not have the legal capacity to give consent on sexual matters. Any consent given is therefore regarded immaterial.

Children Act 2001: This is an act of parliament passed in 2001 that makes provisions for matters relating to children. These matters include parental responsibilities, fostering, adoption, custody, maintenance, guardian ship, care and protection of children as well as administration of children institutions.

Child sexual abuse: Is the involvement of children in sexual activities that they do not fully comprehend and do not have the legal capacity to give consent.

Corroborating: Presenting of supportive evidence in court of law to substantiate a particular charge.

Conviction: Finding the accused guilty and sentencing him/her according to the laid down laws.

Criminal justice system: Judicial system that helps the public access Justice. It includes the police, the prosecution, judicial offices, and the probation and correctional facilities.

Deterrence: Refraining from committing a crime resulting from the fear of the consequences.

Sexual Offences Act 2006 (SOA): An act of parliament that was passed in 2006 that stipulates the various sexual offences, their penalties and remedies.

Survivors: Sexually abused children on the road to recovery

Trauma: A severe form of mental stress suffered after experiencing life threatening events.

Watching Brief: A legal term where a lawyer indirectly represents a client through proxy.

CHAPTER TWO: LITERATURE REVIEW

2.1 INTRODUCTION:

This chapter provides an overview of some of the academic work related to the topic of child sexual abuse. It was aimed at giving a deeper understanding of the topic. Most of the literature reviewed regarding prosecuting child sex offenders are from America and Britain. There was limitation of literature from Kenya; however some of the literature that was reviewed from Kenya has not been published. The literature review in this study focused on the following key thematic areas:

- Child Sexual abuse as a social problem
- Child sexual abuse and related prosecution challenges in the criminal justice system.
- Intervening in case of child sexual abuse
- Theories of child sexual abuse.

2.2 CHILD SEXUAL ABUSE AS A SOCIAL PROBLEM.

2.2.1 Definition of child sexual abuse

Definition of child sexual abuse has been problematic for both researchers and clinicians. It varies in literature according to the type of activities considered 'sexual' and the circumstances considered 'abuse' (Draucker 2006). Finkelhor (1997) suggested the following definition formulated by National Center on Child Abuse and Neglect (NCCN) "contacts or interactions between a child and an adult when the child is being used for the sexual stimulation of the perpetrator or another

person.” Sexual abuse may also be committed by a person under the age of 18, when the person is significantly older than the victim or when that person is in a position of power or control over another child. (NCCA, 1978:2). The American Academy of Child and Adolescent Psychiatry (2008) has expanded the definition to include non contact sexual acts like exposure to pornographic material and communicating in a sexual manner by phone or internet. This definition includes both intra-familial and extra-familial abuse as well as contact and non contact activities.

Ndetei (1991) defines it as the involvement of dependent, developmentally immature children and adolescents in sexual activities that they do not fully comprehend or are unable to give informed consent to and that violate the social taboos of family roles. This study used a definition by Sgroi, Blick and Porter (1982:9) which defines child sexual abuse as a sexual act imposed on a child who lacks emotional maturation and cognitive development. The ability to lure a child into a sexual relationship is based upon the all powerful and dominant position of the adult or older adolescent perpetrator which is in sharp contrast with the child’s age, power and subordinate position. Authority and power enables the perpetrator to implicitly or directly coerce the child into sexual compliance.

2.2.2 Forms of Child Sexual Abuse

Child sexual abuse involves all forms of sexual activities with the child which may include: exhibitionism, voyeurism or using of the child in the production of pornographic material to the actual penetration.

In Kenya, The Sexual Offences Act of 2006 has elaborated the various forms of child sexual violation, they include:

Defilement: This is an act that causes genital penetration with a child; the SOA has expanded the definition to include sodomy. The Act also prohibits any attempt to defile. Whether the child consented or not is immaterial, as children are considered not to have the legal capacity to consent.

Rape: The act of having carnal knowledge with one without his or her consent. Rape applies to adult. For rape to be proved in court, the magistrate has to determine that there was penetration and that consent was not given. The act also prohibits rape of a family member in view of other family members.

Incest: This is sexual contact between people of the same family. The SOA has expanded the circle of the family members to include people who are not only related through blood but also through adoption. Female perpetrators can also be charged with incest.

Compelled/induced indecent act: The act of forcing an individual to perform an indecent act. An example is when one is ordered (by use of threats) to perform a sexual act against his/her will.

Gang rape/defilement: The act of committing rape/defilement in association with others, the others need not have actually participated in the actual penetration, the fact that they were involved even in just keeping vigil they will be charged with gang rape.

Promotion of sexual offences with a child: This includes publishing an article that promotes sexual offences with a child.

Child trafficking: This is facilitating travel of a child for sexual purposes. Intention alone is enough prove; one need not have completed the sexual act for the offence to be complete.

Child prostitution: This is an act of allowing a child to remain in a premise for the main purpose of getting involved in sexual abuse activities e.g. indecent show or exposure. Owning a house and renting it out to be used for child sexual abuse activities has been criminalized.

Child pornography: This is exposing children to nudity or indecent literature, the Act prohibits the sell, hire, distribute or to publicly exhibit obscene literature.

Exploitation of prostitution: This involves causing or inciting a person to become a prostitute.

2.2.3 Prevalence of Child Sexual Abuse in the community.

There is a general agreement among researchers that the occurrence of child sexual abuse is much more frequent than originally believed. However there is little agreement on its prevalence rate in the society. Wurtele and Miller Perrin (1992) reviewed large scale studies involving college and community samples and found out that the prevalence rate in the US of child sexual abuse ranged from 7%-62% for women and 3% - 16% for men. In clinical and forensic samples these rates were often much higher (Gordon and Alexander 1993).

The differences in the prevalence rates could be attributed to the way child sexual abuse is operationally defined. (I.e. types of sexual activities considered child sexual abuse) and the characteristics of the sample studied. In the US for example a telephone survey of 2,626 adults, the following was reported: 27% of the women and 16% of the men reported having experienced sexual abuse involving physical contact during their childhood (Finkelhor et al, 1990). The third National Incidence Study on Child Abuse and Neglect (NIS-3), US department of Health and Human Services 1996) indicated that in the year 1993, 217,700 children were moderately to severely harmed as a result of child sexual abuse.

Finkelhor (1994) reviewed 21 international population studies of child sexual abuse primarily from English speaking and northern Europe countries. The prevalence rate of child sexual abuse in these studies ranged from 7%- 36% for women and 3%-29% for men.

The Kenya Police Crime Report and Data 2008 indicates that in the year 2006 the following cases were reported 1291 cases of rape, 1,445 cases of defilement, 134 cases of incest, 170 cases of sodomy and 229 cases of indecent assault. In 2007 the report indicates that there were 876 cases of rape reported, 1,984 cases of defilement, 181 cases of incest, 198 cases of sodomy, 191 cases of indecent assault reported in 2007. In 2008 the report indicates that there were 733 cases of rape reported, 1,849 cases of defilement, 123 cases of incest, 163 cases of sodomy, 135 cases of indecent assault reported in 2008. This by any standard is high figure considering that the unreported cases could be higher than this. At the beginning of November 2009, the Kenya Teachers Service Commission (TSC) in conjunction with the Centre for Rights, Education Awareness (CREAW) released a shocking report on the extent to which school girls in Kenya fall prey to sexual predators(their own teachers)². The report indicated that a total of 12,660 girls had been sexually abused by their own teachers between 2003 and 2007.

2.2.4 Detecting Child Sexual Abuse

Many children are reluctant to reveal incidents of abuse, this is more so if the abuse involves an ongoing relationship with a family member. Other children are too young to verbalize the abuse. It is therefore imperative that caregivers or guardians be alert to the symptoms that point to a

² Daily Nation November 1, 2009

possibility that sexual abuse could be taking place. Delays in detecting sexual abuse pose a challenge in reporting the incident as well as prosecuting it in the criminal justice system. Many signs and symptoms of sexual abuse in the preschool children are typical of other emotional disorders of childhood, whereas others are clearly indicative of sexual abuse (Brant & Tisza 1977; Sgroi 1979). The following are the symptoms that would point to the fact that the child is probably being sexually abused:

Behavioral indicators:

They include:

- Sleep disturbances,
- Nightmare
- Compulsive masturbation
- Preoccupation with sex play
- Loss of toilet training skills
- Frequent bathing
- Crying with no provocation
- Staying indoors
- Regressive behavior e.g. finger sucking (Brant & Tisza 1977)

All these behaviors are interpreted to be manifestation of fear and anxiety.

Burgess and Holstrom (1975) hypothesized that in cases of incest the 'burden of the pressure to keep the secret is experienced psychologically as fear, these fears include:

- The fear of punishment if the child reveal the secret
- The fear of not being believed if she/he discloses
- The fear of being blamed
- The fear of abandonment or rejection
- The fear of being separated from the family

Physical symptoms

Clinical studies have often mentioned headaches, vomiting and abdominal pain as sign of possible sexual abuse.

School going children exhibit the same symptoms as the younger children. Additional symptoms may include:

- Insomnia or sleep related disturbances
- Depression
- Sudden failure in school
- Truancy
- Running away from home if the abuse is happening at home.
- At adolescence more antisocial behavior such as petty crimes.
- Drug use
- Promiscuity

- And prostitution are seen (Pascoe and Duterte 1981)

2.2.5 Historical Recognition of Child Sexual Abuse as a Social Problem:

In USA and United Kingdom child sexual abuse was historically denied by the public and mental health practitioners. The awareness of the occurrence of sexual abuse as a traumatic experience in the lives of children is usually traced to Freud; who is credited with the 'discovery' of incest. Sigmund Freud in early 1890s theorized that the origin of hysterical neuroses lay in the early trauma experienced by young girls.

The seduction theory which he came up with held that these sexual traumas, often perpetrated by the father, were real and resulted in a variety of neurotic symptoms. In trying to protect the patriarchal family structure, Freud identified perpetrators of sexual abuse as caretakers, other children, distant relatives and not fathers. Later bowing to peer pressure, Freud renounced the seduction theory and claimed instead that memories of sexual trauma were based on sexual wish-fulfillment fantasies of the child rather than actual childhood events. (Herman 1981). Thus fathers were exonerated and were no longer viewed as responsible for the symptoms he saw in the young female patients. Prior to Freud's repudiation of seduction theory, professionals maintained a 'dignified silence' on the topic of incest and the public continued to deny the reality and the prevalence of child sexual abuse.

In 1940 incest was discovered for the second time by social scientists who were conducting large scale survey studies of sexual practices. This included the famous Kinsey Study (Kinsey et al, 1953). This study reported that 20% -30% of women respondents reported having sexual experiences as children, 4%-12% reported a sexual experience with a

relative; 1% reported a sexual experience with a father or a step father. Although abuse of boys was not addressed by these studies, one researcher reported that 30% of the male participants in this survey reported childhood sexual experience with an adult who was most typical a male.

Despite these findings, the reality of the phenomenon continued to be denied. Herman (1981) dated the 3rd 'discovery' of incest to 1970s, and credited feminist movement with bringing the problem of child sexual abuse into the public awareness. This was later followed by the legitimate scientific studies of the problem and public revelation of incest survivors who chose to tell their stories. Most of these studies focused more on the female children; sexual abuse of boys was ignored until recently (Spiegel 2003). For example forced sexual penetration of a man was not considered rape by the English law until 1994 (King and Wollet 1997). In Kenya Child sexual abuse is now considered a social problem; this could be attributed to these factors: the passing of Sexual Offences Act of 2006, The Post Election violence that occurred between 2007 and 2008 in which many children were sexually abused and the rampant media campaign raising awareness of the phenomenon.

2.3 EFFECTS OF CHILD SEXUAL ABUSE.

Long term effects of child sexual abuse have historically been denied. Some have maintained that sexual contact between a child and an adult is harmless. Ramey (1979) suggested that incest could even have beneficial results like educating the child on sexuality. He further said that the harmful effect were as result of the society's negative reactions to it. Several comprehensive researches on the long term consequences of child sexual abuse have been conducted. Out of this psychological effects of childhood sexual trauma have been identified. These studies have

shown that child sexual abuse is associated with an increased level of general psychological distress, depression, anxiety (phobias, panic disorders, obsessive symptoms) and long term post- traumatic effects. (Beitchman et al, 1992).

Finkelhor and Browne 1985 came with four effects summarized below:

Traumatic sexualization: The behavioral manifestation of this includes sexual preoccupation and compulsive sexual behavior, Promiscuity, sexual dysfunctions and phobic reaction to sexual intimacy.

Stigmatization: This manifests in feelings of guilt, low self esteem, shame involvement in criminal activities.

Betrayal: This manifests through grief and depression, anger and hostility, inability to judge trustworthiness of others.

Powerlessness: This may manifest in the lowered sense of self efficacy, perception of self as a victim, need to control.

Table 2.1 Traumagenic Dynamics in the impact of child Sexual abuse

Effect	Dynamics	Psychological impact	Behavioral manifestation
Traumatic sexualization	<ul style="list-style-type: none"> ▪ The child is rewarded for the sexual behavior inappropriate to the their age 	<ul style="list-style-type: none"> ▪ Increased salience of sexual issues ▪ Confusion about sexual identity 	<ul style="list-style-type: none"> ▪ Sexual preoccupation and compulsive sexual behavior ▪ Age inappropriate

	<ul style="list-style-type: none"> ▪ Offenders exchange attention and affection for sex ▪ Sexual part are fetishized ▪ Offenders transmit misconceptions about sexual behavior and sexual morality ▪ Conditioning of sexual activity with negative emotions and memories 	<ul style="list-style-type: none"> ▪ Confused about sexual norms ▪ Confusion of sex with love and care getting/giving ▪ Negative associations to sexual activities and arousal sensation ▪ Aversion to sex intimacy 	<p>knowledge on sexual activities</p> <ul style="list-style-type: none"> ▪ Promiscuity ▪ Prostitution ▪ Sexual dysfunctions, flashback, difficulty in arousal and or orgasm ▪ Avoidance of or phobic reactions to sexual intimacy ▪ Inappropriate sexualization of parenting
Stigmatization	<ul style="list-style-type: none"> ▪ Offender blames, belittle victim ▪ Pressure for the child to keep secrets. ▪ Child infers 	<ul style="list-style-type: none"> ▪ Guilt ▪ Shame ▪ Lowered self esteem ▪ Sense of differentnes s from others 	<ul style="list-style-type: none"> ▪ Isolation ▪ Drug or alcohol abuse ▪ Criminal involvement ▪ Self stimulation

	<p>attitude of shame about activity</p> <ul style="list-style-type: none"> Others have shocked reactions to disclosure Other blame the child for events Victim is stereo typed as damaged goods 		<ul style="list-style-type: none"> Suicide
Betrayal	<ul style="list-style-type: none"> Trust and vulnerability manipulated Violation of expectation that others will provide care and protection Child's wellbeing disregarded Lack of support 	<ul style="list-style-type: none"> Grief Depression Extreme dependency Impaired ability to judge trustworthines s of others Mistrust, particularly of men 	<ul style="list-style-type: none"> Clinging Vulnerability to subsequent abuse and exploitation Allowing own children to be victimized Isolation Discomfort in intimate

	and protection from others	<ul style="list-style-type: none"> ▪ Anger ▪ Hostility 	<p>relationship</p> <ul style="list-style-type: none"> ▪ Marital problems ▪ Aggressive behavior ▪ Delinquency
Powerlessness	<ul style="list-style-type: none"> ▪ Body territory invaded against child's own wish ▪ Vulnerability to invasion continues over time ▪ Child feels unable to protect self and stop the abuse ▪ Repeated experiences of fear ▪ Child is unable to make others 	<ul style="list-style-type: none"> ▪ Anxiety ▪ Fear ▪ Lowered sense of efficacy ▪ Perception of self as a victim ▪ Need to control ▪ Identification with the aggressors 	<ul style="list-style-type: none"> ▪ Nightmares ▪ Phobia ▪ Somatic complains: eating and sleeping disorders ▪ Depression ▪ Dissociation ▪ Running away ▪ School problems-truancy ▪ Employment problems ▪ Vulnerability to subsequent victimization ▪ Aggressive

	believe		behavior, bullying <ul style="list-style-type: none"> ▪ Delinquency ▪ Becoming an abuser
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Adapted from Finkelhor and Browne 1985

Association between a history of childhood sexual abuse and behavioral or relationship effects that may pose health risk have been documented. Women who were sexually abused as children are more likely to report a lifetime prevalence of alcohol and drug abuse than women who were not abused in their childhood (Stein et al, 1988). Certain types of eating disorders in adulthood, including obesity have been associated with child sexual abuse. (Bushnell et al, 1992).

Researches in UK have reported similar findings with histories of childhood sexual abuse found to be linked to adult sequel of alcohol abuse. (Moncrieff et al, 1996) and use of illicit drugs (Plant et al, 2004). Women with a history of childhood sexual abuse also reported more adult sexual behaviors associated with health risk including an earlier age at first intercourse, a greater number of sexual partners and a higher rate of unintended and aborted pregnancies. (Springs and Friedrich, 1992; Stein et al, 1988; Wyatt et al, 1992). One study demonstrated that when sexual abuse is accompanied by other forms of abuse (e.g. physical abuse) it may be associated with HIV risk behavior e.g. not using condoms, engaging in prostitution and using injectable drugs (Cunningham et al, 1994). Accumulated data from numerous studies suggest a significant

relationship between childhood sexual abuse and experiences of victimization in adulthood, including adult sexual assault and partner physical violence (Elliot and Briere, 1993).

A history of child sexual abuse has been associated with a number of medical problems in adult women (Law 1993). There has been a self report of various medical problems among women that can be correlated to childhood sexual abuses. (Freidman and Schnurr , 1995; Fry 1993). For example there is a high prevalence of childhood sexual abuse histories in women who report chronic pelvic pain, backache, headaches and functional gastrointestinal disorders compared with women who were not abused (Walker, 1988). Women who were sexually abused as children have reported more hospitalization for illnesses, a greater number of physical and psychological problems and lower ratings of overall health compared to women who were not sexually abused.(Moeller et al, 1993).

In the review of initial and long term effects of childhood sexual abuse of boys, Urquiza and Capra (1990) cited several effects that were similar to those experienced by women and girls e.g. a self concept disturbance, somatic complaints. They however identified two effects that stood out for males. These were disturbance in conduct and acting out of compulsive sexual behavior. These authors suggested that these effects are related to gender based differences in coping with trauma, most specifically the use of externalizing behavior by males.

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2.4 CRIMINAL JUSTICE SYSTEM AND CHILD SEXUAL ABUSE

Forcible rape is common throughout history and its prosecution is as old as itself (Brownmiller 1975). In England rape offenders were prosecuted as early as 1066 (Neville 1957). Laws on forcible rape applied to adults as well as children. Laws designed specifically to protect children from sexual abuse appeared by the end of the middle ages. These laws stipulated that children lack the capacity to consent to sex. Consensual intercourse with an underage child was considered rape (Laible 1993 p. 125). In England two influential Acts of Parliament dealt with sex offences against children. In 1275 the statute of Westminster provided that 'the king prohibit that non do ravish (rape) nor take away by force any maiden within the age (under 12), neither by her consent nor without' (Coke 1671/ 1979 p.163). The 2nd important child protection law was enacted in 1576. The statute 18 Elizabeth provided: 'if any person shall unlawfully and carnally know any woman child under the age of ten years, every such unlawful and carnal knowledge shall be felony'

In the USA, the law prohibited forcible rape, early statutory rape laws were based on England's Statute 18 Elizabeth. For example in 1828 New York law forbade 'carnally and unlawfully knowing any female child under the age of ten years'. During this time in America, prosecution of crimes occurred at a modest pace. Prosecution of incest occurred but was not common.

2.4.1 Historical Challenges of Prosecuting Child Sex Offender

Prior to 1975 little was written about child sexual abuse in psychiatric, psychological, medical and sociological journals, Vincent De Francis (1969) described with prescient accuracy the prevalence and effects of child sexual abuse. The society at that moment was not ready for De

Francis's revelations. Professional writings about sexual abuse reflected four beliefs:

- i. Children were responsible for their own molestation.
- ii. Mothers are to blame.
- iii. Child sexual abuse is a rare phenomenon.
- iv. Child sexual abuse does no harm.

These viewpoints greatly affected the prosecution process.

i. Children were to blame for their own molestation.

A common theme in pre- 1975 writings on child sexual abuse (particularly incest) was that children were responsible for their own molestation (Guarnieri 1998; Weiss Rogers, Darwin and Dutton 1955). Bender and Blau (1937) worked with 5-12 years old incest victims in their writing depicted children as active participants in incestuous relationships. They even suggested that the children played the initializing role in such relationships. They also said that these particular children would come up with secondary excuses when the incidence is discovered. Some of the excuses would include the fear of physical harm, or enticement to gifts. Even in cases where physical harm was used, Bender and Blau (1937) argued that it still could not wholly account for the frequent repetition of the practice.

Kinsey, Pomeroy, Martin and Gebhard 1953 wrote that in many instances incestuous experiences were repeated because the children had become interested in the sexual activity and had more or less actively sought repetition of the experience. This view point when taken by the stakeholders in judicial system may present a clouded opinion when prosecuting case of child sexual abuse. It presents the child as a villain instead of a victim. People with this attitude may have the following

questions at the back of their mind 'why couldn't the child run away or call for help or resist the attempt?'. This definitely affects the way they handle the child in the process of seeking justice for the child.

ii. Mothers are to blame

In pre- 1975 writings, children were not the only one responsible for sexual abuse. Mothers shared the blame (Weiss et al 1955) Salters (1988) writes 'the literature on child sexual abuse in this century has often held victims and their mothers responsible for the abuse. This was frequently with cases of incest; the blame was on the mother and not the offending male. Mothers of incest victims were routinely referred to as frigid hostile, unloving women; causing their husbands to seek sexual satisfaction elsewhere. (Herman 1992).This view point left the adult offenders out of the picture and therefore could not be held to account for their deeds.

iii. Child sexual abuse is rare:

It was believed that cases of child sexual abuse do not occur as often claimed.

iv. Child sexual abuse does no harm:

In addition to claiming that child sexual abuse is uncommon, writers and authors prior to 1975 sometimes asserted that abuse does little harm. Salters (1995) writes "did anyone ever assume that child sexual abuse would be harmless? Well actually yes. A number of older studies do. The belief that child sexual abuse was no traumatic experience was entwined with the belief that it was not in actuality, not a trauma visited on the child but a form of acting out by the child. (p 161).

Prior to 1975s, much of the psychiatric, psychological and sociological writings on child sexual abuse downplayed the seriousness of the problem. Herman (1981) reviewed early literature and discovered 'a vastly elaborated intellectual tradition which served the purpose of suppressing the truth about incest, a tradition which, like so many other originated in the works of Freud'. In the US, law reviews before 1975 have very little on the issue of rape and child sexual abuse. The few articles that were written, most of them were written by law students not professors. Law professors practically ignored rape and child sexual abuse.

Four themes dominated the pre 1975 legal writing on rape and child sexual abuse:

- (i) Fear of fabricated allegations
- (ii) Fear of Crazy women
- (iii) Pre-occupation with consent
- (iv) Validation of victim's testimony.

i. Fear of Fabrication:

Sir Mathew Hale (1713) the chief Justice of the Court of Kings Bench-England wrote in his book 'the history of the pleas of the Crown' that 'it must be remembered that rape is an accusation easily to be made and hard to be proved; and hard to be defended by the party accused'. From this writing many authors have continued to borrow.

Ploscowe (1960) a law professor cautioned that prosecuting attorneys must continually be on guard for the charge of sex offences brought by the despised female that has its underlying desire for revenge, or blackmail or a shakedown scheme. In 1938 law student's article stated

that 'rape statute affords promising fields for extortion and malicious prosecutions. (Statutory Rape 1938 p 338). In 1970 a law student wrote 'the incidences of false accusation and the potential for unjust convictions are perhaps greatest with sexual offences. Women often falsely accuse men of sexually attacks to exhort money, to force into marriage, to satisfy childish desire for notoriety or to attain personal revenge. The motives include hatred, a sense of shame after consenting to illicit intercourse especially when pregnancy results and delusion. (The Corroboration rule 1970 p 460).It was observed that a rape accusation is so potent a weapon against a man that a woman may deliberately use and maliciously distort report of the sexual encounter to secure for herself money, marriage or revenge (p. 69).

ii. Fear of the Crazy women

Ploscowe (1960) wrote 'complaints of sex offences are easily made, they spring from a variety of motives and reasons. The Psychiatrist and the psychologist would have a field day were they to examine all complaints of rape, sexual tampering with children, incest, homosexual behavior with young boys, deviant sexual behavior etc. in any given community. They would find that complaints are too often made of sexual misbehavior that occurred only in the fantasies of the complainants.' This notion holds that people who complain of this crime are actually psychopathic and even if it happened, it's themselves who orchestrated it.

iii. Preoccupation with consent

Pre 1975 law review articles on forcible rape were preoccupied with the issue of consent. The assumption that when women say 'NO' they really mean 'YES'. During the debate in sexual offences Bill in Kenya, by Njoki

Ndungu, this line of argument took the center stage. Some male members of parliament argued that if the bill would have been passed, men would not be able to marry, since women always say NO when they really mean YES.

This preoccupation may affect the outcome of cases of sexual abuse. There is an attribution that teenagers who are sexually abused in many cases are seen as consenting participants. Even if it's clear in the Sexual Offences Act that any sexual contact with a child below 18 is a crime. The study sought to explore the extent of this belief by police officers as they handle sexual abuse among teenage victims. In a similar breath, defense lawyers will in many occasions bring out the past sexual history of the complainant to discredit the fact that abuse did not take place if the complaint had had a previous sexual encounter.

Pre- 1975 law articles on rape reflect nearly unanimous support for the defense strategy of highlighting the woman's lack of chastity. A 1938 law student article stated that 'it is everywhere conceded that in a prosecution for rape by force and against the will of a female, her previous un-chastity may be shown as rendering it more probable that she consented to the act. (Statutory Rape 1938 p336) even in statutory cases in which the victim is a child, and where consent is legally irrelevant, law reviews authors favored evidence of un-chastity.

Ploscowe (1960) wrote 'it is imperative that the lack of chastity of the young woman be deemed a defense to a charge of statutory rape. It is ridiculous for the police to charge with rape every male who have had sexual contact with a promiscuous young woman.'

iv. Validation of the victim's Testimony

For most crimes uncorroborated testimony of the victim is sufficient evidence to support a verdict of guilt. A jury may convict entirely on the uncorroborated testimony of the victim. In sex offence cases however, suspicion of victims is high. During the 20th century, some courts in the USA ruled that guilt of sex offence could not be predicated in a victim's uncorroborated testimony. If the victim's testimony was inherently improbable, or so indefinite, contradictory, or unreliable that it would be unsafe to rest a conviction thereon. (Rape Assault, 1939 p 264).

2.4.2 Recent Challenges of Prosecuting Child Sex offenders.

As noted earlier, prior to 1975, professional writings were largely skeptical, but from 1975 onwards, there was a virtually explosion of writings that were more sympathetic to the victims. This could be attributed to the feminist movement of 1960s and 1970s. In 1970s many women began studying law. Female law students and professors as well as male students with feminist leanings wrote much of post 1975 legal literature on rape and child sexual abuse.

Other factors that influenced writing on children sexual abuse were child protection initiatives which conceded with the women movement, victims' rights movement and the important scientific efforts to uncover the prevalence and harmful effects of child sexual abuse. (Finkelhor, 1979; Russel 1983, 1986). In the USA little is known about child sexual abuse prosecution during the 1st half of the 20th century. Although prosecution of child sexual abuse occurred during this time, there is no systematic research describing the scope of prosecution and nature of cases.

Appellate court decision from 1900 – 1950 reflected a high level of skepticism regarding child sexual abuse victims. Appellate court

decisions from 1900-1950 invoked the rule that victims of sexual abuse should be psychiatrically examined and corroboration was needed. Jennifer Temkin (2000) in her article 'prosecuting and defending rape' came up with the following findings from a study that she had conducted involving 10 highly experienced barristers. All the barristers interviewed in the study perceived the task of prosecuting rape as a difficult in a number of ways. These are the challenges given by the barristers interviewed:

i. The examination in chief

The barristers described the difficulties involved in taking the witnesses through her evidence. A delay in bringing cases to trial was one of the major problems in rape cases. Trauma was witnessed on the victims who had tried so hard to forget the ordeal only to be reminded during the examination- in- chief. This trauma was manifested in their reluctance to talk about it, their mind going blank or difficult in recalling the sequence of events. There was the challenge of describing intimate experience in large intimidating court room.

ii. Lack of contact with victim before the trial

The prosecutors noted few contact with the complainant before trial to get acquainted. The following reasons were given for this:

- Fear of being accused of partisanship or collusion by the defense
- Not having much to talk about with the complainant who could lead to discussion of the evidence, which would eventually lead an appearance as if the barrister is rehearsing or coaching the witness.

However, it was noted that meetings between witnesses and the counsel, if conducted with propriety, could improve the presentation of evidence in court both by increasing the confidence of witness and by helping the barrister in the presentation of the case.

iii. Lack of supporting evidence

Conviction rate were very low because lack of supporting evidence. Strong medical evidence of injury which was regarded particularly important was missing. Delay in reporting the offence destroyed forensic evidence. Exclusion of expert evidence about such matters as rape trauma syndrome which might explain the complainant failure to report immediately was a handicap to the prosecution.

iv. Evidence of the police doctor

The quality of medical evidence was enticed to be very low. Doctors written statements were not always sufficiently detailed. Many police doctors were said to change their mind in mid stream and were simply unable to put across the evidence intelligibly. Some failed to mention in evidence that lack of injuries did not signify that rape had not taken place. This was regarded as a serious omission.

v. The character of the complainant

The complainant's demeanor and her dressing would be used to judge her. The lifestyle of the complainant was a problem. If she was single, this was perceived to mean she deserved what she got.

vi. Previous relationship with the accused

It was observed that bringing a conviction was very difficult where there had been a previous sexual relationship with the accused.

vii. Unsuitable cases prosecuted

Some of the barristers were of the opinion that many cases were brought for prosecution which did not meet the threshold for conviction. The Child Protection Services (CPS) were considered highly sensitive to criticism about the failure to prosecute rape cases and it pursued cases which on the 50% rule ought to have foundered. Decision to prosecute in a case of alleged child sexual abuse is a function of whether it is in the child's and the public's interest and whether the case is likely to be successful. This rests heavily on what the child says during the investigative interview, the adequacy of the interview whether it meets the necessary legal requirements and whether other evidence is available and the weight given to it.

viii. Choice of counsel

There was a strong feeling amongst the barristers that in a growing number of cases inexperienced barristers were picked to prosecute rape cases, thus resulting in low conviction rate.

ix. Use of female barristers

Female barristers were frequently chosen to prosecute rape cases. The reason for this was that they would be sensitive to the complainant and the complainant would be more likely to tell the story. Though this was

thought to bring about success in the case, it was a challenge in itself, since most female barrister did not have enough experience since they were concentrated in the early rungs of the profession.

x. Difficulties in determining the truthfulness of the child

The issue of whether the child's account is 'truthful' or not is clearly a difficult one to resolve. Studies suggest that fictitious allegations ranged from 2% of cases (Mann, 2002) to 5%(Spencer and Flin, 1990) to as high as 35% when children are referred for specialist evaluation (Littman and Szewczyk, 1983).

xi. The challenge of the Child's memory

Children who are sexually abused often fail to tell adults about the abuse. When they do, the results may include legal investigation and court trials. Goodman et al (1984) discusses the issue of child memory. Modern research does not support the view that children are necessary dangerous (hostile) witness. More research is needed in to substantiate that children frequently fantasize sexual attack or that they can be led by parents or other to report falsely such events. Although false reports occur in many other crimes, it's important to note that there is currently no proof that they occur frequently for the crime of child sexual abuse.

Studies that have examined the extent of false reports of this type of crime put the percentage of possible false reports at a small number (Jones and McGraw 1987). Some have suggested that children are more likely to recant true allegations of abuse falsely than to assert them falsely in the first place. (Berliner and Barbieri 1984).

Though psychologists have been studying memory for over 100 years, and these studies have been objective. In actual child sexual abuse cases, an objective record of the event may not be available. This makes it difficult to examine in actual cases. Memory regardless of the person's age is often not entirely complete and accurate. Adults as well as children will fail to notice some features of an event, forget part of what occurred and may mis-order part of what happened. Moreover they may show minor alterations of report based on misinformation from a variety of sources – other's statements, their own dreams and inference and suggestive questioning by authorities. (Loftus 1979). As time passes, people are more likely to incorporate misinformation into memory and minor alterations can become more serious.

xii. Reliability of children's testimony:

Child testimony is usually questioned adversely in legal proceedings to ascertain its reliability. This determines whether a case will be taken forward for prosecution. Melinder et al (2004) investigated the beliefs about children as witnesses held by Norwegian judges, police detectives, psychologists, child psychiatrists, prosecutors and attorneys. They found out that these professional groups held different views about the reliability of child witnesses. For example they found out that psychiatrists and police officers had a greater trust in children's reliability than did other groups. Defense attorneys, followed by psychologists and judges was the group most critical of child witnesses.

Granhag et al (2005) investigated Swedish police officers, prosecutors and judges' beliefs; all the three groups believed that children have trouble separating imagined and real events than adults. The three groups agreed that children testimonies tend to be less complete than that of adults.

Lina Leanders et al (2005) examined Swedish judges, lay judges and police officers' beliefs about factors that may complicate or facilitate children's reports of sexual abuse. Their findings highlighted potential factors that either facilitated or complicated children reports; they used this to evaluate the reliability of child witnesses. Guilt, loyalty to the perpetrator and shame and feeling of discomfort were the most complicating factors in reporting cases of child sexual abuse by the affected children. The same factor made it difficult for the affected children to testify in court.

The other factors included, fear of being misunderstood, limited memory capacity and fear of not being believed. It was also noted that if the perpetrator was unfamiliar to the child this was a facilitating factor for the child to report the case. Other facilitating factors included, use of drawings, free recall of events and use of anatomically correct dolls.

xiii. The Challenge of Medical examination:

Marks, Lamb and Tzioumi (2009) conducted a study at the children's hospital at Westmead Australia. The aim of the study was to find out whether medical examination following sexual allegations may further traumatize the child.

The findings were that parents found the medical examination significantly less stressful than anticipated. They highlighted the importance of being involved in the process, the child's reaction, staff attitudes and doctor's explanations. Although most parents expected that the medical examination would be stressful for their child, this did not

correlate with the children's reports of feeling scared beforehand. Increased parental and child distress were significantly associated with the child being 12 or older. The type of abuse was not significantly linked to any of the parent or child self reports. The team concluded that medical examination is not as stressful as expected and support the recommendation that timely medical examination assessment by the appropriate trained professional should be offered for all children following allegations of sexual abuse.

2.5 CHILD SEXUAL ABUSE INTERVENTIONS IN KENYA:

2.5.1 Criminal Justice procedures in addressing Child Sexual Abuse

The following is the procedure for dealing with child sexual abuse in Kenya , from reporting to case determination in court

a) Reporting of a sexual offence:

According to the *Reference Manual on the Sexual Offences Act, 2006 for Prosecutors* (pg. 31) it states that after the sexual offence has been committed a report must be made in order for the investigation to begin. The report can either be made by the republic or the alleged victim of the sexual offence. In case of a child or a person with mental disability the complainant could be any person who lodges a complaint on behalf of the victim.

The Children Act 2006 Section 120 stipulates that any person who has reasonable cause to believe a child is in need of care and protection may report the matter to the nearest authorized officer.

This report could be made to the police station, administration police station, Chief's camp, children office etc. When the report on child sexual abuse is made in stations other than the police station; that report has to ultimately be forwarded to the police station and recorded in the Occurrence Book (OB) as soon as possible for investigation to commence.

After reporting the child should be taken immediately to the hospital so that she/he can be given medical attention. As soon as the child is given a medical report, they must go back to the police station where a comprehensive report is made.

b) Statement taking:

The manual stipulates that a child needs to record a statement in a conducive environment where confidentiality is maintained. These should be done in a private room with trained personnel.

The trained personnel must take due diligence in recording all the details of the complainant and relevant questions asked for clarification. The following are some of the details that need to be recorded:

- The identity of the offender i.e. the name or nick name to be written clearly.
- Description of the offender; the victim needs to describe the physical characteristics of the offender e.g. the height, complexion, any identifiable mark, whether the offender was known to the victim prior to the incidence.
- Identity and description of Crime scene: name of the location, description of the place.
- Time of the day e.g. 6am or 4 pm etc

- Lighting condition of the day e.g. was it dark, if yes what source of lighting was there.
- Other witnesses around, was there any one who witnessed the offence, either before, during or after.
- Number of offenders, whether one or many.
- Actual description of what happened, saying *Tabia Mbaya* (Bad manners) is vague as the action needs to be described.

c) Investigation of Sexual offences:

Before prosecution can begin, investigation into alleged offence needs to be carried out, the purpose of investigation is to show the origin, cause, motives, the offenders, victims, witnesses and the surrounding circumstances of the offence. Investigation may either reveal sufficient evidence to warrant a prosecution or insufficient evidence to warrant closure of the file.

Who does the investigations?

The Attorney General has the powers to direct the police commissioner to carry out investigation into any crime. It is the police duty to prevent, detect crime and apprehend the offender. The police officers are mandated in accordance with Chapter 46 of the Force Standing Orders to do investigations. The police are also expected to do the following:

Keep records: When the complaint of sexual abuse is made, the police are expected to record it in the Occurrence Book (OB), if the suspect is

arrested, a cells register ought to be maintained. If there are exhibits, they ought to be registered and a chain of custody register opened.

Carry out Search in the premise: Searches can be done in any premise in the course of investigations.

Take palm prints and finger prints: This is done for the purpose of identification.

Compel attendance of any person to the police station: In the course of investigations the police can compel any person to come to the police station.

d) Recording of statement:

The police are mandated to record two statements from the suspect:

- (i) A statement under inquiry (a statement taken in course of investigations for the purposes of inquiring and gathering information)
- (ii) A statement under charge and caution. (a statement taken by the investigating officer with the intention of charging the giver with a particular offence).

Statements are also recorded from the complainant and any other witnesses, intermediaries and other expert witnesses.

Scene of Crime

The police are to visit the scene of crime for the following reasons:

- Conduct a survey to ensure the safety of the survivors

- **Photographing:** This is needed to be done as earliest opportune moment.
- **Sketching:** This shows a representation of the scene of crime in a piece of paper including details of positioning of the exhibits before they were collected.
- **Search:** This is done systematically to collect any physical evidence
- **Collecting:** Careful picking of physical evidence to ensure that there is no contamination
- **Packaging:** This is the process of carefully placing and sealing of each collected physical evidence into separate storage material or containers
- **Labeling:** This is the affixing of marked tag describing and identifying the exhibit it should include: type of exhibit, date collected, place of collection, condition of the exhibit and who collected it.
- **Custody and care of the exhibits:** The exhibit custodian has the duty of taking possession and care of the collected package and labeled exhibits. The other duty also include: Preventing contamination of the exhibit, ensuring safety during transportation, keep track and maintain and exhibit register.

e) Medical evidence:

The manual stipulates that the investigating officer should be able to get medical evidence as soon as possible. It also states that only qualified person should carry out these examinations.

f) Identification of the offender:

1. Identification Parade:

The police standing orders, the judges' rule and case law provide the rule by which an identification parade ought to be done. Failure to comply by these rules can invalidate the case.

2. Identification by use of forensic and physical evidence:

This can be done by trace evidence such as blood stains, bites, marks, semen etc. DNA technique is used to identify the perpetrator. Other means of identification include bodily functions e.g. speech, handwriting, gait, finger prints, foot prints

Expert Witness:

Expert witnesses play a crucial role in assisting the court in deciding whether the accused person is guilty or not in criminal cases. They include doctors, government analysts, and finger prints expert.

The mandate to discontinue investigation: Section 40 of the SOA provides that only the Attorney General has the mandate to discontinue an investigation in a sexual abuse case.

g) Arrest of the suspect

The manual states that once the investigations are complete, the suspect(s) may be known and can be arrested. In cases where the suspect is known to the victim or eye witnesses are present, she/he may be arrested even before the investigations are complete. The police officer while arresting the suspects should be aware of the suspect's rights. The

police are to compile the statements from all the witnesses and the expert reports then charge the suspect. The suspect should be taken to the court where he/she is to take a plea.

h) Plea taking:

The substance of the charge should be stated to the accused person by the court in a language that the accused understands and he/she shall be asked whether he/she admits or denies the truth of the charge.

i) Prosecutions:

Immediately the suspect takes a plea, the prosecutor takes over the case. Prosecutors are supposed to do the following:

- Refine the charge sheet, this may include combining the charge, ensure all the details are captured, confirm whether the charge is the most appropriate one, ensure that the accused is charged under the right section and statute, ensure that the particulars tally with the evidence on record
- Informing the victims and witnesses of available protection
- Refreshing the witness on their statement- Pre trial conferencing. This involves going through the statement with the witnesses in order to refresh their memory particularly concerning crucial evidence e.g. dates, time, place, name of assailant. The prosecutors are warned not to coach the witnesses during these pretrial conferencing. The manual suggests that the pretrial conferencing should be done at least 2 days before the trial.

Prosecutors are required to establish the following:

- Establish the language of communication which the witness will be comfortable with and make prior arrangements like getting an interpreter in need be.
- Identify the exhibits: the prosecutor familiarize themselves with the exhibits in the presence of the investigating officer, including aspects of the evidence that need to be brought out.
- Apply for criminal records of the accused person. Obtain records on past conviction and especially any record from the sexual offences data bank
- Victim/witness protection application: if the witness is vulnerable, the prosecutor may make application to the court for victim/witness to be placed under witness protection program.

j) Trial Process

At the beginning of the case, the prosecutor may give a summary of the facts that he/she intends to prove. The trial process will take the following steps:

1) Examination in Chief:

The prosecutor shall adduce evidence by calling witnesses one at a time and guide them according to the statements and ensure that vital facts are brought out. The prosecutor is supposed to prove each ingredient of the case. They also ensure that the witnesses identify the accused person in court. In case the charge sheet is faulty, the prosecutor can apply to have the charge sheet amended before the closure of

prosecutions. This is provided for in the Criminal Procedures Code section 214.

2) Cross examination:

In case the past history of the complainant is brought out the prosecutors are to object to that as it is provided for in the SOA section 34.

3) Re-Examination:

If there are issues that did not come out clearly in the cross examination, the prosecutor must clarify.

4) Submission on the case to answer:

The prosecutor may summarize the case by stressing the facts proved by the witnesses and emphasizing the strong points. He/she could also cite relevant case law and statutes to support the case.

5) Ruling:

Base on the evidence adduced in court by the prosecution, the court will determine whether the case has been made or not. If the case has been made, the accused is put on defense, if not he/she acquitted.

6) Defense Hearing:

The accused when put on defense can choose the following ways to defend himself:

- Give a sworn statement: here the prosecutor may ask him/ her question (i.e. cross examination)
- Give unsworn statement:
- Choose to remain silent

7) Final submission:

The prosecutor may rely on submissions made earlier and make further submission if anything new comes up during the defense.

8) Judgment:

Once the judgment is ready the prosecutor is to make sure that it is properly dated and signed.

9) Sentencing:

This is the last stage in the trial process. The prosecutor should get the record of the accused in case he/she is a habitual offender. The prosecutor is also to be on the watch out to ensure that the sentence meted out conforms to the minimum prescribed in the Sexual Offences Act.

2.5.2 Addressing Child Sexual Abuse in Kenya.

Whereas child sexual abuse is such an atrocious violation of children rights, many studies in Kenya have focused on Gender Based violence, these studies have lumped together child sexual abuse as a form of gender based violence. Though it may be true that in some instances, child sexual abuse may happen at home and by family member(s), it will be narrow to generalize all forms of sexual abuse as a form of gender based violence. This section looked at some of these past studies and identified

missing gaps that this study filled. The following are some of the studies that have come close to addressing the issue of prosecuting child sex offenders.

The Institute of Economic Affairs (2009) conducted a study to determine the status of the Gender Desk at the police stations in Kenya, a case study of Nairobi Province. The study was aimed at assessing the operation of the gender desks at police stations, with the view to reveal challenges thereof and propose remedial measures to make them fully function.

The following were the findings from the study:

- The government was committed to addressing gender violence as provided in various policies, strategies and legal documents.
- Gender violence was noted to be real, but the following were noted to be hindrance to seeking of redress: shame, financial constrains and cultural practices.
- Majority of police stations lacked resources to help the victims get redress. This included poor equipment, infrastructure, weak investigations, poor prosecutions and inadequate information on gender based violence.
- There was a shortage of trained police officers on gender based violence, this was evidenced by poor recording of statements, apprehending and prosecuting of culprits.
- There were delays at the police station which resulted in victims waiting for longer hours before they were served.
- 68.7% of the survivors interviewed described police officers as reluctant, and asked irrelevant questions, were rude and belittled the victims.

This study yielded very important data to elucidate the issue of gender violence in Kenya; it further gave the perception of the public on the police force as well as highlighted the resource constraints on the side of the police. However the study did not look at child sexual abuse as a special category to highlight the challenges faced while prosecuting child sex offenders. The study assumed that the challenges faced by police in addressing gender based violence were similar those faced while prosecuting child sex offenders. The study did not interview police officers who are crucial players in seeking redress in cases of child sexual abuse and well as gender based violence.

Scholastica Omondi (2007) in her master's thesis studied the challenges of implementing the Children Act of 2001. The following are the findings from her study that hindered the implementation of the Children Act of 2001:

- There was a lack of clear guideline on how to handle child abuse cases(different department handled the cases differently)
- There was understaffing in the children department and the department relied more on volunteers
- Frequent transfer of police officers, judicial officers was noted to affect the cases that were being handled
- There was lack of training of officers who handled children issues
- Resources were limited to implement the Act. E.g. Rescue homes were very few.
- There was no psychosocial support from the Government.

- The study noted that the public had a very low level of awareness of the Children Act. Some cultural practices were still being practiced despite them being outlawed by the Children Act. Some of these included early marriages and female genital mutilation.
- Poverty was prompting such violation as child labor, child prostitution, sexual exploitation etc. There were provisions in the act that implementation of the same would be unrealistic e.g. Parental responsibility ending when the child is 18years, yet at that particular time most of the children are still in school.
- Legal fee was also high and parents could not afford them to have justice delivered to their children.
- Other challenges were negative attitude towards the police as well as corruption.
- It was noted that the political class was not passing law that would effectively protect children.
- The study also noted a lack of coordination and collaboration among stakeholders dealing with children.

This study highlighted very crucial challenges that faced the implementation of the Children Act of 2001. However the study gave a broad perspective to challenges of child abuse. It is worth noting that child sexual abuse is a unique form of abuse that needs special attention to unravel its unique challenges. Omondi (2007) did not keenly look into the challenges of prosecution of child sex offenders. The noted that there was a lack of political will to pass legislations that would protect children. It is worth noting that the passing of the Sexual Offences Act gave a good platform for protecting children from sexual abuse. Protection of children can only be effected if these laws are enforced. And in the course of enforcing these laws challenges of prosecuting the offender needed to be

studied. The study on challenges of prosecuting child sex offenders therefore was built on the foundation set by Omondi but went further to focus on prosecution process.

2.6 THEORETICAL FRAMEWORK

In this section two sets of theories were discussed that gave direction to the study. The first set of theories gave an etiology as to why adults sexually abuse children. The next set of theories helped in discussing the challenges of prosecuting child sex offenders.

Theories on the Etiology of child sexual abuse:

There have been several researches to understand why adults abuse children sexually. There has been no one theory that could explain the motivating factors why an adult would sexually abuse a child as well as the sustaining factors that contribute to the continuance of such a relationship (Bickley & Beech, 2001). However for the sake of this study two theories are discussed these are:

- Quadripartite Theory by Hall and Hirschman
- Integrated Theory by Marshall and Barbaree

2.6.1 Quadripartite theory

Hall and Hirschman (1992) came up with a quadripartite model to explain child sexual aggression. The theory is based on four components: Physiological sexual arousal; Cognition justifying sexual aggression; Affective dys-control and Personality problem.

All these four components serve as a motivational precursor that increases the probability of one engaging in a sexual aggressive behavior.

Hall and Hirschman further classified the four components into two:

- State factors: (this comprises of physiological, affective and cognition) they are state and situational depended.
- Trait factors (personality problems) this represent enduring vulnerability facts. i.e. personality deficits are the source of offenders' vulnerability to child sexual abuse

This model suggests that only one factor is prominent for each child molester. This will then exert a greater influence on the other factors and 'push' an individual over to the offence threshold (i.e. from a point where they are in control to a point of committing the abusive act) The two writers consider these factors as interacting in a synergistic nature i.e. the activation of one factor function to increase the intensity of the others propelling the individual to go beyond the critical threshold for performing a sexually deviant act.

Using these factors, Hall and Hirschman came up with four types of child abusers with distinctive treatment needs.

1. Classical preferential offenders: This type of offenders tend to abuse against a large number of children
2. Cognitively motivated offenders: This type misrepresents children behavior as revealing sexual interest. They have good self regulation and planning skills(e.g. incest offenders)
3. Situational offenders: This type is susceptible to negative affective states. They behave in an impulsive and unplanned manner.
4. Developmentally fixated offenders: They have developmentally related personality problems and experience difficulties establishing intimate adult relationships. Hall and Hirschman

suggested different approach in treatment depending on the sub type.

This model presents an important contribution to the literature of child sexual abuse. It has focused on multiple causes /factors that bring about child sexual abuse. It introduces the idea of critical threshold which explains how enduring vulnerability factors interact with situational variables to produce sexual offending behavior.

Weaknesses to quadripartite theory:

The theory fails to specify mechanism capable of generating deviant sexual arousal, distorted cognition, affective dys-control and personality problems. It also fails to consider how such factors do not hold. The four aren't very distinctive and tends to overlap.

According to Hall and Hirschman, vulnerability to commit child sexual abuse resides primarily in personality disturbances (characterized as a trait factor) how this vulnerability exactly occurs is very unclear. The model is not unified and contains conceptually distinct sub models thus offering a different explanation to child sexual abuse.

2.6.2 Integrated theory by

Marshal and Barberee (1990) propose that child sexual abuse occurs as a consequence of a number of interacting distal and proximal factors. According to this theory transitioning to adolescence is particularly challenging for a vulnerable individual. The theory posits that negative childhood experiences leave the offender without necessary social competency to develop and maintain heterosexual relationship at puberty. Such individuals are very receptive to acquiring deviant sexual preferences and associated behavior. This is facilitated by a massive increase of sexual hormones. A lack of effective self regulatory and social competencies means that some individuals are more likely to be

adversely affected by these hormonal and biological challenges. Therefore most likely learn to meet their sexual and emotional needs in a deviant manner.

Integrated theorist emphasizes on the males predisposition to sexually abuse children in terms of their vulnerability. An individual's vulnerability to commit a sexual offence is viewed as dimensionally anchored at one end by the extreme weaknesses and on the other end by their resilience (their abilities, skills, attitude, preferences, values beliefs etc these enable one to resist the temptation and opportunity to sexually offend).The theory provides a rich description of the critical adverse development antecedents and resulting vulnerabilities thought to culminate in sexual offending behavior.

Critique to the integrated theory:

It's an achievement that present a dynamic model to looking at sexual abuse. It shows that child sexual abuse is caused by a multiple interacting factors which include: biological, psychological social, cultural and situational factors. Its focus on resilience and psychological vulnerability clarifies how developmental adversity contributes to sexual offending behavior.

It has also led to important treatment innovations and focused research on a number of important domains. It postulates a causal mechanism which includes: attachment style, and internal working models, self regulatory deficits, maladaptive believed. The theory also shows the impact of this on one another.

Weaknesses of integrated Theory

The theory is too general and fails to adequately address the issues associated with different sexual crimes.

Though it explains clearly early onset offenders (preferential offenders) it fails to explain offenders who start offending children in their adulthood stage (Situational offenders).

It is build around the construct of aggression which may be true with rape but not in many cases of child molestation.

It views low self esteem as a core component of offender's predisposition to child sexual abuse. There are good theoretical and empirical reasons however of viewing sex offenders as suffering from a variety of self esteem disturbances. These are likely to be associated with different offences, styles and psychological problems and not only child sexual abuse.

Theories explaining the challenges of prosecuting child sex offender

Under this section, two theories are discussed that shade light in the challenges of prosecuting child sex offenders, these are:

- Social Exchange theory
- Cognitive Behavioral theory

2.6.3 Social Exchange Theory

Social exchange theory gives a good theoretical framework to explain the challenges faced in prosecuting child sex offenders. In most child sexual abuse cases, child victims find it difficult to have their aggressor punished for their deeds. Peter Blau (1964) says that all exchanges are viewed in terms of contract model. When one actor performs a favor to the other, it is assumed naturally that the favor will be repaid back not necessarily in the same form, this helps to maintain reciprocity. The key

tenet to this theory is that human behavior in essence is an exchange of rewards (Homans 1958). This constitutes social exchange which is different from the economic exchange. The theory assumes that human behavior or social interaction is an exchange activity consisting of rewards and costs. Its basic idea is that human actors carry out cost-benefit analysis. This may be either tangible or non tangible things. If the cost is higher than the benefit, the individual will not engage in the interaction and vice-versa.

Blau says that in social exchange there is no specificity unlike in economic exchange where one may tell the amount to repay back. For example if actor A buys dinner worth Ksh. 1000/ for actor B, it is not very clear how much will be needed to be repaid back for that dinner and most likely it will not be in monetary form. This lack of specificity and the norm of reciprocity create bonds of friendship and establish power relations. Inequality in exchange leads to unfulfilled obligations that in turn, grant power to the one giving out rewards over the recipient. This power imbalance between the child and the adult abuser is tweaked to favor the abuser, who can manipulate the victim.

This assumption is relevant in explaining the challenges of prosecuting child sex offenders where the complainant is unwilling to pursue the case. One of the major challenges at the onset of the case is the delayed disclosure. In most cases children are enticed by the offender, he/she may supply rewards to the child. These rewards may take different forms like gifts, privileges, and provision of love. A child who receives these much needed rewards may feel obliged to reciprocate, the offender knowing this may want to get his payback through sexual activities. As much as the child may not have wanted to repay in this way, he/she feels hard to resist and at the same time report the abuser for the fear of the consequences that may befall the offender. The offender will continue providing the rewards to the child that serve to prevent the child from

reporting the abuse incident. Such offenders make the child to feel indebted to the offender and feel guilt whenever they want to report the matter. In this case the offender gains some psychological power over the victim. In some cases the offender, may present the abuse to be a special love he has for the child or a special secret that should not be disclosed to anyone. Delayed reporting compromises the case since it makes it hard to capture fresh evidence. Cases of children reporting one month or years after the abuse are common, even some adults report for the first time how they were abused while young, and yet they kept it as a top secret.

In situation where the child reports the abuse, facing the abuser in court brings a sense of guilty to the child especially if they accepted the rewards from the abuser willingly. This makes it hard for the child to give a comprehensive testimony to have the abuser jailed. They may feel sympathetic and may want to give contradictory statements that may make the court to doubt their credibility and thus acquit the offender. The child is under a heavy burden over their head especially if the offender is convicted. It will be known that it's because of them that the offender was jailed. This is so huge if the offender is a family member and if the child doesn't receive family support.

Social exchange theory could also be used to explain why the non offending parent may not be willing to report the case of abuse even if they were aware of it. It can be argued that the non offending parent may do a cost-benefit analysis before reporting (especially in cases of incest). If the cost of reporting outweighs the benefit, most definitely she won't report or follow up the case in the criminal justice system. Some of the cost that the non offending parent may weigh include: the cost of taking care of the family where the offender is the sole bread winner; loss of family status upon the discovery of incest; cost of waiting for years before justice is delivered (including the monetary cost of travelling to court; psychological cost of a non ending trial process; opportunity missed out by the child

while following the case e.g. education opportunity etc). The benefit of following up the case may be low e.g. retributive justice where the offender compensates the victim may not be achieved. The punitive/corrective justice where the offender is punished and put in a corrective facility may seem not have a direct benefit to the victim.

2.6.4 Cognitive Behavioral Theory.

This theory posits that individual's behavior proceeds from their mental set of their thought processes. Some of the proponents of this theory like Ward and Marshall (1997) have come up with a therapy model to correct this distortion in thinking that eventually affect the outward behavior. This theory provides a perspective of why adults abuse children as well as help to explain why it is difficult to prosecute child sex offenders.

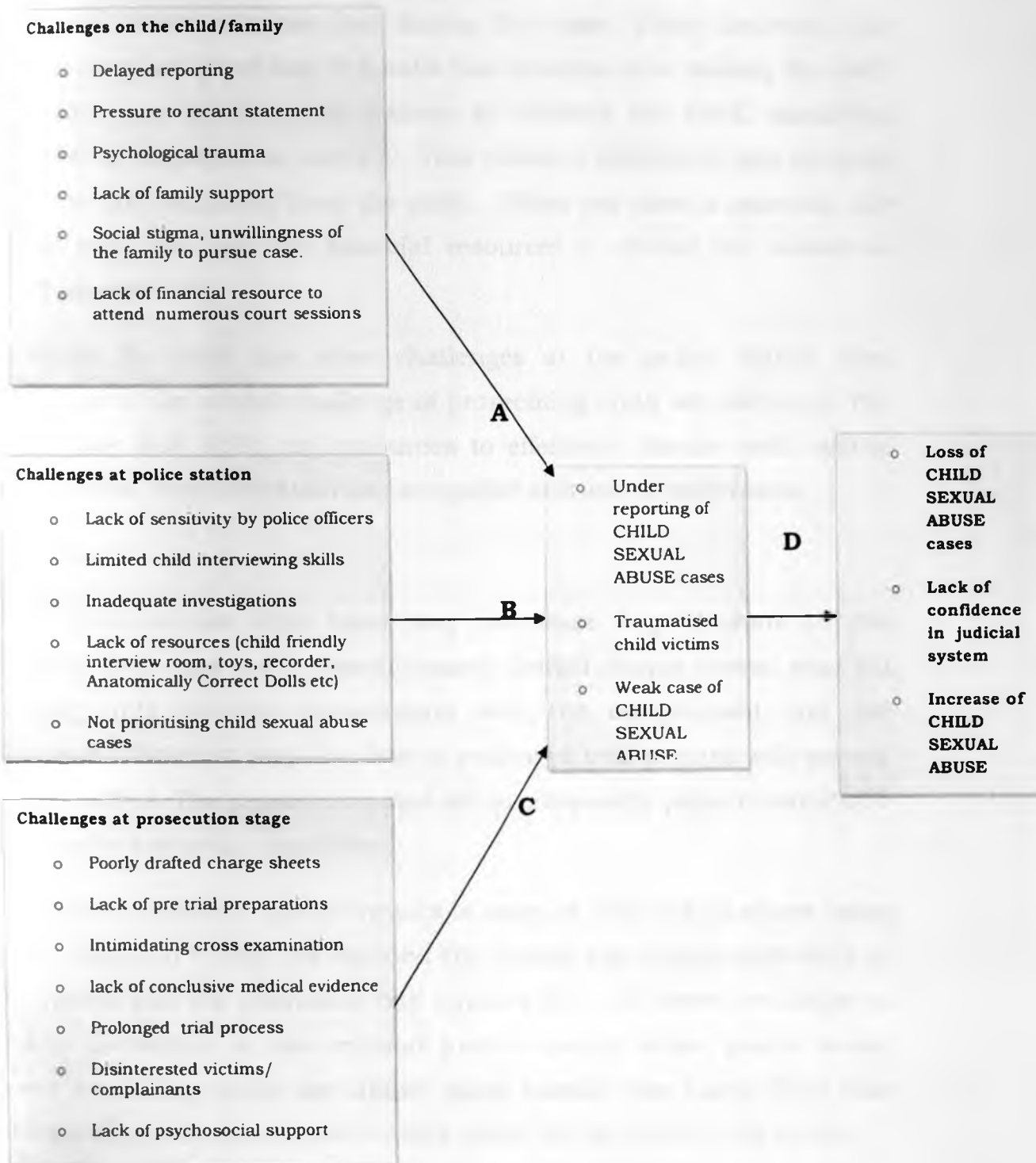
Ward et al, 1997 suggests that individuals who commit deviant sexual acts often dismiss the feelings of guilt and shame through neutralization that take the form of excuses and justifications. This neutralization are cognitive distortions that allow the offender to remove themselves from blame and responsibility of their actions. They suggest that cognitive distortions are self serving and thus the offender at the initial state consciously distort his/her thoughts but later it becomes entrenched in his/her behavior. These cognitive distortions may take the form of denial where the offender denies ever doing the act and claim that the child is making up the story or it was in the victim's dreams. The other distortions may be in form of justifying and rationalizing their actions and hip the blame of the victim e.g. they may claim the victim provoked the rape, women mean 'yes' when they say 'no' they were doing a child a favor. Etc.

The offender passes on these distortions to the child before, during or after the abuse. A child who has been fed on these distortions may have

self blame even in situation where it was the offender to blame, they become guilty especially if the offender warned the child that if they ever reported something severely bad would happen to their family and the child would be responsible for that. The child may come to believe that they are doing the adult a favor or it was the child who initiated it. This manipulation that the offender plays on the child have far reaching negative consequences to the court case as well as the psychological functioning of the child. Some of the challenges that this manipulation may pose to the prosecution process may include: child failing to report the abuse in time thus hard to get fresh evidence. A child feeling guilty and therefore unwilling to say things that may nail the offender; distorting the narration of the story therefore making it hard for the court to convict the offender, the child becoming uncooperative especially if the child is still in contact with the offender.

2.7 CONCEPTUAL FRAMEWORK

Below is a conceptual framework that explains different variables in this study and their linkage.



From the diagram above, the challenges of prosecuting child sex offenders may be likened to a river with different tributaries. Tributary A is composed of challenges that are observed at home immediately a child is sexually abused. Because of fear the child delays in reporting the incidence, evidence is also lost during this stage. Upon discovery, the parents may not know how to handle the situation thus making the child to suffer more psychological trauma by blaming the child, punishing him/her or keeping it as a secret. This makes it difficult to capture good evidence and testimony from the child. When the case is reported, the family may also lack the financial resources to attend the numerous court appearances.

Tributary B: There are other challenges at the police station that contribute to the overall challenge of prosecuting child sex offenders. The police may lack skills and resources to effectively handle child sexual abuse cases. They may also have a negative attitude to such cases.

Tributary C

Prosecutors on the other hand may contribute a good share to this problem. They may fail to identify poorly drafted charge sheets, may fail to carry out pre-trial preparations with the complainant and the witnesses. The court may also have a prolonged trial process with several adjournments. The prosecution may fail to adequately present conclusive evidence to warrant a conviction.

The three tributaries together results in cases of child sexual abuse being under reported, if they are reported the victims are traumatized more in the system and the conviction rate remains low. All these contribute to loss of confidence in the criminal justice system where people would resort to settling child sex abuse cases outside the court. This also increases the prevalence level of child sexual abuse cases in the society.

CHAPTER THREE: RESEARCH DESIGN AND METHODOLOGY

3.1 INTRODUCTION:

This chapter presents the procedures that were applied to generate the data needed for this study. Kerlinger (1964) defines research design as the plan, structure and strategy on investigation conceived so as to obtain answers to research questions and control variables. A research design guides the researcher in collecting, analyzing and interpreting observed facts.

3.2 RESEARCH DESIGN.

This study was qualitative in nature and sought to address the challenges of prosecuting child sex offenders in Nairobi. However, some quantitative aspects were applied whenever necessary.

3.3 RESEARCH SITE

The study was conducted in Nairobi County. Nairobi County was purposively selected because of its high prevalence of child sexual abuse cases as well as the large number of agencies addressing issues of gender based violence. Nairobi being the capital city of Kenya is endowed with resources that other counties don't have. This made it suitable for the study. For instance Nairobi has two Gender Based Violence Recovery Center. One is located at Nairobi Women Hospital while the other is located at the Kenyatta National Hospital.

Nairobi was also chosen because of its unique procedures in handling criminal cases. It's the only county that utilizes the services of a police surgeon in its processing of criminal matters.

Nairobi County has a population of 3.1million people according to 2009 census. This population is served by three court houses located at the High courts, Makadara and Kibera. There are also some court houses

that address other different, matters like the City Court that deals with misdemeanors and Juvenile Court that handles issues of children in conflicts with the law as well other children issues that are not criminal in nature. Nairobi is served by 7 police division they include: Central police division, Embakasi Police Division, Buruburu Police Division, Kilimani Police Division, Langata Police Division, Gigiri Police division and Kasarani Police Division.

3.4 THE TARGET POPULATION:

Kasomo (2007) define population as any group of institutions, people, or object that have at least one common characteristic. It is the aggregate of all cases that conform to some designated set of specifications. In this study the target population was the specific people who experience difficulties while processing cases of child sexual abuse in the criminal justice system. They are officers who at one point or the other handle child victims as their cases go through the criminal justice system. They included: Police officers, medical officers, social service officers (i.e. social workers and counselors), prosecutors as well as lawyers who represent child victims of sexual abuse. The other category of respondents included child victims and their guardians who had child sexual abuse cases at different stages in the criminal justice system.

3.5 SAMPLING PROCEDURES

The topic under study was complex, since there are several stakeholders involved at different stages in the prosecution of the child sex offenders. Therefore focusing on prosecutors alone would have missed important insights from other players in the prosecution process. Each of the players experiences a unique challenge to their role. Because of this factor a heterogeneous sample was utilized. The topic under study required

respondents with specialized knowledge and those with experience in handling child sexual abuse cases, the sampling technique employed therefore was purposive sampling.

3.5.1 Purposive sampling:

Mugenda and Mugenda (1999) defines purposive sampling as a technique that allows the researcher to use cases that have the required information with respect to the objectives of his or her study. The researcher intentionally chooses respondents from the universe, which in the researcher's opinion have relevant key information. Though they may be few in number, they provide information that may not be known to the general public. Using purposive sampling technique, respondents were chosen from key stakeholders involved at different stages of the criminal procedures in child sexual abuse. These are the police officers, the medical officers, the prosecutors, lawyers who represent abused children and the social service officers (social workers, and counselors).

Some aspect of snow balling sampling was utilized when some respondents indicated to the researcher some of other officers whom they thought had some knowledge of the topic. In one instance, a respondent suggested a particular group of people that the researcher also needed to talk to, this is the Sexual Offence Implementation Task Force. Though not in the initial group of respondents, the researcher was able to talk to a lawyer in the task force who was very informed of the issues of prosecuting child sex offenders.

3.5.2 Categories of Respondents

Through purposive sampling technique key informants were selected to give very crucial information in this study. A total of 45 respondents participated in the study these are:

1. Police officers:

In Nairobi police officers are the first responders to cases of child sexual abuse. They receive the initial report when child sexual abuse happens. The report is recorded in the Occurrence Book (OB) before the child is taken to the hospital. The role of the police officer is to carry out thorough investigations, arrest the suspect and charge him/her in court of law.

Not all police officers at stations handle cases of child sexual abuse. In each police station there is one or two designated police officers who are assigned the responsibility of dealing with children matters.

This study interviewed 15 police officers who have at least investigated one child sexual abuse case. 8 were junior officer (Constable and corporal) who dealt with such cases on a daily basis. The other 7 (6 inspectors and 1 chief inspector) were senior officers who supervise the junior officers. The identified police officers were visited and interviewed others gave a phone interview because of time constraints on their part. For those that gave phone interviews permission was sought to have the interview recorded for easy analysis three police officers were not comfortable to be recorded so the researcher complied; only two were agreeable to be recorded.

2. Lawyers who represent sexually abused children.

There are some agencies that have advocates who offer legal representation to sexually abused children. These advocates work hand in

hand with the prosecutor to ensure proper representation, this is referred to as 'watching brief' in legal terminologies. Though they don't address the court they provide the prosecutor in question with all the legal resources to ensure that the child sexual cases are strengthened. Four lawyers were interviewed. All of them had handled more than 10 cases of child sexual abuse either at their current work station or at their previous work stations.

3. Prosecutors

Prosecutors are initially trained as police officers, when they attain a particular rank they go through a prosecution course at the CID training school. An eligibility test is also carried to ensure only people of high integrity are chosen.

In this study 5 prosecutors who had at least prosecuted one case of child sexual abuse up to its completion were purposively chosen from the two court houses (Kibera and Makadara).

4. Medical Officers:

Medical reports form a crucial piece of evidence that abuse happened. Not all cases of child sexual abuse can be medically proven; cases like exposure to pornographic materials, attempted defilement may not be medically proven. Through a purposive sampling technique the study identified 4 medical officers who had been involved in the medical management of sexually abused children. The four were from Nairobi Women Hospital, Kenyatta National Hospital and MSF hospital in Mathare. These medical officers are the ones that perform physical

examination of sexually abused children and complies a medical report to be presented in court.

5. Social Service Officers (Social workers and counselors)

This forms another category of respondents. Generally social service officers whether from the government agencies or Non governmental agencies are charged with the responsibility of ensuring that the sexually abused children are provided with the necessary resources for them to compact the effects of abuse. This may include safe shelter, food, medication, counseling etc. In this study we interviewed social service officers who had assisted children that have been sexually abused. They gave information that helped the researcher understand the challenges sexually abused children face while seeking redresses in the criminal justice system. A total of 7 social service officers were selected from organizations that deal with sexually abused children these are: Kenyatta National Hospital (GBVRC), Nairobi Women Hospital (GVRC), WRAP, and IJM.

6. Guardians/ Parents to child sexual abuse Survivors

This study purposively chose 5 parents from International Justice Mission (IJM). These are parents/ guardians to children who had been sexually abused and whose cases were at different stages in the criminal justice system. The study solicited their views regarding the main challenge in seeking redress in the criminal justice system. From sharing their experience they were able to highlight the main challenges involved in seeking legal redress for their sexually abused children.

7. Survivors of child sexual abuse:

In order to understand the challenges of prosecuting child sexual abuse offenders, the study sought the views of the survivors. Being cognizant of the fact that survivors may experience emotional disturbance when retelling their abuse story, and bearing in mind that this may affect the emotional healing process, the following measures were helpful in choosing the respondents in this category:

- The child had finished counseling and had healed from the trauma suffered. This was verified by their counselor.
- The child was asked for consent to participate in the research.
- There was a concrete social support network around the child, in which the child will feel supported.
- The child had already testified in court.

All this was meant to help reduce the anxiety level of the child.

Table 3.2 Summary of respondents drawn from different agencies:

Agency/ Department	Number of respondents	Agency/ Department	Number of respondents
POLICE OFFICERS JUNIOR		PROSECUTORS	
Kilimani Police Station	1	Makadara Court	3
Riruta Police Station	1	Kibera Court	2
Buruburu Police Station	1	LAWYERS	
Industrial Area Police Station	1	GIZ (Member of SOA Task force)	1
Kasarani Police Station	1	Special appointed State counsel	1
Pangani police station	1	CRADLE	1
CID headquarters	2	IJM	1
POLICE OFFICERS SENIOR OFFICER		SOCIAL WORKERS/COUNSELORS)	
Kilimani police station	1	NWH (GVRC) counselor	2
Gigiri police station	1	WRAP Social worker	1
Buruburu	1	IJM 1 social workers and 1 counselor	2
KRA	1	KNH(GBVRC) counselor	2
CID Headquarters	3	PARENTS OF SUVIVORS	5
MEDICAL OFFICERS		SURVIVORS OF CHILD SEXUAL ABUSE	5
KNH GBVRC	2		
MSF BLUE HOUSE	1		
NWH	1		
Total Number of Respondents			45

Table 3.3 Demography of all the respondents

RESPONDENT	MALE	FEMALE	TOTAL
Police officers	8	7	15
Police prosecutors	2	3	5
Lawyers	1	3	4
Social workers/counselors	0	7	7
Medical officers	3	1	4
Parents to child sexually abused children	1	4	5
Survivors of child sexual abuse	3	2	5
Total number of respondents	18	27	45

3.6 DATA COLLECTION METHODS

The study utilized the following data collection tools:

3.6.1 In-depth Interview:

This is a one on one discussion in which the researcher interviewed the respondents in the various categories earlier mentioned. Prior arrangements were made to ensure that the respondents were available at the scheduled time. In-depth interviews were carried out at different locations at the convenience of the respondents. Interview questions

were prepared in advance to make sure that the researcher captured all the intended information.

Permission to use an audio recorder was sought from the respondents; note taking was also used during these interviews. The interviews were carried out using the language that the respondents were comfortable with.

Child friendly interview were administered to survivors of child sexual abuse. These were done at International Justice Mission (IJM) child interview room. Prior arrangements were made for the child survivors to be there. An explanation was given to the guardians and survivors on what the study involved and permission to participate was sought. A psychological debrief was also provided to make sure that the interviewed children were emotionally stable before being released. The interviews for the children were guided by counseling ethics of doing no harm. In all the interviews, all ethical considerations were observed.

3.6.2 Questionnaires:

This is another research tool that was used to collect data. The questionnaire included closed and open ended probing questions designed specifically to capture all the relevant data. The questionnaires were administered in hard copies as well as emailed to the identified respondents. These were only administered to respondents who were far away or were busy for a face to face interview. This tool was used as a supplement to the in-depth interview tool. In some cases the researcher could make a follow up phone interview to clarify some of the responses from the questionnaires.

3.6.3 Secondary sources of data

This study also gathered secondary information from existing scholarly articles, government documents and other publications. There are several

articles that have been written on different aspect of child sexual abuse. This study reviewed those articles and come up with information that is relevant to the topic under study. This review formed part of the recommendation in prosecuting child sex offenders in Kenya.

3.7 ETHICAL CONSIDERATIONS:

This study complied with all the ethical standards of doing any research. This included:

a) Respect for confidentiality: Bearing in mind that the study involved real children who had suffered abuse, all efforts were made to ensure that whatever information given could not be traced back to them. The identity of the child and the parents was guarded though some of the children respondents were willing to disclose their names. Interview for the children was done in private. The names of all the respondents that participated in the study were held in confidence.

b) Seeking of informed consent: Consent to interview the respondents was sought after a full disclosure of the intention of the study.

c) True representation of facts: The study endeavored to present a true reflection of the data collected.

d) Do no harm to respondents: This study made sure that information gained will not be used in any way to course harm to the respondents. In case of child survivors, the study ensured that the questioning was not re traumatizing to the children. After every interview a psychological debrief was done to make sure that any intense emotions that the interview might have elicited were dealt with and the respondents were emotionally stable before being released.

3.8 DATA PROCESSING

The main data collected was qualitative; the primary data included narratives of personal experiences, list of observations and words. The following are steps that were followed to analyze the collected data:

1. Organizing of the data: Collected data was put in a format that was easy to work with. Notes from the audio recorder were transcribed into text format. Thereafter the data was edited for correctness and accuracy.
2. Shaping the data: After editing, the data was assessed to find out common themes that were prevalent. Five common themes were identified. Afterwards another analysis was done on the sub categories of the respondents. This was meant to pick out sub themes that were unique to a particular category of respondents.
3. Interpreting and summarizing the information: Collected data was interpreted and summarized and thereafter a report was made that explained the findings

3.8.1 Validity:

Validity was maintained by counter checking the information provided by various respondents. For example information provided by police officers would be verified by the prosecutors or lawyers and vice versa. Internal validity was maintained by the use of counter checking questions in the questionnaire or interview. The use of two data collection tools also helped in maintaining validity. For example in some instances, the researcher could give out the questionnaire in advance and then follow up with an in-depth interview to clarify some of the point raised by the respondents, this proved to be very helpful as the it gave the respondent time to give very detailed data. From the in-depth interviews other information came out that was also very vital to the study.

CHAPTER FOUR: DATA ANALYSIS AND PRESENTATION

4.1 INTRODUCTION:

The study was concerned with the challenges in prosecuting child sex offenders in Nairobi County. It sought to identify the various difficulties various stakeholders encounter in seeking justice for the sexually abused children. The study also aimed at identifying the difficulties that sexually abused children experience as they go through the criminal justice system.

4.2 FINDINGS

The study found out that most of the challenges encountered at the prosecution stage had its genesis in the preceding stages. As noted by one prosecutor:

“You see these cases are won or lost at the investigation stage, you can’t expect me to do miracles to win in court when in the first place the investigating officer never even bothered to visit the crime scene. I can’t make up evidence at this stage”

Some challenge of prosecution could be as a result of what happened to the child immediately they were abused. The study also noted that handling of child sexual abuse cases involved very key stakeholders (guardians, child, police officers, social workers/counselors, medical officers, prosecutors and magistrates) and any lapse one stage affected the subsequent stages. This could be explained using a water pipe model that had several connections, if at any connection there are leakages, justice in child sexual abuse cases could never be delivered. It was not enough to blame one particular stakeholder, but all the stakeholders must work together in a well coordinated fashion to help justice in child sexual abuse case. As noted by one lawyer:

'Here we are dealing with a challenge of the whole system, you can imagine a child who was beaten up by the parent in order for her to disclose, immediately she disclosed, she was taken to the police station without any explanation. At the police station, she is subjected to interrogation of what happened. Because of fear, they child just blocks and cannot give finer details. When they go to the court, no one has prepared her of what is expected of her, what she is supposed to say or even the questions that she might be asked. She ends feeling as if she is the one on trial'.

The study noted that there were weaker inter-linkages among partners handling child sexual abuse cases and needed strengthening. As noted by the frustration on of the parent experienced.

"When my daughter eventually disclosed that she had been sexually abused, I took her to the police station; I reported and was asked to take her to the hospital. From the hospital I took the report to the police station, they gave me a P3 form to take to the police doctor; in the meantime they arrested the suspect. It took us three weeks for the police doctor to finally examine my daughter. He confirmed what the other doctors had seen, by the time I returned the P3 form to the police station; I realized that the accused had been released. I was mad; no one explained to me why he had been released. I went personally to search for him since he was my neighbor. He had already escaped. I visited the police station to complain and the police officers would ask, 'what do you want us to do?' it took more than 9 months, after my daughter delivered the perpetrator returned, he thought all was now ok. It is at this stage that I sought help from a child legal organization and they assisted in putting pressure on the police for the perpetrator to be arrested. This time the police officers were very corporative, they arrested the perpetrator and gave me another P3 form to take my daughter to the police surgeon. I wanted to know what had happened to the previous P3 form. They told me that the file was missing. My daughter, the perpetrator and the baby were again taken to the police doctor where another P3 form was filled and blood samples were taken for DNA analysis. We had again to wait for another 10 months before the results were out. All this time the case had not started. The results were

out last week and the DNA was positive that the perpetrator is the father to the child, but the case cannot start since the magistrate is on a two month leave”

Sexually abused children suffer inadvertently as they go through the criminal justice system, hearing the stories of the survivors; it was clear that if children and parents are not handled with sensitivity and the affected child is subjected to secondary re-victimization. As narrated by Survivor 2,:

“Demonstrating in court how my abuser took a knife and threatened me, was very difficult for me. When narrating the story I felt like it was happening to me there and then. It was like opening up a healing wound.

The other hard thing for me was when I was asked how many times, my abuser had raped me, I could not answer this question, because I knew I would have broken down remembering the torture that he had subjected me to. When the question was asked, my mind started recounting the incidences and emotions started overwhelming me. That is why I could not answer, I just kept quite.

His lawyer continued asking me very hurtful questions. He also asked me how long I was at the hospital, when I informed him that I was there for 14 days, he asked me what I was doing there all those days, or was I just seeking for cheap sympathy. He would also look at me from an angle; this was very disgusting to me since he seemed to insinuate that I was lying”.

Policy makers should aim at coming with program that would be holistic in its approach. Where justice would not only defined by the perpetrator suffering the consequences of their deeds but a system that also ensures that the affected child is provided with resources to help them deal with the trauma resulting from the abuse. As further explained by survivor 2

"Immediately after the incidence, I was given a counselor. I don't think that counselor was professional enough, I could tell her how my mum was hurting me, and she would raise this issue with my mother. This could aggravate my problems with my mother. My mother could confront me and demand to know why I had told my counselor those things. At one point I hatched a plan to commit suicide. It is at this point that we got connected with a child rights organization. We went to the organization which provided free legal representation and counseling services. When I heard about counseling I said to myself not again. But when I met this second counselor, I was so impressed and looked forward to seeing her again. She literally turned my life around. I got rid of my suicidal plans. She helped me put things in perspective and I realized that it was not my fault to be kidnapped and raped. This realization helped me a lot. Am now back to my normal self. Although occasionally I remember the incident, I don't get emotionally disturbed, I just brush the memory aside and think other positive thoughts. I view it as something bad that happened to me in the past and should not dictate my present or future life"

From the analysis cross cutting themes among different categories of respondents emerged. These are the major challenges buffeting the prosecution of child sex offenders in Nairobi

4.2.1 Inadequate evidence in child sexual abuse cases making it hard to convict:

Evidence is one of the critical issues in determining criminal matters. The burden of proof usually rest with the prosecution to prove a case beyond any reasonable doubt. The study noted that child sex offenses are the most difficult cases to prosecute, because in most cases they eye witnesses. It was not enough to know that a child had been sexually abused; the crucial point was proving the linkage between the accused and the crime committed as noted by one lawyer:

"Child sexual abuse cases are very hard to prosecute, generally because unlike in other cases, they rarely have eye witnesses; in these cases you end up dealing with two people. The child and the

perpetrator battling it out, it's about the child's word against the perpetrator's word. And the standard is that you need to prove your case beyond any reasonable doubt. Lack of witnesses in these cases makes it hard to prove the case beyond any reasonable doubt. In most of these cases there are no eye witnesses who would say yes- I saw this child being sexually abused. So one ends up relying on corroborating evidence which sometimes is not enough or adequate"

Though they noted that in the Evidence Act it was clear that the evidence of the child needed no corroboration, they were quick to point out that the child's testimony in most cases is weak and as a matter of good practice they needed to corroborate the evidence.

It was noted that the conviction rate of child sexual abuse cases was low since the prosecution does not present enough evidence that would meet the threshold of convicting the accused. None of the prosecutors, police officers or lawyers was certain of the conviction rate, but they all agreed that it was low. The following were some of the circumstances that lead to this phenomenon.

a) Delay in disclosing the abuse and reporting: It was noted that most of the children are threatened by the perpetrators, of all the survivors that were interviewed only one had reported the matter within the first days after the incidence (and this was so because the abuse incidence involved kidnapping so it was easy to notice that the child was missing). Some took three to four months before they could report. One reported only after realizing that she had conceived out of the abuse.

Since memory is also affected by these time lapses, it was difficult for the abused children to remember the events of the abuse in greater details. Some of the parents interviewed also noted that after the disclosure there were some delays in reporting to the

police stations. Some went to the chief's place first; others went to the hospital first. The following were noted as consequences of delayed disclosure of the abuse:

i. ***Child forgetting finer details of the abuse and is prone to suggestibility***: It was noted that when children eventually disclose the abuse, they do it in small doses, and weigh the reactions of their guardian, in most cases guardians rush to conclusions without getting the whole story. Furthermore the guardian may start sharing the story to other relatives and friends in the presence of the child. This causes the child to dis-remember the facts, or pick up the politically correct version of the story as narrated by the parent which may not be factual. An example was given where the mother insisted that the child screamed to make it appear that it was forceful, this was torn down by the defense lawyer since the child shared a bed with others who testified that they never heard any screams.

ii. ***Contaminated testimony***: When the abuse story is shared more and more in the presence of the child, adults tend to use other vocabularies that the child picks up, an example was given of a 4 year old girl who had been frequently hearing the mother say that she had been raped. She took up the vocabulary and she would say she was raped, and could not explain what she meant by the term rape. Some of these vocabularies are age inappropriate and thus when cross examined may appear as if the child had been coached on what to say. It was noted that children may lack the capacity to sequence happenings, especially when the abuse was committed repeatedly. They may tend to mix up the occurrences of different incidences. This may brew doubt in the mind of the magistrate.

iii. **Crucial evidence destroyed:** Other than not remembering all the facts about the abuse, delayed reporting present yet another challenge of evidence being destroyed. It's worth noting that child sexual abuse evidence is transient in nature and is time sensitive. In most case it was noted that children after being abused would rush to wash their clothes or take a bath as they felt unclean, in the due process destroys crucial evidence.

b) **Poor collection of evidence:** The study noted that investigating officers due to heavy workload do not visit crime scenes. Some concluded that since the incidence happened long ago there was no need of visiting the crime scene. Even if they visit the crime scene they lack equipment to collect rape/defilement exhibits. One major challenge that was noted by the all the medical officers from three different medical facilities was that police officers were not very quick in picking up swabs and other samples from the hospital to the government chemist.

Another issue regarding collection of forensic evidence was that few medical personnel had been trained on forensic examination. It was noted that Kenyatta National Hospital had trained close to 50 medical staff on Sexual Assault Forensic Examinations. But not all of them examine, only two of these examiners see patients at the Accident and Emergency sections, they only worked from 8 to 5pm. The other challenge that was noted with the forensic examination was that the Sexual Assault Forensic Examiners (SAFE) lacked pre packed Rape Kits. These are tools used to collect the evidence. It was also noted that the Police doctor was poorly equipped and would take 5 to 10 minutes examining a child victim this time was too little to even have known the child's name or created rapport.

This would be several days or weeks after the abuse incidence. He would write the finding in less than ten words.

Other police officers pointed out the fact of pressure from the public to arrest. The officers noted that the public was now very aware of these crimes and sometimes could arrest a suspect with suspicion and frog match them to the police station and demand that he be arrested. This poses a challenge since most of these people would then disappear and leave the suspect in custody with no one to record a statement. When the police officers release the suspect, there would be a public outcry that the police officers are corrupt. In such circumstances it was very hard to start collecting evidence with no complainant.

c) Poor preservation of evidence and exhibits: Some of the exhibits that are collected by the police officers are kept together with other exhibits in other crimes. Some police officers confided that either they don't know how to fill the exhibit memo to have the samples taken to the government chemist or the procedure was just cumbersome to follow. By the time the defilement exhibits are taken to the government chemist any DNA material on the exhibit would have degenerated because of poor storage. A parent of a survivor confided:

"The investigating police officer lost the panty of my daughter which had at the time of abuse, this was crucial evidence. The police officer noting this went and bought another similar panty on the market but I could tell that it was not my daughter's panty. This put me in an awkward situation because I thought if I could deny that the panty did not belong to my daughter, it would weaken the case".

Some of the exhibit collected become moldy and hence can't be used. All the prosecutors interviewed were in agreement that medical evidence was very crucial in determining a child sexual abuse case, yet many of these cases lacked DNA to link the accused to the act.

d) Prolonged trial process: It was noted that cases of child sexual abuse took a minimum of 6 months to as long as three years to be concluded. There was a case that had taken 4 years and yet it had not been concluded at the time of the study, the survivor in this case had been to court for more than 8 times and every time the case could be adjourned. This prolonged trial process not only means delayed justice but also causes the complainant to be disinterested in pursuing the case.

The delays also expose the survivors to risks from the accused family; the risk level of a child who has not testified is usually very high compared to one who has already testified. An example was given by a social worker where a child had taken more than a year without testifying, the accused knew that the child was the key witness, so the child went missing for more than six months, the case could not continue without the complainant. The case was withdrawn. At the time of this study, the child was still missing.

Some of the survivors interviewed indicated that because of the interruption of their lives, at some point they had regretted having disclosed the abuse, their lives seemed to have hit a snag and could not move. These survivors reported that it had taken them a period of one year for them to give their testimony.

As noted by one survivor:

"These adjournments made me not concentrate on my school work. I always felt like I had a pending thing to be done. At one point I regretted why I had in the first place disclosed the issue. I felt as if my reporting of the incidence

had brought a lot of stress that was almost ruining my life. I did not think that life would be normal again”.

The parents also noted that even some of the key witnesses would lose interest in the case; there were also one incidence where the key witness had died before testifying.

Although prolonged court process was seen from the negative perspective, there were some counselors who noted that these adjournments could be utilized positively, especially in situations where the child was undergoing counseling. By the time they get to testify, they would have stabilized and thus able to give a good testimony.

e) Conflicting medical report: All the prosecutors, lawyers and medical officers interviewed cried out the fact that medical reports (the initial medical report and the police doctor’s report) of the same survivor could be contradictory when presented in court. It was noted that a police doctor’s medical report would conflict a medical report from the initial hospital where the child was first seen. These contradictions could be noted by the magistrate and the benefit of doubt would always go to the accused. At Kibera court, one of the prosecutors showed the researcher two conflicting medical reports of the same child as he noted:

*“Just look at this report of a 6 year old girl who was alleged to have been defiled, she was examined at Nairobi Women Hospital on January 28, 2011, the medical report indicated that the child had **suffered tears and lacerations at her genitalia at 3 o’clock and 9 o’clock positions and her hymen was absent**’ in February 2011, she was taken to Police doctor, the police doctor’s report here reads **‘no injuries seen at her***

genitalia and hymen intact'. This case has not proceeded but you can guess what the verdict will be. You can even see the investigating officer had a hard time preferring charges, whether it was defilement, attempted defilement or indecent act. I think he used the police doctor's report and charged the accused with attempted defilement, if he could have used Nairobi Women's report, e would have charged him with defilement. You can see the dilemma we go through".

f) Challenge in presentation of medical evidence in court:

From the medical officers interviewed, one was categorical that most doctors don't like going to court, the medical officer noted that, because of the several adjournments, they end up wasting their precious time going to court. At the same time the respondent noted that many times the prosecutors don't give them first priority to testify. Another challenge that was noted was that these medical officers were not refunded the money they use for fuel to go court. They pointed out that the system of seeking refund from the court was very tedious. So most of them use their own resource. Another challenge faced by the medical officers was being cross examinations, defense lawyers make them look like they were not informed this makes them become reluctant to give testimonies.

A lawyer pointed out that the issue of chain of custody was of crucial importance when giving out forensic evidence, she further elaborated that in some cases, one may have positive DNA result but if the way the sample were handled did not adhere to the laid down protocol, that concrete evidence could as well be contested by the defense lawyer

4.2.2 Psychological trauma suffered by the survivor of the child sexual abuse

It was noted that children who are sexually abused suffer psychological trauma. The trauma was caused by three factors (The violent abuse which is intrusive and most cases comes with threats, the way the family members handle them after discovery and the way they are handled in the criminal justice system). The police officers and prosecutors interviewed were aware that sexually abused children suffer psychological trauma, but did not have a deeper understanding how trauma manifests. They were also aware that children suffering psychological trauma did not give a great testimony. Police officers also noted that it was very difficult to get a comprehensive statement from such children. Counselors were able to explain in details how trauma manifests in children as noted by one counselor

"In many children trauma plays out in the way they relate with others at home or at school. For example a jovial child may certainly become very moody, some become rude, some become afraid and fearful and even some may fear the male teachers at school if the abuse was a male. Their grades go down and become easily irritated and lack concentration in attending to classroom tasks. They may also have emotional mood swings and get angry very fast for no apparent reason. And some become withdrawn. Some physical symptoms may include: easily startled and becoming overly suspicious, they have reduced play in games that they once enjoyed".

All the parents interviewed reported that their children showed significant changes in their behavior after the abuse. Though some of the parents did not know how to handle those changes, some reported to have beaten the child, or intimidated them, one mentioned that she had not known that her daughter was being sexually abused by the husband, she had become unruly and would run away from home. She did tell anyone and all the while the mother could discipline her thoroughly. The abuse was discovered later, and the mother had a lot of regrets having subjected the daughter to a lot of suffering, beating, reporting her to chief and police

ly to realize that she was acting all these because she needed help. A social worker explained this phenomenon.

“Some parents may become too accommodating that they led the child get away with all their misbehavior. Others may apply heavy punishment including beatings. Those who beat up the child end up punishing the child twice, the child is reacting this way because of the feelings inside which themselves may not understand, this attract a beatings. Because of this the child ends up harboring a lot of bitterness. These extremes don't really help. When parents beat up abused child she/he becomes more withdrawn and more afraid. Children may interpret this to mean rejection and makes it difficult to express their feelings so they end up bottling the feelings inside which is dangerous for them”

Social workers and counselors also noted that the Kenya criminal justice system was not equipped to assist sexually abused children heal from the trauma they had suffered. Many were of the opinion that though there has been an outcry that the courts should have child friendly structures they noted that child friendly infrastructure in themselves was not a solution to this challenge, but rather pointed to the fact that a child friendly system should include personnel with skills and good attitude to handle children matters.

All the five survivors interviewed indicated that they had high levels of anxiety and fear whenever they would go to court. Three survivors indicated that the prosecutor who was a state counsel had a pre trial meeting with them and explained what they would expect. They indicated that this helped them in understanding what was expected of them. The other two survivors noted that no court official prepared them before they testified. Two of the survivors confided that they had thought of committing suicide and one had an elaborate plan to execute it. This was not because of the abuse but rather how they were being treated at home as well as in the criminal justice system. All the survivors noted that

proper counseling was the most helpful thing they had in the criminal process.

Prosecutors and police officers noted that it was frustrating to have sexually abused children to talk about the incidence, some attributed to the fact that sex is a taboo topic, two prosecutors shared some of the ways in which they try to have the children open up, they noted that some of these activities made them look ridiculous, however they noted that in most cases these tricks would work. All the prosecutors and police officers interviewed noted that they needed special training in dealing with children.

Social workers noted that the psychological state of the child had a direct linkage with his/her performance in court. They noted that if the psychological state of the child is not stable it would interfere with their testimony in a very significant way thus making it hard for the criminal case.

Only one parent out of the five that were interviewed reacted in a supportive manner to the child after the child disclosed. The child had conceived out of the abuse and she was in great distress. The parent accepted the situation and followed up the case despite the many challenges that he experienced at the police station. He also sought counseling for themselves as parents and they were in a better position to support their daughter. After the child had delivered, they took over the baby and this enabled the child to go back to school. The parent showed that this was of great help to the daughter; she believed that it was not her fault and she saw the parents as caring. The other four parents were very hostile to the abused children, they reported having blamed or beaten up their children upon discovery of the act. The parents had a lot of self blame and thought that they were not responsible parents. It was noted

that in cases where the parents reacted in disbelief and anger, it made the child to be more stressed and had self blame. This traumatized the child more.

4.2.3 Lack of a well coordinated multidisciplinary approach in handling child sexual abuse cases.

Most of the respondents in their explanation on how they went about handling the cases for the child sexual abuse cases did confirm that there was a lack of proper coordination among all the key stakeholders in addressing the issue of child sexual abuse. The Medical officer from Kenyatta National Hospital noted that they had realized that survivors of sexual abuse could be tossed from one department to the other. They had come up with a centralized place (Gender Based Violence Recovery Centre) which was aimed at centralizing services to the survivors. Though the project stalled because of funding, it was noted that the idea behind was to be a similar one to the idea of Thuthuzela Care Center in South Africa where a survivor would get all the services under one roof (One Stop Shop).

Parents while narrating their experience noted some of the difficult of being moved around from one place to the other with no proper explanation to what was going on.

“Had it not been for my drive to get justice I would have given up. ‘my daughter and I were tossed around and treated as if we were criminals”.

Some of the medical officers noted that their institution had their own medical documentation procedures and protocol which were different from the other medical facility. This lack of standardization in medical

documentation was a challenge to police officers, as well as to the prosecutors.

One prosecutor at Kibera shared with the researcher some medical findings on a medical report in which diagnosis was: *Defilement*, the prosecutor noted that defilement or rape was a legal term and not a medical term, and he indicated that that would cause a challenge from the defense if asked what made the doctor to diagnose the condition as Defilement.

Police officers noted that there were some cases that are reported at the police station that needed rescue or short term placement, none of the officer interviewed knew who to call to assist in such cases. Some indicated that they would advise the mother to look for an alternative housing from friends or relatives in cases of incest cases. (This is fine in rural settings but very difficult in Nairobi settings).

All the prosecutors indicated few organizations and individuals that they work with. All these organizations only provided either legal medical assistance, none of the organization provided counseling services or shelter. This was a challenge especially if a child is deemed to be in urgent need of counseling or short term placement while the case was proceeding in court.

The prosecutors interviewed in Kibera and Makadara did not indicate to be checking whether the child had been counseled before proceeding with the case, they assumed that since they had been treated at Nairobi Women Hospital their assumptions were that they also received counseling services.

Police investigating officers indicated that they consulted with prosecutors but these interactions were more so when there was a crisis.(eg where a witnesses or accused can't be traced etc) police officers indicated that the

magistrate and or prosecutors did not consult them when giving out bail to the accused. They indicated that some of the perpetrators go into hiding immediately after the act, and police officers feel so discouraged knowing that it took them long to arrest a perpetrator only for the court to grant them bail which prompts them to disappear. A lack of coordination was noted where a suspect could be released on bail without the knowledge of the investigating officer. Not that this is a requirement, but mere consultation may gap chances of the suspect jumping bail

Two medical officers from two different medical facilities noted that police took long to take the swabs obtained from the survivors. Some of the swabs could be disposed since no police officer would come to collect. One medical officer shared how she had kept the sample for more than six months and all the while calling the investigation officer to pick it but in vain. Eventually the sample had to be disposed off.

Although majority of the police officers indicated children department as a network partner, none of them indicated having taken the initiative to call them when handling child sexual abuse cases, the closest they had come was to refer them to other partners. No clear referral lines were noted among the government agencies unlike among the non governmental agencies.

4.2.4 Legal impediments to Justice

The research found out that there were some legal impediments that made it hard to find justice for sexually abused children.

These are some of the impediments.

1. Section 38 of the Sexual offences Act: this section was aimed at protecting people from making false accusations related to sexual

assault. It states that anyone who makes false allegations about sexual abuse, would be liable to be jailed the same sentence as the alleged offence. Although from the prosecutors interviewed none has had such a case launched, but the social workers and counselors interviewed indicated that this is usually a big threat from the perpetrator or his family. Some of the survivors had been warned by the family of the perpetrator that if the case is lost, the child would be jailed for the same sentence. When perpetrators or their family use this section, they corrupt it and make it sound like acquitting the perpetrator is equivalent to having made false accusations. This was noted to have increased anxiety and fear in the mind of the survivor and the family or even become a bargaining chip to have the case dropped.

2. The 24 hour Rule, it was noted that an arrested person is supposed to be arraigned in court for plea taking within 24 hours from the time of arrest. Some cases had been thrown out where the magistrate felt that the accused person's constitutional rights were violated. This has in the past thrown the investigating officer in a panic mode whenever they arrested a suspect, or where the public arrest a suspect and is brought to the station. Some officers indicated that they sometime release the culprit on police bond and re-arrest them after the investigations were complete. Or charge them with a holding charge. The challenge is that some of the perpetrators after they are released they disappear and it takes a long time to re-arrest them.
3. The P3 form issue, the study found out that there was a great division between lawyers on one hand and police officers and prosecutors on the other hand regarding the legality of the P3 form. The prosecutors and police officers interviewed believed strongly that a P3 form was a legal document and no case could be proceed

without it. However the lawyers interviewed argued that a P3 form is just a police form to document the degree of injuries and any other medical form or report could suffice.

Lawyers and medical officers were in agreement that a P3 form was not specifically meant to document sexual assault cases. They further highlighted that there was a new medical form called the Post Rape Care (PRC) form which is meant to specifically document injuries of sexual violence. They noted that the form was detailed and had diagram as well as psychological status of the victim. It was noted from the respondents that although the police officers slowly impressed the PRC form, they still needed a P3 form to attach to the PRC form. One police officer noted that in some other counties outside Nairobi, parents of abused children are required to pay between Ksh. 1,000 to 2,000 to have the P3 form filled by the medical officers. The amount was said to be compensation for the time the medical officer would go to court. This applied even to medical officers in public medical facilities.

4. Over reliance on the DNA evidence to link the accused: in cases of child sexual abuse, it was noted that delayed reporting was a major setback, and that meant that DNA samples could in most cases be tempered with. The prosecutors interviewed and police officers were in agreement that the court needed to ascertain the DNA before the case would proceed. It was noted that Kenya has only one Government Chemist, so all the materials that needed sampling from all over the country were taken to the government chemist. On average it was noted that samples take a minimum of six months before the results were ready. The researcher wanted to know why the police officers and prosecutors believed that DNA results should be out before a child sexual abuse case could start. They were varied responses, some said that it's the magistrate who

orders that, yet one prosecutor indicated that it was so to enable the child victim to identify the party of which the DNA samples were obtained.

A lawyer explained this situation:

“The challenge with this arrangement is that a child has to wait for over 6 months in order to testify yet there is no assurance that there would be DNA samples on the piece of cloth. The child’s memory of events will be greatly interfered with the subsequent passing of time. If the DNA samples are not seen, it may not necessary mean that the accused is not the perpetrator, but the cloth might have been washed. This may make the case to start on a wrong footing where the magistrate may already have formed an opinion even before hearing the child.”

Although social workers and lawyers believed that the child’s testimony and recounting of event was the most crucial evidence, prosecutors and police officers believed it was the DNA evidence. This is a major challenge where there were other sexual crimes committed other than defilement. Some of these crimes include exposure to pornographic material, attempted defilement and indecent act among others.

5. Over reliance on police doctor to give evidence in child sexual abuse cases. It was interestingly noted that only in Nairobi do we have a police doctor giving evidence in court. In other counties even the one neighboring Nairobi, medical officers were filling P3 forms and presenting evidence in court. Effort by the researcher to establish when this practice was enacted was not very fruitful. Some closer explanations were given by lawyers as why its only Police doctor who can fill the P3 form and present evidence in court. The lawyer

noted that there was a time where no medical doctor was willing to present evidence in court, the police department had a crisis and therefore agreed to hire their own doctors for this specific purpose. This was a noble idea by then since these police doctors wont charge and would be available to give the evidence. Three doctors were hired but with the passing of time, two of them resigned and only one was left. There was no replacement of the two that left the force.

The challenge with having Police doctor fill in P3 form and testify in court is that he is overworked. The parents interviewed indicated that it took them three visits for their children to be seen by this police doctor. This was within a time frame of 3 months. The client who had seen the police doctor at the earliest moment, she had seen him after 2 weeks. This posed a challenge since such bruises and injuries tends to heal faster especially with children. So by the time they are seen by the police doctor, the lacerations and tears would have healed thus nothing to be observed by the police doctor. No wonder the conflicting medical reports.

4.2.5 Lack of adequate Resources to Handle Child sexual abuse cases

A lack of adequate resources was one of the challenges noted by all the respondents

The resources were viewed in two forms: Human resources and material/financial resources

a) Challenge of limited Human resources:

Lawyers indicated that there were limited judicial officers to handle these cases expeditiously. It was noted some of the adjournment were necessitated either by magistrate being on leave, or being transferred and therefore had to seek for a date to come and hear the matter. The workload for magistrate and prosecutors was also noted to be too heavy. This not only delayed the process but also lowered the quality of the services.

Lawyers indicated that due to the heavy workload on the side of the prosecutors, they failed to have time with the child witnesses for pre trial preparations. Three survivors had noted when they had time with the state counsel before they testified; it demystified the court process and made them aware of what was expected of them. It was also noted that because of the minimum sentences in these cases, the accused persons lawyers to represent them. Having a lawyer battling with the police prosecutor was seen to be a tilted playing ground. The lawyer is advanced in learning of the law compared to the prosecutor and he/she has all the time to do legal research and prepare unlike the prosecutor whose workload was overbearing. The issue of heavy caseload was narrated as follows by a lawyer:

“On a typical day at Makadara court, there are close to 15 cases listed for hearing and 10 for mentioned in one court room. This is a total of 25 cases per day per prosecutor. Because of this huge caseload, prosecutors don’t have enough time to go through the case files and intimately acquaint themselves with the deep details of the case. I observed in one case at Nairobi Law court where a prosecutor called a child witness to the stand and started asking her whether the exhibit (which was a panty) belonged to her, the girl denied and this threw the court in some sought of confusion. She had to be stepped down from the witness stand. After consultation it was clear that the girl was not the victim but the witness who was to give evidence in the case. This just shows

how Prosecutors don't have time to prepare witness and creates rapport before they give their testimony.

In some cases, you find witnesses coming to court and the prosecutor does not have any clue what they are going to say. In some cases you find the investigating officer bringing the police file that very morning of the hearing. This definitely leads to a poor examination in chief. On top of that the prosecutors don't even have time to do legal research to get case laws to arm themselves with provisions of the law. This makes them vulnerable to defense lawyers who take time to scrutinize thoroughly the witness statement and have time to do legal research and come up with case laws. Because of the heavy workload by the prosecutor it becomes very difficult when handling child sexual abuse cases. At least prosecutors can survive in other cases but with child sexual abuse it becomes very challenging”.

Prosecutors also fall under the Kenyan police and not in the state law office. Some of their personnel challenges related to prosecution may not be well addressed by the police department.

The other challenge that was noted as relates to human resource was the inadequacy of skills by the police and prosecutors to handle children. Most of the prosecutors and police officers were of the opinion that child sexual abuse should be handled by female officers. However some of the social workers interviewed underscored the need for sensitivity whether a female or male officers. One social worker highlighted a case where a male police officer had interviewed a 9 year old girl in a very sensitive that lead to a very comprehensive statement and later the perpetrator was sentenced for life. The social workers and counselors were of the opinion that the most important thing was for the officers to be equipped with skills and right attitude and then their gender would be considered third. An example was given where a female police officer was rough on a girl and yet it was believed that female officers are sensitive.

Medical officers noted that there were very few medical officers that had been trained in sexual assault forensic examination. One medical officer indicated that clinical management of sexual abuse cases was not covered in their medical school and thus they felt inadequate handling it.

b) Lack of material/ financial resources:

- Police officers interviewed confided with the researcher that they on most occasions have to use their own money to transport survivors from station to the police doctor and back. There were limited number of cars at the station and even if there was a car, child sexual abuse was not given the first priority as robbery or other crimes.
- There were some insights that police officers attached to the CID branch are given some money to facilitate investigations unlike their counterparts at the general duty section. Some officers cited example where they had to use their own money to bond witnesses or look for a perpetrator who had jumped bail.
- The police doctor is also ill equipped to carry out his duties, for example the parents of sexually abused children indicated that, they were told to buy gloves to enable the police doctor to carry out the physical examination. One could imagine that gloves were the most basic things that a doctor should have. The facilities at the police doctor office were so rudimental, an old couch and a torch, the office is also so squeezed and very dusty. Some of the social workers indicated that the police doctor's office was so small and the environment was child unfriendly. They observed that this did not present a therapeutic atmosphere but rather a traumatizing one.

- Having only one forensic laboratory was another challenge related to limited resources. It was noted that the government chemist was under equipped and understaffed.
- Medical officer interviewed indicated that they lacked the tools (Rape Kits) to effectively collect forensic evidence in sexual abuse cases.

4.3 RESPONDENTS' SPECIFIC CHALLENGES

The study noted that each category of respondents experienced challenges that contributed to the overall challenge of seeking justice for the sexually abused child. The study noted that one specific stakeholder could unwittingly cause a challenge that affected the other stakeholders in these legal processes.

4.3.1 Lawyers

The study interviewed four lawyers in details. Two of these lawyers have been appointed as special state counsel to prosecute child sex offenders. One is a member Sexual Offences Act Implementation Task force. The other lawyer has a three years experience working on children issues.

All the lawyers were in agreement that conviction rate were low, though the rough estimates given by each of them varied, it was noted that there need to be a centralized place to capture this statistics as they were hard to obtain. The four lawyers were also in agreement that for a conviction rate to increase, there need to be a multi- disciplinary approach to it and could not only rely on the prosecutor to have the child sexual abuse cases sail through. All the lawyers noted that child sexual cases are the hardest cases to prosecute, since in most cases, it happens in the secret (therefore no eye witness) and also the child is so traumatized to give evidence.

The following are some of the challenges of prosecuting children sex offenders as noted by the lawyers:

1. Poor investigation. All the lawyers indicated that the police do not do a good job of investigating child sexual cases in Nairobi. There were several reasons cited for these some include: lack of skills, in carrying out this investigation as opposed to general investigation.
2. Inability of the prosecutor to invoke some of the protective provisions in the sexual offense act. An example is where the prosecutor could make application to have a child declared as a vulnerable witness or to receive counseling service at the expense of the state. etc.
3. Overload by the prosecutors and the magistrates making the case to drag.
4. Vulnerable witness being unable to give consistent testimony in court
5. Some legal challenges in the sexual offenses act, although some were of the opinion that the adversarial court process was not good for the children (where the complainant and the accused battle it out with the magistrate being the umpire) none suggested that the inquisitive court procedure should be the cure for this. In inquisitive, magistrate act the role of the investigator, both parties present the version of their story and the magistrate makes the judgment. (it was noted that this system works in inquests and Rwanda Government uses it)

The lawyers were not sure whether the passing of the Sexual offences Act had subsequently increased the conviction rate but were in agreement that it had increased the awareness of sexual offences.

4.3.2 Police Prosecutors

The following are the challenges that the prosecutors highlighted

1. Conflicting medical reports from the initial hospital that examined the child and that of the police doctor
2. Inability of the child to testify in court, where they fear or some start to cry.
3. Failure of the witness to identify the perpetrator in court. This happens where the abuser was a stranger and the abuse happened in the dark and no identification parade was done by the police officers.
4. There was a challenge of children with delayed developmental milestone; the prosecutors noted that this posed a big challenge where the child is unable to give a coherent account of events.
5. Failure of witness to attend court.

Although all the lawyers had pointed out those prosecutors were overloaded it was interesting to note that none of the prosecutors mentioned heavy workload as a challenge.

Only one out of the five prosecutors had the reference manual on the Sexual offences for the prosecutor, he had got the manual from a training workshop he had attended. Since these manuals were very informative it would be of essence to provide the prosecutors with these manuals.

4.3.3 Police officers

Fourteen police officers had handled at least one case of sexual abuse either at their current station or their previous location. One Police officer had not handled the case directly but his responsibilities involved keeping

Crime records at the CID headquarters.

Although in the initial plan, the researcher was to interview police officers of low rank who handle child sexual abuse on a regular basis, it was noted that it was important to interview inspectors to find out some of their challenges that they experience at the stations.

Table 4.2 Police respondents

Rank	Number interviewed
Chief Inspectors	1
Inspectors	6
Corporals	4
Constables	4
Total	15

The officers gave varied reasons as to why child sexual abuse cases take long in the court. The following were reasons given for child sexual abuse cases taking long in court:

1. Backlog of cases in the court, making the cases to go slowly
2. Challenges related to witnesses not appearing as required
3. Delay in getting results from government chemist
4. Adjournment prompted by the defense lawyer

The following were Challenges faced by investigating officers while handing child sexual abuse case

1. Lack of cooperation from the parent of the child, some are compromised and don't want to pursue the case. Others could come to inform the officer that they want to settle the matter outside of court. This makes it hard for the officers, because they have to go search for them
2. Late reporting of these cases, making it hard to obtain the forensic

- evidence.
3. Destroying of evidence while parents report these matters eg washing of the clothes.
 4. Children being unable to record a detailed statement, the children are unable to open up and say what happened to them.
 5. Limited training on Sexual Offences Act
 6. Delay in determining these cases in court
 7. Not having enough time to complete their investigation. They noted that Section 36 of the CPC provides that an arrested person is to be taken to court within 24 hours of his arrest for the purpose of plea taking. Failure to which the officers would be contravening his constitutional rights.
 8. Not having enough resources to effectively handle these cases. E.g. fewer cars to take the child to hospital, some could use their money for fare to bond witnesses.
 9. Some indicated that obtaining a birth certificate for the child was a problem, it was either lost or the parent did not have it. They indicated that they have to take the child for age assessment which would cost between Ksh. 700/ to 2,500/ and yet some of the parents were so needy that they could not afford that. It was noted that a birth certificate was critical in passing the sentence.
 10. The police officers also noted a challenge in determining whether abused happened, especially where the medical reports conflict each other. This was noted to pose a challenge on charging the suspect.
 11. Lack of coordination between medical officers and police officers
Some indicated that the technical terms on the medical report would not be very helpful in investigations. Some police officers would misread the medical report which may make them believe that the child was infected with sexually transmitted infection only to learn later from the doctor's testimony that, the bacteria infection would have been caused by poor hygiene by the child and not

abuse.

Lack of coordination was also cited where the magistrate could grant bail to the accused without the knowledge of the investigation officer. This would either pose a threat to the child in cases of incest or the accused could run away, especially if the accused had been on the run before the arrest. Although the police officers acknowledged that under Section 123 of the Criminal Procedure Code (CPC) which provides that an accused person is entitled to bail they noted that consultation with the prosecutor could establish some grounds to deny bail.

The study found out that all the police officers interviewed were aware that sexual abuse had some effects on the affected child.

It was interesting to learn that though most of the officers knew at least one organization that deals with children matters, most of them had only referred them for medical examination. Though the children department could be of help in sorting out children issue, none of the officer interviewed had referred the matter to the children department or called a children officer to assist in handling a child sexual abuse case.

4.3.4 Medical officers

A total of four medical officers were interviewed two from Kenyatta National Hospital one from Nairobi Women hospital and one from MSF Mathare. Efforts to interview the police doctor were not fruitful.

The following are some of the challenges cited by medical officers:

1. Frequent adjournments in the cases making them to have several court appearance

2. Lack of an effective mechanism to reimburse them of the transport expenses to court
3. Limited training in the management of sexual violence; this might make the officer to fear appearing and presenting their findings in court.
4. Lack of proper tool to collect evidence e.g. Rape kits
5. Inadequate coordination between the police and the medical facility leading to sample over staying at the medical facility.

4.3.5 Social workers/counselor officers

The study also interviewed 4 counselors and 3 social workers. These were drawn from organizations that dealt with child sexual abuse issues. All the seven had handled a minimum of 5 sexually abused children. From the in-depth interview all the seven agreed that child sexual abuse causes trauma to the affected children. They all agreed that the way the criminal justice was structured in Kenya causes more stress to already traumatized children. They noted that counseling especially provided before the child could testify was a critical component in seeking justice for sexually abused children. Some of the factors that they noted to cause more traumas in the criminal justice system include:

1. Prolonged court proceedings noting that this makes the affected children to be very vulnerable to the perpetrators family. They noted that some of the children were threatened with dire consequences should they testify in court. Some of the children were reported to be so highly stressed that they could develop post traumatic stress disorder or even some degenerate psychologically.

The lengthy adjournment worked negatively to the child unless the child was undergoing counseling.

2. Adversarial court processes: from the interview they noted that having the child to retell the account of the abuse was stressful to the child, they noted that it was a little easier if the perpetrator was a stranger. They noted that it was difficult for the children if the perpetrator was holding a position of trust eg a parents, teacher, and pastor. The burden was on the child's shoulders, the child interpreted this as stress. They also noted that the Kenyan court system was more sympathetic to the accused more than the victim. 4 of them had supported children in court while giving evidence and noted that it was very helpful to those children. They recommended that the system should be allowing a person who the child was comfortable with to be present in court. One noted that while giving emotional and moral support to a survivor, a defense lawyer stood up to request that she be thrown out, the social worker noted that the prosecutor did not come to her aid, and the child became so fearful and broke down during the testimony, the magistrate had to ask the social worker to be recalled.
3. All the social workers and counselors noted that police officers interrogate the children at the police station instead of interviewing them, some of them had participated in training of police officers on how to carry out a child friendly forensic interview. One social worker noted that when police officers fail to capture a good testimony, in most of the cases it leads to difficulties while testifying since the police officer may have relied on the parents' version of the story which may not be 100% factual.
4. Being moved around without proper explanation, the social workers noted that some of the children are treated as passive

participants in their case, where no one explains to them about what was happening throughout the process. They noted that when children are abused, they are usually taken to the police station without an explanation, thereafter to the hospital where an intrusive examination is done again without an explanation and then taken to court and no one was taking time to explain what was happening. This they noted causes more stress to the child.

They also noted that lack of skills and knowledge in child trauma by the parents would exacerbate the situation, all of them noted that they involved the parents in counseling, so that they could explain some of the common reaction that the child could be having as a result of the abuse. This they noted was most helpful since they could not only counsel the child but also the parent so that they could offer better support to them. Four of the counselors noted that they used a special model of counseling called Trauma Focused Cognitive Behavioral Therapy while counseling these children. They noted that these children needed a well thought through model of counseling.

4.3.6 Survivors:

There were five survivors that were chosen, they were chosen because they had undergone counseling and their counselors confirmed that they could be interviewed.

Demographical Composition

Table 4.3 Demography for survivors

	Gender	Age when abuse happened	Current age	Duration before disclosure	Case status
Survivor 1	Female	12	18	4 months	Convicted for 9 years
Survivor 2	Female	13	17	One day	Convicted 20 years
Survivor 3	Male	14	19	3 months	*Case still on going
Survivor 4	Male	13	17	3 months	*Case still on going
Survivor 5	Male	13	18	4 months	*Case still on going

*The cases were still ongoing at the time of the study

Reasons why it took long before disclosing:

It took three to six months before four of the survivors disclosed that someone had sexually abused them. The other incidence was noticed much quickly because it involved kidnapping and therefore the parents were quick to note the missing child.

The survivors gave the following reasons that hindered their ability to disclose the issue:

1. Fear that the perpetrator will actually execute the threats that they had given. As survivor 1 Said

"He had threatened me with a knife that if I would disclose he would kill me, so I feared".

There was fear that people won't believe them:

"This man was highly respected, he was a church man and he could give people financial assistance, I feared that no one would believe me that he was sexually abusing me".

There was also fear to lose some privileges as survivor 1 said,

"There was an arrangement for me to be sleeping in his kitchen since my parents' house was so small, I feared that if I disclose, I would lack a place where I could be sleeping".

2. Lack of courage to disclose the shameful act, as explained by Survivor 3:

"I was very close to this person who abused me; I did not disclose the abuse to anyone until after 4 months when my pastor approached me and asked me about the abuse. I did not know how he came to know, but later I learned that my other friends had also been abused by this guy and they had shared it with my pastor. There were several reasons why I did not disclose, first it was very shameful and I thought by disclosing it, it would tarnish my name. Secondly I felt fearful and guilty in disclosing since my father had warned me not to be going at this guy's home but I went because he had a library where we could read some books"

It was more difficult for boys to disclose, because the act of sodomy was appalling and they wouldn't want anybody to know as explained by Survivor 4

"I did not know how I would start saying that this man was sodomizing me, what will my friend tell me, they would label me as gay"

Most challenging thing in the whole process.

Though having experienced the same abuse, the survivors had different experience as of the most challenging thing in the legal process. The

Challenges/ difficulties suffered by the survivors could be grouped in three categories:

- a) The pain and difficulties experienced during the abusive act. Though the act of sexual abuse was painful, many of the survivors tend to forget it faster, out of the 5, its only one survivor who narrated how painful the act was. This was a survivor who had been kidnapped drugged and defiled for continuously for a period of 7 days.

"I was kidnapped and put on hard drugs for a period of 7 days and all this while the guy would rape me continuously. One of the worst thing that I ever dreaded in life was being raped, I couldn't believe that it was happening to me. So when I was eventually found, I was so embarrassed. I was also so scared of what my mum and my village people would say. I was told later that the day I went missing everybody in the village knew and there had been frantic efforts to find me".

- b) The hostile treatment received by the child from the parent upon disclosure and lack of support thereafter. This was the most painful experience, two of the survivors indicated that because of lack of support by the parents/ siblings or friends, they had a plan to commit suicide.

I had just come from hospital; my mum immediately started asking questions why I did not scream, why I did not call her at the time of the kidnap, why I did not run away from my kidnapper. As much as she had the right to ask me all these questions, I would have appreciated the questions much later than that day. These questions made me feel as if she was thinking that am to blame. I felt blamed and judged, I felt that everything was my fault, she put it plainly that it was my fault to be raped. I remember at the point when we were going to look for another school since I could not continue in my school where everyone knew what

had happened. My mother was driving and stopped to give a lift to a student of that school, the girl declined the lift, my mother looked at me and said, ' you see, if only you were careful like other children'. This made me feel like my mother was mocking me that i was thick headed to have accepted a lift from a stranger. She could not understand that I had been drugged by an acquaintance before being kidnapped. I thought the only way i would get over all these blames was to commit suicide"

From the parents interviewed it was only one parent who seemed to how handled well the situation after he discovered that the daughter had been defiled.

- c) Insensitive treatment by the different officers in the legal process. Many of the other challenges were related to how the children were treated at the police station, medical facilities, and the court.

"We went to report the matter to the police station, it was hard for me since there were some police officers who did not believe me and thought that I was lying. They would ask me again and again and since I noted that whatever I said they did not believe I decided to shut and never answered any of their questions".

All the survivors had more than one challenge that they experienced from the above three categories. These are some of the challenges noted by the survivors

1. Three of the survivors indicated that the doubt that their parents and the police officers had in them was the most difficult thing.

They felt betrayed that their own parents could not believe in them. One cited an example where the police questioning was insulting: as Survivor 1 Said:

“The police officers were asking me; are you sure this pregnancy is his? , tell me who is your boy friend?, this questions could cut deep down my heart, knowing that this was the only man who had abused me and police officer insinuating that I was having another boy friend”

One survivor indicated that when the perpetrator's family came to negotiate to have an out of court settlement with her parents, that was also very hurting, she felt betrayed. She was kept out of the discussions. Although the parents did not agree to that, but by the fact that they could sit down and discuss such a thing was in itself very hurting to her. The lack of parental support was noted in the stories that he survivors shared, this ranged from the parents blaming them for not be cautious or thinking that they played along. Because of this persistence nagging and blame from the mother, one survivor indicated that she crafted a good plan to commit suicide.

2. One survivor shared that having the arrest of the perpetrator covered on the Television was most difficult to him.

“Though the TV did not indicate my school or my name but by the mere mention of my village and the name of the perpetrator, everyone in my neighborhood would tease me and ask me very irritating questions. This really altered my behavior and interactions with others, I became very reserved and could keep to himself and I kept indoors most of the time. I even thought of finishing my life”.

3. Two survivors indicated that seeing the perpetrator in court was hard for them, they two also said that cross examination for them was very brutal and they felt as if they were being judged as liars,

two other survivors did not feel that way, in fact one indicated that one of the most helpful thing to him was standing before that perpetrator and letting the court know the truth. He indicated that that was liberating to him.

4. All the survivors indicated that they had a lot of anxiety and fear, a day before they could go to court. One indicated that not remembering the exact date of the incidence could cause him a lot of stress. They had the same feelings as when going to sit for an exam in which they had not prepared.
5. Difficult in disclosing was noted by four survivors, and there were various reasons why they could not disclose the act immediately.
6. Other challenges related to the way they were handled in the legal process, the difficult encountered include: crude interviews from police officers, intrusive medical examination, prolonged trial process making them loose a lot in schooling, difficult explaining graphic details in court. Two survivors shared that their cases had to restart a fresh and they were called to give their testimony for the second time. They indicated that this was another hard thing, whereby they had felt that the case was behind them only to be told that they had to give the testimony afresh.

Most helpful thing in this criminal process

1. Asked what was the most helpful thing to them, all survivors indicated that counseling was most helpful to them, all of them discussed in details how it had changed their world view that they had acquired after the abuse. Two survivors indicated that they

had been sharing their stories with other sexually abused children and that had been giving those children a lot of hope. They did not mind having people know that they are rape survivors; they said that rape did not define them but it is a small part of their story and not their entire story.

2. Three indicated that having parents, social workers and lawyers on their side gave them a lot of confidence.

"When I was stuck and was exhausted from answering all the questions from the defense lawyer, a social worker who was in the court room looked at me and gave me a thumbs up sign, this made a whole lot of difference, I got encouraged that there was someone who cared and was urging me to carry on, I was able to answer all the questions".

3. One survivor who conceived after the abuse indicated that being placed in a children home which took care of all her medical bills during delivery was also very helpful to her. She indicated that it really offloaded the financial burden from her financially struggling parents.

4. Four indicated that one thing that was helpful was when they were briefed before hand by the state counsel of what was going to happen and what was expected of them in court; it made them feel somehow prepared.

5. One survivor indicated that saying the exact truth was most liberating to him. He felt a sense of relief.

3.7 Parents to survivors of child sexual abuse:

Five parents of sexually abused children were interviewed

The composition was as follows

Table 4.4 Parents respondents

	Status of the case	Age of the child at the time abuse	Abuser's identity	Duration of court process
Parent 1	perpetrator acquitted	12 girl	Workmate to the mother	2 years
Parent 2	Case still in progress*	4 and 6 years girls	Stranger	One year
Parent 3	Case in progress*	13	Step father	6 months
Parent 4	Convicted for life	5	Stranger	1.5 years
Parent 5	Case still in progress*	16	Teacher	3 years

*The cases were still in progress at the time of compiling this report.

Parents of sexually abused children had a range of emotions while sharing their stories, the emotions ranged from anger, bitterness, regret, self blame and well as guilt. Two parents broke down in tears narrating the frustration that they had gone through.

The study found out that parent of sexually abused children needed counseling in equal measures as the children who had suffered abuse.

Especially where the case had been lost, the emotions were still raw. The study noted that most parents had felt out of control to have prevented

abuse and sometimes they would vent out the frustrations on the abused children.

One of the parents pointed out that they did not know how to deal with the child immediately they discovered that their child had been abused. Only one seemed to know how to support a sexually abused child, he shared with the researcher how he supported the child and never blamed

"I did not ever think that things would return to normal again, we were more concerned of what our neighbors and relatives would say, we thought that they would judge us harshly for being irresponsible parents. My wife who is hypertensive developed fits. As the leader in the home I had to stand firm. I urged my wife that we needed to support our daughter who was 14 by then. We agreed that we were going to have our daughter keep her pregnancy. And we would take care of the baby since it was not her fault. We treated her with care and never uttered a harsh word. We also got a lot of counseling that helped us accept the situation".

The following were some of the difficulties that the interviewed parents experienced:

1. The frustrations of not knowing what to do in the legal process, they pointed out that lack of knowledge on what needs to be done was very frustrating, this was made worse by the police officers who were not very clear in explaining what procedures were to be followed. They assumed that the parents ought to have known. All of them indicated how they could be sent from one place to the other, they were tossed around and they indicated some of the other parents would give up the whole process. They wished there was a place where they could get all the information and services without having to be moved around.
2. The myth that their children had been destroyed and will never be the same again brought in a feeling of anger and guilty. This was

clear from the Swahili word used to refer to abused child. All of the used the word *mtoto mwenye ameharibiwa*, meaning a child who had been ruined/ destroyed instead of *mtoto mwenye amebakwa*- a meaning a defiled child. This use of words could lead to labeling and thus make the child feel that they would never be 'normal' again.

3. Disruption in their daily routine to follow up the cases. Some of the parents were casual workers and they had to forgo work to attend court sessions and yet on several occasion it would not proceed as noted by one of the parent:

"There were several court adjournments, every month we attended court session only for it to be adjourned. From 2009 to 2011. In November 2010, the magistrate informed us that he had locked the file in his cabinet and had lost his keys. Two court hearings that were set two months apart were adjourned by this same reason, and every time I had to go to court I had to forgo work"

4. Losing a case was the most devastating thing to the parents especially if they had suffered other financial losses as a result of pursuing the court case as narrated by one other parent.

"The investigating officer was antagonistic to us from the beginning of the case. He would tell my daughter that she was at fault. He even told me that my daughter was sexually active and that was not the first time she had had sex. This was perplexing to me since in this incident my daughter had been enticed and locked in a room where she had been repeatedly raped, so even if she was sexually active in the past that was inconsequential she was child.

At one point, he had asked me to settle the matter with the suspect something that I objected strongly I was also suspicious since, after the suspect took a plea he was taken

back to the police station instead of the remand home as is usually the case. And at the police station he would be visited by the family of the suspect and they could meet with the investigating officer.

The case destabilized our finances, since I had been interdicted because of pursuing this case, my family suffered since I was the sole breadwinner. We became beggars literary. I had to change my daughter's school to a cheaper one; all this affected her in a deeper way. She would blame herself to be the cause of all these misfortunes. Her brother did not make her life any easier; he would blame her for everything. This affected her academic performance".

Four of the parents indicated that their children had either undergone counseling or were undergoing counseling. One parent mentioned that her daughter had not been counseled; she however noted that her daughter had a lot of bitterness and emotional problems, though she was abused more than 2 years ago. She also mentioned that this had affected her behavior and the way she interacts with her siblings who do not make it easier for her either. She realized the importance of counseling and was making arrangements to have her undergo counseling after sitting for her Primary education examinations. She noted that it has also affected her academic performance.

4.4 RECENT DEVELOPMENT IN HANDLING CHILDREN ISSUES

The study noted that there were several developments that were worth noting.

1. Child Care and Protection Officers (CCPO) Training:

It was noted that since 2009, the children service department in conjunction with other government departments i.e. Probation and aftercare services, the Prison department, the police department and the

officers have been implementing a 4 year capacity building program for officers who had less than three years of service. This is a pilot study which is being supported by the Kenya government and the Japan International Cooperation Agency (JICA). The program aims to train more than 240 CCPOs from the mentioned departments in the five thematic areas which are:

- Juvenile Justice Procedure
- Case management
- Rehabilitation Treatment
- Support Networking
- Ethics, responsibility and quality assurance

We hope that this training will improve the service rendered to sexually abused children

2. Sensitization workshops on The Sexual Offences Act.

It was noted that the State Law office together with Women Justice Empowerment Initiative(WJEl) of America Embassy have been organizing sensitization workshop throughout the country on the Sexual Offences Act for prosecutors as well as investigating officers.

3. Sexual Offences Act Implementation Task Force

The study found out that the SOA Implementation Task Force was actively involved in reviewing some of the provisions in the Act and had made some recommendations to the Attorney General for review. One of the recommendations was to re-appeal section 38 of the SOA. The researcher was also informed that the task force had made recommendation to the Minister for public health to have PRC form gazetted as the official document in sexual assault cases.

One Stop Shop at KNH

A study noted that Kenyatta National Hospital had established a centralized place where services to sex survivors could be accessed (i.e. the One Stop Shop). This was a noble idea however it was noted that due to funding challenges the project had stalled in early 2011. An establishment of One Stop Shop should get the backing of various government departments i.e. the office of prosecution, the police department among others. This will ensure that survivors are receiving all the services in one place and at the same time there is clear referral line to link them with other service providers. This will reduce cases where sexually abused children are subjected to repeated interviews and physical examination which are not called for. The One Stop Shop should incorporate psychiatrists and psychologists who could give evidence on behalf of mentally challenged children. The government should make these services affordable by subsidizing them; the One Stop Shop idea should then be replicated in other counties.

A success story of the South African Thuthuzela Care Centers (TCC) was reviewed, these centers are located in public hospitals, they provide medical care, counseling and court preparation in a joined-up and survivor friendly manner. It's aimed at addressing the medical and social needs of the survivors and help in reducing secondary victimization. The survivors enjoy a multi disciplinary service from the medical officers, social workers as well as police officers who are on call 24 hours. Through these centers the completion rate of court cases has been reduced to seven months up from 2 years. With a conviction rate of 89%. Thuthuzela's integrated approach to rape care is one of respect, comfort, restoring dignity and ensuring justice for children and women who are victims of sexual violence. The rape victim is first removed from the crowds at the police station to a more victim-friendly environment before being transported by ambulance to the Thuthuzela one stop care centre at

CHAPTER FIVE: CONCLUSION:

Prosecution of child sex offenders is still a critical issue in our society today; as per the study the challenges faced are numerous and are at different stages of the criminal justice system. A proportion of these challenges are contributed by the society's unawareness in handling child sex issue when it happens. These challenges needs to be addressed comprehensively if not they pose a threat to the affected children as well as to the society at large. A society that cannot protect its most vulnerable members cannot be seen to be developed.

The government and other stakeholders should not just stop at celebrating that Kenya has adequate laws; celebration should only come when these laws are actually translated to protect children thus instilling the rule of law in the society. South Africa through its Thuthuzela Care Centers has succeeded in reducing the amount of time it take to process these cases to only seven months and increasing the conviction rate to 89%, Kenya can also attain this.

The researcher believes that the government has the needed resources to do this work, if priorities are set right and there is will power from all concerned personnel, child sexual abuse will be a rare phenomenon in Kenya.

RECOMMENDATION

the challenges noted in this study the following are some of the recommendations that the government needs to implement:

Establishing of a national guidelines on handling child sexual abuse cases. And train all the stakeholders on the protocols to achieve uniformity in how these cases are handled. Further recommendations under this include:

- a. Establish a protocol for child forensic interview that will be utilized by all officers handling children.
 - b. Unify the procedures for collecting forensic evidence in child sexual abuse cases. And ensure that all police officers adhere to these procedures
 - c. Standardize medical documentation and reporting of sexual assault cases.
 - d. Standardize counseling services and make it a must that all sexually abused children receive counseling before testifying in court. Make it a must that all prosecutors to have a pretrial preparation with the abused children before testimony.
 - e. Have a multi disciplinary team (ie police officer, legal officer, social worker and medical officer) working on each child sexual abuse case.
2. As a matter of urgency gazette the Post Rape Care form (PRC) to be utilized as the official form to document rape and defilement cases. Scrap the use of P3 form in document rape and defilement cases and have any certified medical officer examine and give evidence in court.

- professionalize prosecution services and have specialized section in prosecution where some prosecutors will handle child sexual abuse cases. Set up special courts whose mandate would be to deal with child sexual abuse matters, this will ensure that these matters are heard expeditiously.
4. Establish specialization among the police force that will be charged with dealing only with sexual offences. Equip them with the necessary tools and resources to do their work.
 5. Decentralize the government chemist and equip the laboratory with staff and equipment to carry out the work.
 6. Establish a center for monitoring the progress of child sexual abuse cases in the judicial system that will give statistics on the amount of time these cases take and the verdict of these cases. Establish a databank of sex offenders as stipulated in Sexual Offences Act.
 7. Strengthen networking partnership among the government urgencies as well as in the other non governmental agencies. This could be enhanced through having regular court users forum with the view of addressing these impediments
 8. Increase public awareness on how to act when a case of child sexual abuse is discovered, this should also include what not to do after the abuse. The media should be sensitized on how to report sexual abuse cases without causing more harm to the child.
 9. Train officers who handle children matters on issues of child sexual abuse, trauma and how trauma affects people. This will help them be sensitive in handling traumatized children.
 10. Review the Sexual offences Act and re-appeal sections that are an impediment to justice like section 38. The state law office needs also

to give direction on matters involving teenagers engaging in sexual activities.

further research

There is a need for further research to look into the effects of minimum sentencing on the administration of justice in sexual offences. There is also a need to establish the conviction rate statistics in child sex offences. Further research needs to be done to establish whether the criminal justice system is successful in reforming sex offenders.

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APPENDICES

Questionnaire for the Police Officers:

My Name is Benson Shamala, I am a postgraduate student at the University of Nairobi. I am conducting a research on the Challenges of Prosecuting Child sex offenders in Nairobi County. This research is for academic purposes. I will appreciate if you could answer the following questions below. Thanks in advance for your time and your insights.

Station Rank.....

1. When did you join the police service
.....
2. Other than the initial police training course at Kiganjo, what other training on children matters have you undertaken
.....
.....
3. Who organized for this training.....
4. How many cases of child sexual abuse how you handled as an investigating officer.....how many have been completed.....
How many resulted in a conviction of the offender
5. On average how long does it take for child sexual abuse cases to be concluded at the courts
 - a) 6 months
 - b) One year
 - c) One and half years
 - d) Two years and above
6. Why do you think these cases take this long to be completed
.....
.....
.....
.....
.....
7. In your opinion, how does acquitting the child sex offender affect the abused child and his/her family
.....
.....
.....
.....
.....
8. In your view what are the major challenges faced by Investigating officers when handling cases of child sexual abuse.....
.....
.....
.....
.....

9. In your view, do you think the passing of Sexual Offences Act has increased conviction rate? Please explain

10. In your opinion, what do you think needs to be done to increase the conviction rate in child sexual abuse cases.....

11. As you handle cases of child sexual abuse, are there organizations (NGO) or government department that you work with.....
Please fill in the table the services that they provide.

Name of the organization / Govt. Department	Services that they provide

12. Suggests ways in which the partnership with these organizations could be enhanced.....

13. In your opinion, what can be done to make it less stressful to the victims of child sexual abuse in the criminal justice system

Thanks for your time and contribution to this study

Questionnaire for the Police Prosecutors

Name is Benson Shamala, I am a postgraduate student at the University of Nairobi. I am conducting a research on the Challenges of Prosecuting Child sex Offenders in Nairobi County. This research is for academic purposes. I will appreciate if you could answer the following questions below. Thanks in advance for your time and your insights.

Court

1. How long have you served as a prosecutor.....
2. Have you undergone any training on prosecuting cases involving children
3. Who organized for this training
4. On average how many cases do you handle per month.....
5. How many cases of child sexual abuse have you prosecuted.....
6. How many of these cases have been completed..... How many resulted in a conviction of the offender
7. On average how long does it take for child sexual abuse cases to be concluded at the courts
 - a) 6 months
 - b) One year
 - c) One and half years
 - d) Two years and above
8. Why do you think these cases take this long to be completed
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9. In your opinion, how does acquitting the child sex offender affect the abused child and his/her family
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10. In your view what are the major challenges faced by prosecutors when handling cases of child sexual abuse
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Questionnaires for the Social Services Officers (Social Workers & Counselors)

My Name is Benson Shamala, I am a postgraduate student at the University of Nairobi. I am conducting a research on the Challenges of Prosecuting Child sex offenders in Nairobi County. This research is for academic purposes. I will appreciate if you could answer the following questions below. Thanks in advance for your time and your insights.

Name of the organization.....

1. How many cases of child sexual abuse have you handled.....
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2. In your view how does the psychological state of the child affect his /her ability to testify in court
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3. In your opinion what challenges do children who have been sexually abused face in the criminal justice system as they seek justice
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4. Explain how do the above challenges affect their psychological healing process.....
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5. In your view, is Kenya criminal justice system providing adequate protection against child sexual abuse? Support your answer.....
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6. In your opinion, how does acquitting the child sex offender affect the abused child and his/her family
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7. As you handle cases of child sexual abuse, are there organizations (NGO) or government department that you work with (Please fill in the table the services that they provide.)

Name of the organization/Govt. Department	Services that they provide

8. Suggests ways in which the partnership with these organizations could be enhanced.....

9. In your opinion, what can be done to make it less stressful to the victims of child sexual abuse in the criminal justice system

10. In your view what role does counseling play in the process of seeking justice for the victim of child sexual abuse.....

Thanks for your time and contribution to this study

Questionnaire for the advocates/lawyers/state counsel

Name is Benson Shamala, I am a postgraduate student at the University of Nairobi. I am conducting a research on the Challenges of Prosecuting Child sex offenders in Nairobi County. This research is for academic purposes. I will appreciate if you could answer the following questions below. Thanks in advance for your time and your insights.

Name of the organization

1. How many cases of child sexual abuse have you handled
.....
2. On average how long does it take for child sexual abuse cases to be concluded at the courts in Nairobi county.
 - a) 6 months
 - b) One year
 - c) One and half years
 - d) Two years and above
3. Why do you think these cases take this long to be completed
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4. In your opinion, how does acquitting the child sex offender affect the abused child and his/her family
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5. In your view what are the major challenges encountered in the process of seeking justice for the sexually abused children.
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6. In your view, do you think the passing of Sexual Offences Act has increased conviction rate in child sexual abuse cases? Please explain

7. In your opinion, what do you think needs to be done to increase the conviction rate in child sexual abuse cases.....

8. In your opinion, what can be done to make it less stressful to the victims of child sexual abuse in the criminal justice system

Thanks for your time and contribution to this study

Questionnaire for the Medical Officers:

My Name is Benson Shamala, I am a postgraduate student at the University of Nairobi. I am conducting a research on the Challenges of Prosecuting Child sex Offenders in Nairobi County. This research is for academic purposes. I will appreciate if you could answer the following questions below. Thanks in advance for your time and your insights.

1. On average how many sexually abused children does you institution handle in a month.....
2. Out of these cases, what percentage do you think proceed to the court for legal redress.....
3. In your opinion what are some of the reasons why some of these cases don't proceed to the courts for legal redress
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4. In your view what are the major challenges faced by medical officers who examine sexually abused children and present the findings in court.....
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5. Suggest ways of addressing the above mentioned challenges.....
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Thanks for your time and contribution to this study

Questionnaires for the Parents:

My Name is Benson Shamala, I am a postgraduate student at the University of Nairobi. I am conducting a research on the Challenges of Prosecuting Child sex Offenders in Nairobi County. This research is for academic purposes. I will appreciate if you could answer the following questions below. Thanks in advance for your time and your insights.

1. How long did your child's case take before it was concluded
2. What was the outcome of your child's case.
3. What are some of the challenges you experienced as you sort justice for your child.....
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4. In your opinion what was most helpful thing in process of seeking justice for your child.....
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5. How did the abuse of your child affect you and your family.....
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6. In your opinion why do you think some parents/guardians fail to seek justice for their sexually abused children even after discovering it?
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Thanks for your time and contribution to this study

Questionnaires for the Survivors:

My Name is Benson Shamala, I am a postgraduate student at the University of Nairobi. I am conducting a research on the Challenges of Prosecuting Child sex Offenders in Nairobi County. This research is for academic purposes. I will appreciate if you could answer the following questions below. Thanks in advance for your time and your insights.

1. How long did your case take before it was concluded.....
2. What was the outcome of your case?
3. What are some of the challenges you experienced as your case was being processed at the police station, hospital and at the court
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4. In your opinion what was most difficult thing for you in process of seeking justice that you wouldn't like it repeated to any other child.
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5. What was most helpful to you in the judicial process that you would recommend be done to other children who may find themselves in similar situations.....
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6. In your opinion if you had the powers to change the way the whole process of seeking justice for was done what would it be (ie from the reporting at police station, to medical examination and testifying in court)
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Thanks for your time and contribution to this study