

ANALYSIS OF PRACTICE OF INVESTIGATING CHILD SEXUAL ABUSE CASES BY POLICE OFFICERS IN KWALE COUNTY, KENYA

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ABSTRACT: *The core intent of this study was to analyze the practice of investigating child sexual abuse cases by police officers in Kwale County, Kenya. The objectives of the study was to; analyze the capacity of police on investigations of child sexual abuse, provide an analysis of Kenya legal provisions on investigations of child sexual abuse cases and to investigate the effectiveness of child sexual abuse victim management programs on investigations of child sexual abuse. The Integrated Theory of Sexual Offending and Social Disorganization Theory were employed in the study for the theoretical framework explanations. The study utilized descriptive design. The target population consisted of police officers of all ranks within the County. The officers composed of all ranks both senior officers and junior officers present in the county. The study utilized both probability and non-probability sampling design in selecting the sample. Simple random sampling was used in probability design to sample junior officers consisting of Senior Sergeants, Sergeants, Corporals and Police Constables. In non-probability design purposive sampling was used to sample the senior officers involved in conducting criminal investigations especially those related to sexual offenses. The study used the questionnaire method as an instrument to collect data which consisted of questions items formed from the research objectives, questions, and hypotheses. The study used qualitative and quantitative data analysis technique during his study. The study noted that majority of the respondents cited that they had not acquired any clear formal training for child protection services apart from the basic police training. According to the response, majority of the response cited that they disagree that law on protection of rights of children is in effective in Kenya. The study recommends that programmes on awareness should be adopted to educate the residents of Kwale County*

on the realities of the girl child sexual abuse and the long-term and the short term ramifications to the child as well as the whole community.

KEYWORDS: *Child sexual Abuse, Victimization, Victim Support Programs, Legal provisions and investigation capacity*

INTRODUCTION

The social, economic and political changes that characterize the modern society have served to erode the close and communal way of life that used to epitomize the African traditional societies (Morrison, 2014). The close social ties, responsibility and care that used to bind people together in the society have all crumbled and been replaced by an egocentric way of life. People are more worried about their own social and economic security and do not seem to care about the rest of the society. Children have been the most affected by these changes because of their innocence and vulnerability. The modern society has therefore been characterized by the ever-increasing number of child abuse and neglect cases (Ombwori, 2012).

Kenya is a signatory to the UN Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child (ACRWC), a commitment towards response and prevention of all forms of violence against children (Morrison and Ogrodnik, 2014). Pravin (2010) also noted that health, legal, security and community sectors have all been mobilized to address gender-based violence (GBV) in Kenya which has seen the enactment of national legislation and policies in tandem with international commitments aimed at putting in place structural and institutional interventions. Robert (2013) observed that victim assistance services, working with perpetrators, awareness programmes, education and training curricula, community participation and forums for national and international dialogue have characterized the secondary and tertiary prevention and response initiatives.

Findings from the 2010 national survey on violence against children in Kenya published the same year show that three out of every ten females and nearly two out of every ten males aged 18 to 24 reported at least one experience of sexual violence prior to age 18 (Davies & Dodd, 2012). The police recorded 3,685 cases in 2014 compared to 3,286 cases in 2013 with 240 and 110 cases on incest and sodomy respectively in 2014. According to the 2017 daily nation report, child sexual abuse is the third most reported form of violation on children accounting for 23% of all cases. 97% of child sexual abuse cases are perpetrated by people the victims trust, such as parents and step parents, siblings, teachers or clergy. The youngest victim of sexual violence was a four month-old baby who was defiled by the mother's boyfriend in 2016.

According to Medical and Public Health Ministry (2016) within Kwale County there have been various instances of reported cases on child sexual abuse (about 60% of the sexual offences reported). However, very few of these cases are prosecuted in court. In Kwale County there are several challenges hindering efforts that should protect children from physical abuse, especially sexual abuse. This is because most cases of sexual abuse

take place around the home and usually involve authority figures within this region. The people the society expects to protect children end up being the ones who perpetrate sexual offences. Many sex attacks take place in places where children should be safe such as schools, churches and in the home. An atmosphere of silence and poor communication around sexuality contributes to child sexual abuse.

This trend is worrying as majority of the victims live in fear of re-victimization. This trend is attributed to various factors ranging from police laxity, shortage of forensic personnel such as forensic interviewing experts, lack of crime scene experts, intimidation, cultural practices, knowledge and skills and poverty. In addition to this there are no forensic labs which may handle biological evidence such as semen and saliva collected from crime scenes. This county also faces issues of medical facility shortage hence getting doctor's report to back up an individual case seems futile. The current study sought to unravel the truth behind this and make recommendations to the policy makers and the government on how best it can handle this menace and ensure that victims of this heinous act are brought to book and justice prevails.

Problem Statement

According to County Children and Gender department there are increasing reports within Kwale County about respectable communal leaders who have molested children sexually. Majority of the cases currently being reported took place many years ago when the victims lacked knowledge of this vice or were not courageous enough to speak up. The challenge of proving sexual abuse is also a serious hindrance to child protection and investigations from abuse in Kwale County. There have been challenges of evidentiary issues when it comes to prosecution of child sexual abuse cases in courts within the area of study. This has been attributed to the victims of abuse being too young to remember and communicate what happened to them in a clear manner which has hindered the legal processes needed to prosecute offenders in Kwale County. In addition to the legal challenges, many children within are also not empowered to report sexual abuse. Other enabling factors such as poverty, low self-esteem among children, or a history of abuse limit the success rates of child protection efforts. Earlier experience on abuse also makes a child prone to further abuse. Underreported abuse makes it very difficult to protect children from sexual offenders within Kwale County especially Msambweni Constituency where police records shows high number of reported child sexual abuse cases. Cultural factors are also an important barrier to the tackling of sexual abuse. In a context where men wield disproportionate power in society, a male sexual offender may fail to recognize sexual assault but may view it simply as his right. Such men view their abusive behavior as part of their cultural rights, and not as a violation of a woman's or children's sexual rights. Children that lack proper information from the right adults on matters of sexuality are more vulnerable to abuse. This study sought to analyze the rate of child abuse and the practice of investigating these cases by police officers in Kwale County, Kenya.

Theoretical Framework

This study was guided by two theories, The Integrated Theory of Sexual Offending (ITSO) and Social Disorganization Theory.

The Integrated Theory of Sexual Offending (ITSO)

The Integrated Theory of Sexual Offending (ITSO) is a product of diverse sets of theories integrated into one overarching one. It is derived from diverse sources which all seek to explain sexual offending among some people. It is presented as a general theory of sexual offending. It seeks to combine explanations of sexual offending from the points of view of genetics, ecology, neuroscience and clinical studies (Coleman and James, 2015). Three levels of theories are distinguished. Level I theories focus on the core features of sexual offending; what causes sexual offending and how sexually abusive actions are manifested. Level II theories describe the single most important factor that is thought to be the cause of sexual offences. Level III theories, generally, emphasize the process taken in sexual offending. They specify the cognitive, behavioral, motivational and social factors associated with sexual offending. In problematic anti-social behavior, certain risk factors abound. They (risk factors) are generally grouped into four categories (Coleman and James 2015).

Social Disorganization Theory

The social disorganization theory states that poverty was one of three elements linked to higher crime rates. This is true of theft and related offences. Research was conducted, and found that where a neighborhood had a high turnover rate and high poverty, violent crime was higher (Hanson and Harris 2010) Exposure to poverty and violence creates a predisposition to violence, and it shows that half of all homicides result from interpersonal conflict with another. Positivist criminology states that criminal motivations are beyond the criminal's control (Hanson and Harris 2010) Poverty is an influence on the criminal, but there is some inconsistency in linking economic variables with all crime. This may be due to the difficulty of accounting for multiple variables in research, such as divorce, unemployment, broken homes, neighborhood decay, or other variables (Pravin 2010). Many sociologists suggest that individuals in poor families and communities are more likely to steal, rob, sell drugs, and otherwise make illicit gains (Morrison, 2014). Early studies on criminal activities and economic conditions were conducted by Quetelet in France nearly 200 years ago (Hung and Kwing, 2016). He found that there was more property crime in wealthy communities, because there was more to steal. Similarly, there was little property crime was low in poor communities because there was no inequality. Everyone was equally poor. As for unemployment, there is not conclusive evidence that unemployment makes any one individual more predisposed to sexual offences. On the macro-level, an increase in unemployment is accompanied by an increase in sexual offences cases (Hanson and Harris, 2000). Problems in the low-income community often deal with the multi-variety causes of sexual offences, Such as: unemployment, poverty, divorce, broken homes, poor schools, poor housing quality, racial and ethnic mix, residential mobility, and population turnover. Socio-economic status and classes in society are not a reflection of sexual offences directly (Morrison, 2014).

LITERATURE REVIEW

Child abuse consists of physical abuse, neglect, racial harassment, sexual exploitation, social exclusion, discrimination, and systems abuse (Omaar, 2014). Sexual abuse is only one of these forms of abuses and it usually occurs in the context of other types of child abuse. The line between physical and sexual abuse blurs depending on the specific acts. Physical abuse may take place in the absence of any sexual abuse. This can take the form

of physical punishment such as severe beating, or exposure to inhumane conditions. Usually, physical abuse leads to psychological harm, hence it is tied to psychological abuse. However, psychological abuse may occur in the absence of physical abuse. Sexual abuse, on the other hand, involves all the three forms of abuse. There is a physical component ranging from inappropriate touching to sexual activity.

According to Hanson et al., (2012) sexual abuse includes piping, flashing, child pornography, sexual intercourse, sodomy, and genital to mouth contact. Pornography, indecent exposure (of the perpetrator towards the victim), and voyeurism are all forms of sexual abuse (Johnstone and Van, 2013). There is also a psychological component because all sexual activity involves the mind. In this regard, sexual abuse is one of the worst forms of abuse. It is important to note that sexual abuse need not take place in a confrontational or violent manner.

Omaar (2014) recently emphasized the importance of formal training for child protective services workers. Public officials such as the police are not to blame for their relative ignorance in the area of child sex abuse investigations. Several have pointed out that psychologists first hammered them for a decade to take child sex abuse allegations seriously, and that they are now criticized for their well-intentioned (albeit misguided) efforts to advocate for children who cannot advocate for themselves. The criticism, however, is not against advocacy for children, but against poor quality of training and of investigative procedures. Poorly trained workers and investigators commit errors based on lack of knowledge of the fundamentals delineated here, giving rise to legal and personal fiascos such as the *Hart* case discussed briefly herein (Hawkins, 2010). Whichever scientific method of investigation of child sex abuse allegations is chosen as the method to be taught to child protective services workers, or others, the fundamental procedures delineated herein should form the minimal foundation for clinical investigations (Hawkins, 2010)

Smith and Jones (2014) note that in the past ten years the reported incidences of sexual exploitation of children has increased markedly. Waller and Irvin (2010) adds that although historically considering taboo, various writings have suggested that the manipulation of children for a variety of sexual purposes has long existed. The actual incidence of child sexual abuse is difficult to measure, since it is one of the most underreported forms of crime. It is estimated that only 10 to 20 per cent of the sexual abuse incidents are actually reported. Fear, embarrassment and concern about the possible response of social, medical and legal agencies most likely contribute to underreporting (Smith and Jones, 2014).

According to Pravin (2010) sexual abuse is not often identified through physical indications alone, frequently, a child confides in a trusted teacher, counselor or nurse that he or she has been sexually assaulted. The physical signs that health professionals should look for include: sexually transmitted infections, bruising of or pain in the vaginal or anal area and pregnancy. In addition there are certain behavioral signs that may be inactive of sexual assault: changes in personality, withdrawal, and sexually provocative behaviour and play activities utilizing age inappropriate sexual knowledge.

RESEARCH METHODOLOGY

This study employed a descriptive survey research design. Descriptive research design was used because the researcher collected data and report the way things are without manipulating any variables besides being less time consuming and able to capture a lot of data within the contained time and resources. The target population consisted of police officers. The officers composed of all ranks both senior officers and junior officers present in the county as indicated in the Table 1. The officers will be drawn from Kwale county comprising of four police divisions making a total of 400 officers (Quarterly Nominal roll Report, Kwale Police County, 2018). This study utilized Mugenda and Mugenda(2003) formula on calculating the sample which resulted to 120 respondents through adopting of 30% of the target population of the study

Table 1: Sample Population

Rank	Target population	% Sample	Sample Size(N)
Commissioner of Police	1	30%	-
Senior superintendent	2	30%	1
Superintendent	4	30%	1
Chief Inspector	4	30%	1
Inspector	13	30%	4
Senior Sergeant	18	30%	5
Sergeant	17	30%	5
Corporal	38	30%	11
Police constable	304	30%	91
Total	361		120

Source: Author, 2019

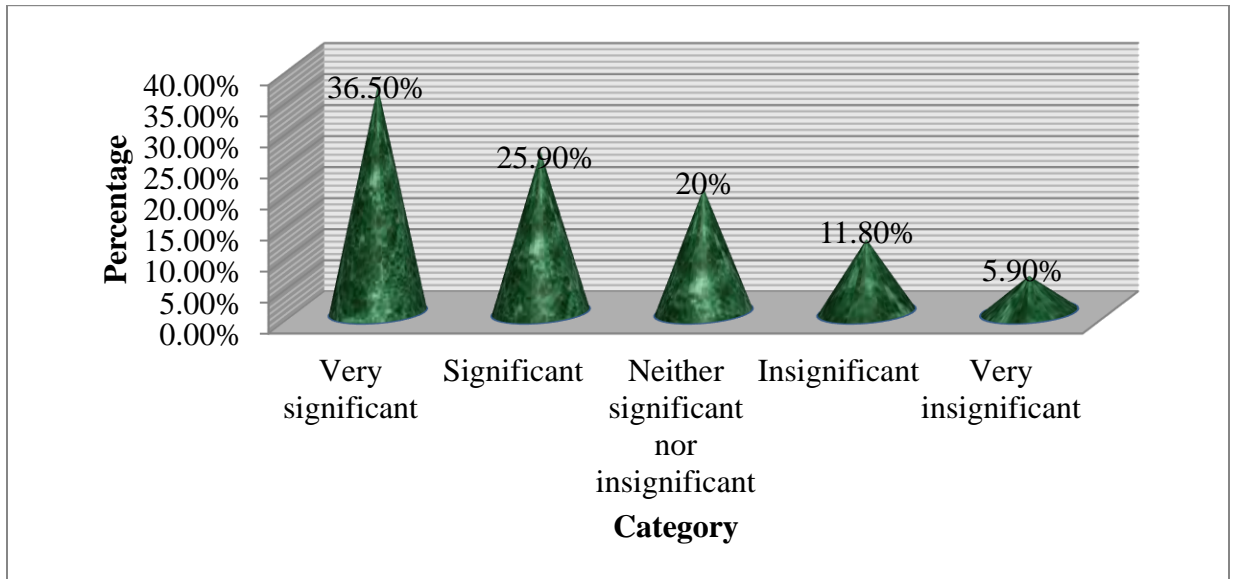
The study used both primary and secondary data collection procedures. Primary data was directly collected from the field through interviews and questionnaires .On the other hand, secondary data was collected through reading different research, journals and reported cases. Before processing the responses, the completed questionnaires were edited for completeness and consistency. A content analysis and descriptive analysis were employed. The content analysis was used to analyze the respondents' views. The data was then coded to enable the responses to be grouped into various categories. Descriptive statistics was used to summarize the data including percentages and frequencies.

RESULTS

Findings on Capacity

The study also had an interest in determining the significance of police training on the investigations of CSA. According to table 4.8 below, the study noted that majority of the respondents cited that police training on CSA investigations was very significant. This was cited by 31(36.5%) of the respondents. Moreover, 22(25.9%) indicated that training is significant, 17(20%) cited neither significant nor insignificant, 10(11.8%) cited insignificant, 5(5.9%) of the respondents cited very insignificant. The findings are captured in Figure 1

Figure 1: Importance of Police Training On Investigations of Child Sexual Abuse



Source: Field Data, 2019

Response on influence of Legal Provisions on CSA Investigations

This study sought to determine the effect of legal provisions on investigations of CSA cases. According to the findings reflected in table 4.9 below, the study noted that majority of the respondents agreed that legal provisions affect CSA investigations within Kwale County. This was represented by 60(70.6%) of the respondents. Conversely, 25 (29.4%) of the respondents cited contrary. The findings are reflected in table 2

Table 2: Response on influence of Legal Provisions on CSA investigations

Response	Frequency	Percentage
Yes	60	70.6%
No	25	29.4%
Total	85	100

Source: Field Data, 2019

Victim Management Programs

The third objective sought to effectiveness of child sexual abuse victim management programs on investigations of child sexual abuse within Kwale County. The objective was operationalized through, Counseling, psychotherapy, Community Reintegration and Supervision, Criminal Justice Policies, Educational Programs Initiatives, Research and Educational Programs, Community Prevention of Offending Programs and Assessment of Child Safety.

Community Reintegration and Supervision

The study had a key interest in determining the effectiveness of community reintegration and supervision on management of CSA cases within Kwale County. The study noted that majority of the respondents cited that community reintegration and supervision are very important in the management of CSA cases. This was indicated by 31(36.5%) of the

respondents. Additionally, 15(17.5%) of the respondents cited absolutely essential, 29(34.1%) cited of average importance, 3(3.5%) indicated of little importance while 7(8.2%) of the respondents cited that it was not important at all. The OCS from Msambweni Police Station noted that community reintegration programs for ex sexual offenders are important to reduce the prevalence of recidivism among the potential offenders. Further, he noted that there should be also necessary measures put in place to promote restorative justice. The findings are reflected in table 3 below.

Table 3: Community Reintegration and Supervision

Response	Frequency	Percentage
Not Important at All	7	8.2%
Of Little Importance	3	3.5%
Of Average Importance	29	34.1%
Very Important	31	36.5%
Absolutely Essential	15	17.5%
Total	85	100

Source: Field Data, 2019

Assessment of Child Safety

This study had an interest in determining whether assessment of child safety programs was vital in management of CSA cases within Kwale County. The study noted that majority of the respondents cited that child safety programs assist essentially in management of CSA cases within Kwale County. This was indicated by 26(30.6%) of the respondents. Moreover, 19(22.4%) of the respondents cited very important, 22(25.9%) cited of average importance, 13(15.3%) indicated of little importance while 5(5.9%) of the respondents cited that it was not important at all. The findings are demonstrated in table 4

Table 4: Assessment of Child Safety

Response	Frequency	Percentage
Not Important at All	5	5.9%
Of Little Importance	13	15.3%
Of Average Importance	22	25.9%
Very Important	19	22.4%
Absolutely Essential	26	30.6%
Total	85	100

Source: Field Data, 2020

Conclusion

This study noted that medical officers and investigating officers noted that lack of adequate evidence and mechanisms which are limited for evidence gathering as the major factors hindering the justice delivery in the sexual offences' cases prosecution. The study made an inquiry on the diverse justifications for major sexual offences cases proportions leading to acquittal. There were a number of justifications for the high acquittal proportion in cases of sexual offences and these led to delay in investigations, laxity on the investigating officer's part, lack of medical evidence and witness availability as a

vital information piece, which is needed for establishment of cases of sexual offences in a court of law. The investigators who were involved in the questionnaires data collection for the study that they often face challenges when it comes to evidence collection.

The police officers are put to task to try as much as possible to collect sufficient and reliable evidence and ensure that the collected physical evidence is not contaminated. They stated that majority of the sexual offences happen within the slums and rural areas, regions which are inaccessible mostly due to poor roads and the police stations does not have adequate motor vehicles to make access to each crime scene. Some of the witnesses may choose also not to come forward with information where the offender is known to them as a result of fear of being victimized. Whereas the victims are children who are young not only mature emotionally, the sexual offence trauma can affect their capability to fully or coherently recount the experience. In cases where the police officers are not properly trained to handle victims who are traumatized it may be very hard to gather any information which is useful from the victim.

Recommendations

Programmes on awareness should be adopted to educate the residents of Kwale County on the realities of the girl child sexual abuse and the long-term and the short-term ramifications to the child as well as the whole community. Programmes addressing economic empowerment within Kwale County should be seriously taken nationwide both for boy child and girl child. This will lower the vulnerability of the girl child to sexual abuse and the boy child who in turn becomes the abuser as a result of being idle or indulgence in drug abuse as a result of having nothing much to do. Deliberate sharing of information should be carried out by the authorities to assist the community to know the resources which are available and assistance they can obtain and where when such occurrences takes place. Relevant policies on protection of child and relevant channels of reporting to the police should adopted within Kwale County. The girl child education should be prioritized in the allocations of the bursary kitty of the Kwale County to assist the girl child to be exposed and empowerment to opportunities which leads to breaking the poverty cycle.

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