

REPUBLIC OF KENYA

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*OFFICE OF THE ATTORNEY GENERAL AND DEPARTMENT OF JUSTICE*  
*And*  
*THE NATIONAL COUNCIL ON THE ADMINISTRATION OF JUSTICE*

NATIONAL POLICY ON THE PREVENTION, RESPONSE AND PROTECTION FROM  
UNLAWFUL SEXUAL ACTS AND THE ADMINISTRATION OF JUSTICE IN SEXUAL  
OFFENCES MATTERS

NOVEMBER, 2021

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*FOREWORD*

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## LIST OF ACRONYMS AND ABBREVIATIONS

ACE	Adverse Childhood Experiences
ADR	Alternative Dispute Resolution
AFRICEC	Africa Cutting Edge Consultancy International
AIDS	Acquired Immune Deficiency Syndrome
BoG	Board of Governors
MoE	Ministry of Education
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
KCA	Kenya Counselling Association
NCAJ	National Council for the administration of Justice
NGEC	National Gender and Equality Commission
PTSD	Post-Traumatic Stress Disorder
SAD	Substance Abuse Disorder
UN	United Nations

# CHAPTER 1:

## 1.1. INTRODUCTION

Sexual violence is a form of harmful or unlawful sexual act against a person that includes rape, defilement, child prostitution, child pornography and sexual harassment, regardless of the relationship to the victim. Sexual violence is a traumatic experience which compromises the health, dignity, security and autonomy of its victims. Sexual violence has profound immediate and long-term consequences on the victim's physical and mental health and the same may be physical, psychological, social or economic;

- i) **Physical consequences:** These include an increased risk of sexually transmitted infections, unintended pregnancies, subsequent abortions and including injuries that may be severe that a victim may suffer that may result in fistulae, fractures and even death
- ii) **Psychological effects:** These include post-traumatic stress disorders, inter-generational stress depression and other mental disorders which, if unattended, can result to suicidal tendencies culminating in Substance Abuse Disorder (SAD), Adverse Childhood Experiences (ACEs) suicide not excluding Homicide and related deaths.
- iii) **Social consequences:** These include stigma and rejection of the victim by partners, spouses, families, religious groups and communities.
- iv) **Economical:** These include the cost of treatment and legal services that the victims may have to bear as a result of sexual violence. Refer to NGEK 2016 study shows that the average cost is KES 46bn/year.

Numerous laws and policies exist to curb sexual offences by providing disciplinary and criminal sanctions against perpetrators of sexual offences. However, there have been cases where victims of sexual offences failed to get justice due to the lack of knowledge on the dynamics of the sexual offences, lack of technical expertise resulting in weak implementation mechanisms required to actualize laws and policies. Statistics indicate that up to 7,233 sexual offences cases were reported in 2018. In 2017, 5,492 sexual offences were reported. This was a significant increase of cases reported by 31.7% in

2018. In addition, the National Police Service Quarterly Crime Report of 2018 indicated that sexual offences cases increased by 9% within the first three months of the year. The figures do not include cases that are not reported to the police or other forms of sexual violence that are not identified as sexual offences in the Act.

The increasing number of sexual offences clearly indicates that the existence of penal sanctions alone cannot deter the commission of sexual offences. This has necessitated development of mechanisms to enhance coordination among various actors in the justice chain and communities in the prevention of and response to sexual offences.

### **1.2. Overview of the Problem**

Kenya has enacted several laws and developed various policies to fight sexual offences. Despite the existence of many laws and policies prohibiting sexual offences in Kenya, there is still a sharp increase in sexual violence cases and the emergence of new forms of sexual violence which had not been addressed by Sexual Offences Act.

There is need to recognize that rape includes both male and female as possible victims and perpetrators, as opposed to the current position which holds only female as victims. The drafters of SOA did not foresee the fact that even female can be aggressors and therefore drafted the legislation in a discriminative manner.

There is need to introduce provisions that take into account social realities such as HIV & AIDS, and the commission of sexual offences by juristic persons. There are many ways in which a body corporate can commit a sexual offence e.g. through the publication of sexually explicit material promoting sexual offences.

There is need for integrated technological developments such as use of DNA profiling in the detection and proof of sexual offences. This is a major problem experienced by investigative agencies and prosecution to sustain conviction of the accused person.

There is lack of reporting of sexual offences cases due to stigma and undue influence from guardians and caregivers. This requires putting responsibility on certain persons such as parents and caregivers backed by sanctions to ensure compliance.

There is lack of adequate data on sexual offences cases as some cases are unreported. There is need for documentation of cases not necessarily reported formally but also reported in traditional set ups. Further, data on sexual offences collected by the Police and various health facilities are not easily accessible.

There are increasing cases of young boys being convicted while girls are considered victims. Both must be considered as children in need of protection by providing for age gap and non-custodial sentence where appropriate, this requires clearly outlined procedures to guide the court when handling such cases.

Most of the sexual offence cases are resolved using ADR mechanisms occasioning injustice to victims specially to minors since their guardian unduly suppressed them from reporting. In some cultures, compensation to the victim is acceptable especially where the parents are involved. This Paralyzes investigations since the witnesses are mostly the complainant and parents of the victims.

### **1.3. Rationale for the Policy**

Chapter 4 of the Constitution of Kenya 2010 contains a comprehensive Bill of rights that sets out various fundamental freedoms and rights. The constitution guarantees right to security of the person not to be subjected to any form of violence from either public or private sources, rights to dignity and the right to a fair hearing for accused persons<sup>1</sup>. Article 19(2) of the Constitution clarifies that the purpose of recognizing and protecting human rights and fundamental freedoms is to preserve the dignity of individuals and communities and to promote social justice and the realization of the potential of all human beings. Further, the Constitution mandates all State Organs to observe, respect, protect, promote and fulfill the rights and fundamental freedoms in the Bill of Rights (Art. 21).

The Sexual Offences Act, 2006(SOA) came into force on the 21<sup>st</sup> of July 2006. The Act provides for the prevention and protection of persons from harmful and unlawful sexual acts. The Act establishes a prosecutorial regime which needs to be supported by a policy framework to guide various actors in the prevention and response to sexual

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<sup>1</sup> Constitution of Kenya, article 50

offenses in order to curb sexual offences, to respond appropriately and to address emerging policy, legal and administrative issues.

The Office of the Attorney General is established under Article 156 of the Constitution. The Attorney General is the government's principal legal advisor, responsible for representing the national government in court or any other legal proceedings to which the national government is a party other than criminal proceedings and for performing any other functions conferred upon the Office by an Act of parliament or by the President<sup>2</sup>.

The Executive Order No. 1 of 2013 and Executive Order No. 1 of 2018, mandates the Attorney General in matters regarding the department of justice and therefore has responsibility over the policy on administration of justice, promotion of human rights and implementation of the Constitution, access to justice including thorough promotion of legal education, law reform and legal aid, amongst others

The Judicial Service Act establishes the National Council on the administration of Justice to ensure a coordinated, efficient, effective and consultative approach in the administration of justice and reform of the justice systems. The functions of the NCAJ as set out in Section 35 of the Judicial Service Act include to –

- (a) Formulate policies relating to the administration of justice;
- (b) Implement, monitor, evaluate and review strategies for the administration of justice;
- (c) Facilitate the establishment of court user committees at the county level; and
- (d) Mobilize resources for purposes of the efficient administration of justice.

The development of a policy on sexual offences is necessary to set a background for which a comprehensive legislation is enacted to address crimes of sexual offences.

#### **1.4. Policy Objective**

The overall objective of this Policy is to facilitate the administration of sexual offence related matters by creating a coordinated multi-sectoral approach in the prevention of the occurrence of the sexual offences, the responses to these offenses and to provide

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<sup>2</sup> Ibid article 156 (4) (a) and ( b)

strategies for the care of and justice for victims and suspects of sexual offences.

The overall objective shall be carried out by involving various stakeholders in the justice system and the society by providing comprehensive guide on their roles and responsibilities in handling sexual offences matters. The policy seeks to address the shortcomings in the Sexual Offences Act and provides for;

- a) Gender inclusivity in handling sexual offences
- b) Gender equality and non-discrimination in handling of sexual offences cases involving minors.
- c) Duties and responsibilities on guardians and caregivers to report cases of sexual violence on minors in order to avoid out of court settlements.

#### **1.5. Guiding Principles**

This Policy will be guided by the following principles;

- 1. The national values and principles enshrined in article 10 of the constitution, including transparency, public participation and no discrimination.
- 2. Rule of law and respect for fundamental human rights and freedoms.
- 3. The constitutional rights such rights to security of a person, access to justice, right to human dignity and right to fair hearing.
- 4. Values and principles of governance enshrined in Article 10 of the constitution.
- 5. Respect for autonomy, non malficence, beneficence and justice
- 6. World Medical Association declaration of Tokyo guidelines for physicians concerning torture and other cruel inhumane or degrading treatment or punishment in relation to detention and imprisonment.
- 7. World Medical Association international code of medical ethics
- 8. Right to parental care and responsibility
- 9. Right to gender equality and non-discrimination

## **CHAPTER 2**

### **2.1. LEGAL, POLICY AND INSTITUTIONAL FRAMEWORK**

This Section examines the existing legal, policy and administrative framework on sexual offences and challenges facing the implementation of the laws, policies and administrative procedures.

#### **2.1.1. The Constitution of Kenya**

Articles 27, 28 and 51 of the Constitution of Kenya under chapter four guarantees all individuals their rights to dignity, equality and freedom from discrimination, access to justice and fair hearing. The Constitution also guarantees freedom and security of the person by requiring justice, fair trial and prohibiting torture and any form of violence from either public and private sources. Further, the Constitution establishes various government entities and mandates them to discharge their duties based on the values and principles in the constitution including the rule of law, human dignity, human rights, non-discrimination and, integrity, transparency and accountability enshrined in article 10 of the constitution.

#### **2.1.2. Sexual Offences Act**

The SOA Act is an Act of Parliament to make provision for sexual offences, their definition, prevention, response and the protection of all persons from unlawful sexual acts, and for connected purposes. The Act:

- a) Provides concise and better definitions for sexual offences;
- b) Provide deterrent sentences to offenders so as to reduce the scale of offences;
- c) Provide response mechanism measures for assisting the victims of sexual violence with regard to forensic medical processing;
- d) Brings into the ambit of sexual offences acts that were previously not considered as sexual offences owing to their non-inclusion in the previous law on sexual offences;  
and
- e) Provides minimum sentences for sexual offences.
- f) Define indecent Act to include use of vulgar language against a child and nagging with intent to demand for sexual favors.

- g) Define the meaning of the term penetration to include female sexually abusing male.
- h) Makes it an offence for employer who knowingly employs a convict of sexual offence. However, employers should be protected in case of non-disclosure of conviction.
- i) Provides for Romeo and Juliet cases, clearly defining the age gap and the procedure to be followed in handling such cases.
- j) Provides for duties and responsibilities on certain persons such as guardians and caregivers to report cases of sexual offences on minors and attach sanctions in case of failure. Provides for compensation of the victims of sexual offences by the offenders as required under the Victims Protection Act
- k) Defines sexual offences to include sodomy and non-penetrative sex.

A number of regulations have been developed under the SOA. These are:

- (i) The Sexual offences (Dangerous Offender DNA Data Bank), Regulations, 2008,
- (ii) the Sexual Offences (Medical Treatment), Regulations, 2012 and
- (iii) The Sexual Offences Rules of Court, 2014.

### **2.1.3. Penal Code, CAP 63**

Provides under section 146 for defilement of imbecile. This policy recommended that this section be removed for its unfriendly terms. Section 151 also provides for the offence of detaining females for immoral purposes including sexual abuse. Further section 157 states that it is an offence for one to induce another to have sexual connection with him or her.

Section 161 provides for unnatural offences which include having carnal knowledge of an animal. Under Section 14, the issue with this is not based on any scientific knowledge or facts. Boys of any age can actually have an erection and can have carnal knowledge with or without consent. This is important because female perpetrators may be acquitted on these grounds.



#### **2.1.4. Protection Against Domestic Violence Act**

Section 3 of the Act defines violence under the Act to include sexual violence in marriage, sexual abuse and defilement among others. Further Section 19 of the Act provides that a protection order under it may direct that a respondent shall not physically or sexually abuse the protected person.

#### **2.1.5. Children's Act, No. 8 Of 2001**

Section 15 of the Act protects children from sexual exploitation, prostitution, inducement or coercion to engage in any sexual activity or exposure to obscene materials.

Section 18 of the Act also protects children from abuse by dictating that child offenders should be held separate from adult offenders. Section 119 also provides for a child in need of care and protection to include one who has been sexually abused or is likely to be exposed to sexual abuse and exploitation including prostitution and pornography.

Currently there is no 'mandatory requirement' for medics to report child sexual/physical abuse/neglect and maltreatment cases and this has resulted in numerous cases being unreported meaning the children remain in that violent environment.

#### **2.1.6. Employment Act, No. 11 Of 2007**

Section 6 of the Act prohibits sexual harassment.

#### **2.1.7. Prison's Act, Cap 90**

Section 28 of the Act provides that women prison officers should take care of female prisoners. This may be construed to protect them from physical abuse including sexual abuse. The Act is silent on the prison health response for sexual and physical assault of prisoners by fellow prisoners and prison officers.

#### **2.1.8. Victim Protection Act, No. 17 Of 2014**

This Act provides for protection of victims of crime and abuse of power. It also provides for protection for vulnerable victims. It defines injury to mean actual bodily harm, emotional distress, trauma or pregnancy resulting from sexual assault. Section 10 of the Act stipulates that a victim has a right to protection from abuse.

#### **2.1.9. HIV Prevention And Control Act, No. 14 Of 2006**

Section 13 of the Act provides that a person who has been charged under sexual offences Act may be compelled to do a HIV test. The probation officer under the Probation Act supervises the offender as stipulated in section 39 of the Sexual Offences Act.

#### **2.1.10. Public Officers and Ethics Act, No. Of 2003**

The Act under Section 21 prohibits sexual harassment in the public sector.

#### **2.1.11. Counter Trafficking In Persons Act, No. 8 Of 2010**

The Act prohibits the trafficking of individuals especially women and children. Under the Definition section 2 it defines “trafficking for sexual exploitation as trafficking with the intention of doing anything which if done will involve the commission of an offence under Sexual Offences Act, 2006.

#### **2.1.12. Prevention Of Torture Act No 12 Of 2017**

The act provides for the prevention, prohibition and punishments of acts of torture. The Schedule defines physical torture to include rape and sexual abuse, including the insertion of foreign bodies into the sexual organs or rectum or electrical torture of the genitals.

#### **2.1.13. Prevention, Protection and Assistance To Internally Displaced Persons and Affected Communities Act No. 56 Of 2012**

The Act under principle 11 protects the internally displaced people from rape, torture and sexual exploitation. As well as Principle 19 which advocates for special attention to be paid to the health needs of women, including access to female health care providers and services such as reproductive health care as well as appropriate counselling for victims of sexual and other abuses.

#### **2.1.14. Health Act, No 21 Of 2017**

Section 12 of the Act provides for the rights and duties of the health care providers which includes the right to refuse to treat a user who sexually harasses him or her except in an emergency situation where there is no alternative health care.

#### **2.1.15. Media Council Act, No 46 Of 2013**

The Media Council Act under section 19 protects children from being identified in cases concerning sexual offences whether as victims, witnesses or defendants.

Further in section 20, the media is not allowed to identify victims of sexual assault or publish material likely to contribute to their identification.

#### **2.1.16. National Police Service Act, Chapter 84**

An Act of Parliament to provide for the functions, organization and discipline of the Kenya Police Force and Kenya Police Reserve, whose function is to maintain law and order.

#### **2.1.17. Office Of The Director Of Public Prosecution Act, No. 2 Of 2013**

The act outlines the duties of the Director of Public Prosecution, which in section 5 include the right to exercise prosecution. The DPP has the mandate to institute criminal proceedings against any person before any court, other court martial, or take over and continue.

#### **2.1.18. Kenya Information and Communications Act, 1998**

Section 84D, should be amended to include the use of social media platforms that promotes sexual offences.

#### **2.1.19. The Computer Misuse And Cyber Crimes Act, No. 5 Of 2018**

The Act criminalizes child pornography in cyber space. It should be criminal to post nudity on social media

#### **2.1.20. Witness Protection Act, No. 16 Of 2006**

The Act provides for the protection of witnesses and creates a Witness Protection Agency which establishes and maintains a protection programme. The Act also provides for protection measures to be applied by the Agency. Sections 13 to 29 of the Act provide for the protection of the identity of the witness. Section 22 makes it an offence for information of a witness to be disclosed. A person who is convicted of such an offence is liable on conviction to a fine not exceeding 500,000/= or imprisonment for a term not exceeding three years, or both. It is also an offence to disclose former identity of participant who has been provided with a new identity under the Witness protection programme.

#### **2.1.21. Teacher Service Commission Act, 2012 And Teacher's Commission Code Of Regulations, 2015**

The Act states that instances of sexual abuse should be thoroughly investigated, documented, and action taken with expediency and clarifies that when the sexual abuse is of both criminal and professional nature, police and other security agencies should be involved. The Code of Regulations forbids any person who has been convicted of a sexual offense against a learner from registering with the Commission. Section 30 of the

Act permits the removal from the Register of any teacher who has been so convicted with sexual offence. A teacher may be subject to disciplinary action for engaging in “immoral behaviour,” which includes “sexual intercourse” and “sexual harassment or flirtation.”

#### **2.1.22. Electoral Offences Act, 37 Of 2016**

Section 10 of the Act proscribes undue influence either directly or indirectly through use of force, violence including sexual violence for purpose compelling a person to either vote or not to vote, to be nominated as a candidate or withdrawal from candidacy in an election. The person commits an offence and is liable on conviction, to a fine not exceeding one million or imprisonment for a term not exceeding three years or both.

#### **2.1.23. Prohibition Of Female Genital Mutilation Act No. 32 Of 2011**

The aim of the Act is to prohibit the practice of female genital mutilation (FGM), to safeguard against violation of a person’s mental or physical integrity through the practice of FGM. According to the Act, FGM comprises all procedures involving partial or total removal of the female genitalia or any other injury to the female genital organs, or any harmful procedure to the female genitalia, for non-medical reasons. A person who commits an offence under this Act is liable upon conviction to imprisonment of a term not less than three years or a fine not less than KES 200,000 (USD 2000). In case of death due to sustained injuries from undergoing FGM, the offender gets life imprisonment. The Act also criminalizes the failure to report FGM, procuring a person to perform FGM in another country, the possession of cutting tools and verbal abuse or shaming of uncut women.

### **2.2. INTERNATIONAL LEGAL FRAMEWORK**

Kenya is signatory to several international and regional instruments that are aimed towards protection against all forms of violence including sexual violence. The instruments have been domesticated through various legislation and those ratified by Kenya are part of Kenyan law by virtue of Article 2(6) of the Constitution. These international instruments include:

#### **2.2.1. Universal Declaration of Human Rights, 1948**

This Declaration acknowledges respect of human dignity and respect for human capacity to make responsible choices. Article 5 provides that no one should be subjected to

torture, cruel, inhuman and degrading treatment while Article 16 provides that no person shall be forced to enter into a marriage.

Article 4 prohibits subjecting of persons to slavery and servitude.

#### **2.2.2. Convention on Elimination of all forms of Discrimination Against women, 1979**

Establishes international standards for guaranteeing equality between women and men within the family as well as between the family and State. Kenya ratified this treaty on the 9<sup>th</sup> March 1984. Article 6 prohibits trafficking and prostitution of women.

Article 2 (f) further prohibits any forms of discriminatory practices against women including harmful cultural practices like female genital mutilation or forced marriages which are forms of violence against women.

#### **2.2.3. The United Nations Convention on the Rights of the Child 1989**

Kenya ratified on 30<sup>th</sup> July 1990.

Article 19 requires member states to take measures to prevent all sorts of mental and physical violence against children, which includes sexual violence.

#### **2.2.4. UN Convention against Torture and other cruel, inhuman or degrading treatment or punishment, 1984**

Kenya ratified the convention on 21<sup>st</sup> Feb 1997.

The treaty prevents torture and other acts of cruel, inhuman or degrading treatment or punishment around the world. It requires states to take effective measures to prevent torture in any territory under their jurisdiction

#### **2.2.5. International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights**

Kenya ratified the covenant in 1972.

Article 2 requires all member states to guarantee that the rights enunciated in the Covenant are exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status

#### **2.2.6. The 1993 UN Declaration on the Elimination of Violence against Women**

It was adopted without vote by the United Nations General Assembly in its resolution 48/104 of 20 December 1993. Though it has no binding legal authority of a convention, it is universal in coverage and a strong statement of principle to the international community.

Article 1 of the declaration defines violence against women to include physical, sexual and psychological. It covers sexual harassment of children in families, marital rape, genital mutilation, harmful traditional practices against women, human trafficking and forced prostitution. Article 2 requires member states to protect children and women against physical, psychological and sexual violence perpetuated in homes, learning institutions and those sanctioned by the state. Article 3 requires all member states to grant all their citizens equal protection of their rights under the law.

#### **2.2.7. Protocol to prevent, suppress and Punish Trafficking in persons, especially women and children supplementing the United Nations Convention against Transnational and Organized Crimes**

The Protocol obligates State parties to adopt legislative or other measures to prevent, criminalize trafficking and punishable by effective, proportionate and dissuasive sanctions. Kenya ratified the Protocol on 5<sup>th</sup> January, 2005.

Article 3 defines trafficking to mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation includes the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

Article 9 requires state parties to strengthen their legislative measures in order to prevent trafficking in persons.

### **2.3. REGIONAL FRAMEWORK**

#### **2.3.1. The African Charter on Human and People's rights 1981**

The Charter establishes to eliminate any form of discrimination against women including practices that constitute violence against women. Kenya ratified the Charter on 4<sup>th</sup>

December 1985. Under Article 5, all forms of exploitation and degradation including slavery, torture and inhuman punishment are prohibited. Article 6 requires member states to secure the liberty and security of persons.

### **2.3.2. The African Charter on the Rights and Welfare of the Child 1990**

The Charter protects children against child abuse, torture, harmful social and cultural practices, sexual exploitation, trafficking and abduction. It was ratified by Kenya on 25th July 2000. Article 16 of the charter provides for the protection of children against child labour and torture including sexual violence. Article 27 further prohibits sexual exploitation of children.

### **2.3.3. The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol) 2003**

The Protocol comprehensively addresses violence against women and protection of the political, social and economic rights of women and girls within many of its provisions. Kenya ratified this on 6<sup>th</sup> of October 2010.

Article 2 requires elimination of all harmful cultural practices, most of which are characterized by sexual violence against women. These include forced marriages, child marriages as well as female genital mutilation. It further provides under article 3(4) that every member must protect the women against all forms of violence including sexual violence.

## **2.4. POLICIES**

In addition to legislation and international customary law, state agencies have developed policies and administrative procedures to provide guidelines for the prevention, protection and redress of sexual violence. These policies include: -

### **2.4.1. Prosecution Policy**

The National Prosecution Policy, 2015 was developed by the Office of the Director of Public Prosecutions to ensure that prosecutions are conducted in a professional and ethical manner in line with the Constitution, laws and regulations. The policy provides various guidelines including plea bargaining guidelines and prohibits plea agreement on offences falling under the Sexual Offences Act, 2006. However, the policy falls short of addressing specific steps in prosecuting some offences including sexual offences.



#### **2.4.2. Sentencing Policy**

The policy gives sentencing guidelines that courts should follow where judgment has been passed against the offender. The guidelines provide that where the Sexual Offences Act provides for supervision, the supervision shall be a fixed term of five years. The policy also provides that where mandatory sentences are provided for in an Act such as the Sexual Offences Act, the court is bound to impose the prescribed sentence and not a lower sentence. Furthermore, first time offenders in other offences are not liable to police supervision save for few exceptions provided for in the policy. Among the exceptions are offences provided for in the Sexual Offences Act.

#### **2.4.3. Bail and Bond Policy**

The Bail and Bond Policy, 2015 developed by the Judiciary under the auspices of the National Council on the Administration of Justice, lays down various guidelines that should be used when making a determination of a bond and bail application. In setting out factors for judicial officers and police officers to consider when granting bail or bond, the policy seeks to balance the rights of suspects and accused persons to be presumed innocent until proven guilty and ensure that interests of victims of crime and witnesses to crime are protected. Victims of sexual offences are, in some cases, related to the accused persons or reside in close proximity to the alleged offenders hence the need for the victims to be considered and heard before bail/bond is granted.

#### **2.4.4. Kenya Health Policy 2014-2030**

The Kenya Health Policy 2014-2030, adopted by the Ministry of Health in 2014 sets out policy guidelines for health professionals and health sector institutions at both levels of government and in the private sector to facilitate the right of access to quality health services by all the people in Kenya. One of its objectives is to reduce the burden of violence and injuries. In achieving this objective, the policy aims at promoting universal access to timely and high-quality emergency care. The emergency care would go a long way in helping victims of sexual offences recover from possible injuries inflicted on them by the offenders. The policy also seeks to put in place interventions to address the marginalized persons affected by violence or those injured which includes injuries arising from sexual offences. Further, the policy seeks to scale up physical and psychological rehabilitation services to address long-term effects of violence and injuries.



#### **2.4.5. The Education and Training Sector Gender Policy 2015**

The Ministry responsible for education developed the Education and Training Sector Policy, 2015 to, among other things, create a safe and protective learning and working environment. One of the objectives of the policy is to ensure the safety of learners and workers in learning institutions. The Policy requires learning institutions to put in place measures to prevent sexual harassment and gender based violence in institutions and, where necessary, provides support including counselling services to learners and legal redress mechanisms for victims of sexual offences and gender based violence.

#### **2.4.6. Kenya Adolescent Reproductive Health Policy**

The Kenya Adolescent Reproductive Health Policy (2015) recognizes that both boys and girls can be victims of sexual abuse, but girls are up to three times more likely to be sexually abused than boys. The policy articulates that girls who suffer sexual abuse are likely to begin sexual intercourse on average one year earlier and are much more likely to become pregnant before the age of 17. Accordingly, the policy recommends development of safety nets and rehabilitation and rescue mechanisms for victims of sexual abuse and violence and enhancing measures to protect young people in penal institutions from sexual abuse.

#### **2.4.7. Education Gender Policy (2007)**

The policy recommends mainstreaming of policies that address GBV at all education levels; establishing modalities for dealing with sexual offences and gender based violence including harassment; developing of a framework for co-ordination of stakeholders involved in efforts of providing a safe learning environment; and developing and implementing clear anti-sexual harassment and anti-gender based violence policies at all levels in the Ministry of Education and all educational institutions.

#### **2.4.8. National Adolescents Sexual and Reproductive Health Policy,2015**

The aim of the Policy is to enhance the sexual reproductive health status of adolescents in Kenya and contribute towards realization of their full potential in national development. The policy highlights the reduction of Sexual and Gender-Based Violence (SGBV) as one of the priority areas by the Government. The Policy proposes awareness creation among adolescents, family and communities about existing SGBV response services; Promote male involvement in prevention of SGBV; strengthen provision of medical, legal and psychosocial support for adolescent survivors; strengthen capacity of

multiple stakeholders involved in prevention, response and management of SGBV; support advocacy for implementation of legal instruments that protect the rights of adolescents; enhance capacity of law enforcers and health service providers on prevention, response and mitigation of SGBV; and strengthen coordination of multi-sectoral and multi-pronged response to SGBV.

#### **2.4.9. Model County Government Policy on Sexual and Gender Based violence 2017**

The National Gender and Equality Commission developed a Model policy to guide county governments on critical elements for consideration in addressing Sexual Violence and Gender Based Violence. The model requires counties to develop appropriate strategies and operation plans for the prevention of SGBV and develop mechanisms for responding to SGBV at county government level.

#### **2.4.10. East Africa Community Gender Policy, 2018**

The policy provides a framework intended to accelerate the realization of gender equality, fairness between men and women, non-discrimination and fundamental rights in East Africa. The policy framework is a tool to facilitate the advancement of East Africa's political and social economic integration, guarantee that gender issues are included in the East African Community agenda, accelerate gender mainstreaming, contribute to higher living standards and enhance the efforts exerted by the East African people to play their rightful role in a globalizing world. The policy recognizes that in all the EAC Partner States women are more than twice as likely to experience sexual violence as men. It noted that some of the challenges experienced by the Partner States include inadequate enforcement of legislation, weak chain of custody of forensic evidence, Lack of DNA laboratories, weak linkages among the chain actors and social-cultural factors hindering reporting.

According to the policy EAC is committed to eliminate gender-based violence in all its forms, including harmful cultural practices. To this end the Partner States shall: develop, strengthen and implement legislation and policies addressing gender-based violence in all its forms including ending impunity of perpetrators; design gender-based violence prevention and response programs targeting vulnerable groups; as well as establish and strengthen mechanisms for multi-sectoral coordination, monitoring and evaluation, research and documentation on gender-based violence.

## **2.5. ADMINISTRATIVE INSTRUMENTS**

### **2.5.1. Kenya National Guidelines on the Management of Sexual Violence (2014)**

The National Guidelines on the Management of Sexual Violence (2009) were developed by the Ministry responsible for health matters to provide procedures for the management of victims of sexual violence. These include specific procedures, the management of children, men and women to address the management of sexual injuries, provision of emergency treatment including STI prevention and treatment and Post Exposure Prophylaxis for HIV prevention. The guidelines set out procedures for psycho- social support and also guide medical personnel and healthcare professionals in history taking for medical and forensic investigation, and medical management of the suspected perpetrators of sexual violence. The main goal of the guidelines is to ensure that healthcare professionals address the needs of victims of sexual violence.

### **2.5.2. National Monitoring and Evaluation Framework towards the Prevention of and Responses to Sexual and Gender Based Violence in Kenya (2014)**

The NGEK facilitated the development of the monitoring framework to provide guidance for the coordination of various actors in response to sexual and gender based violence in enhancing coordination of SGBV interventions in Kenya.

The Government has also put in place other administrative measures to address Sexual Gender Based Violence. Some of these measures include;

- a) The establishment of Gender Based Violence Recovery Centers in the largest public hospitals in Nairobi (Kenyatta National Hospital), Mombasa, Nakuru, Kisumu and Eldoret. This will help to address the plight of women survivors of Sexual Gender Based Violence who are often not able to access services.
- b) The provision of Post Exposure Prophylaxis and Emergency contraception to victims of sexual violence who report to health facilities.
- c) The establishment of GBV Hotline 1195 and referral mechanism. This National Domestic Toll Free Short Code was allocated to Health-care Assistance Kenya by Communication Authority of Kenya and launched on 21st February 2013. The Toll free helpline 1195 enhances support for survivors of rape, defilement, FGM and other forms of sexual violence.
- d) Capacity building to the law enforcement agencies

## **2.6. INSTITUTIONAL FRAMEWORK**

Protection of all persons against sexual violence, protection and care of victims and punishment for sexual violence are responsibilities that cut across all sectors of society and involve all persons besides several government institutions mandated to provide services to the citizen. Some of the institutions that provide protection against violence and that respond to sexual violence are: -

### **2.6.1. The National Police Service with the help of DCI**

It's mandate is to:-

- Comply with constitutionality standards of human rights and fundamental freedoms
- Train staff to highest possible standards of competence and integrity and to respect human rights and fundamental freedom and dignity
- Investigate cases of sexual offences
- Collect and provide criminal intelligence
- Maintain the criminal records including sexual offences cases
- Conduct forensic analysis
- Respect human rights and rule of law and legality in all process.
- Facilitate speedy forensic investigation to avoid loss of data
- Ensure that gender desks are managed by persons trained on Sexual offences.

### **2.6.2. National Referral Hospitals**

The mandate is to: -

- Provide emergency medical treatment to victims
- Collect any forensic evidence that might be needed in a subsequent legal action
- Provide supportive counseling and psychological support

### **2.6.3. County Government Health Facilities**

The mandate is to: -

- Provide emergency medical treatments to victims.
- Indicate all examination findings objectively and accurately.
- Provide supportive counseling and psychological support.
- Collect evidence to support criminal investigation.
- Liase with county governments to establish a body to manage rescue centres of victims of sexual violence

#### **2.6.4. The Office of the Director of Public Prosecutions**

The mandate is to: -

- Institute and undertake criminal proceedings including sexual offences crimes against any person before any court of law except the court martial;
- Take over and continuing with any criminal proceedings commenced in any court by any person or authority with the permission of the person or authority and
- Discontinue at any stage before judgment is delivered of any criminal proceedings with the permission of the court.
- Direct the Inspector General of the National Police Service to investigate any information or allegation of criminal conduct which include sexual offences cases
- DPP must ensure that sexual offences are prosecuted in court of law, and avoid ADR mechanisms

#### **2.6.5. The Judiciary**

The mandate is to: -

- Section 39(13) of the Sexual Offences Act of 2006 mandates the Judiciary to keep a register for convicted sexual offenders. The judiciary introduced the sexual offenders register sometime in 2015 but has only recently started to be implemented in collaboration with the Kenya Police Service and Kenya Prisons.
- To expeditiously administer justice to all irrespective of status.
- To administer justice without undue regard to procedural technicalities.
- To protect and promote the purpose and principles of the constitution 2010.
- To promote alternative forms of dispute resolution, including reconciliation, mediation, arbitration and traditional dispute resolution mechanism.
- The judiciary should provide specialized courts division to handle cases of sexual offences to facilitate fast tracking of matters.

#### **2.6.6. The Kenya Prisons Service**

The mandate is to: -

- Ensuring safe custody of sentenced sexual offenders
- Facilitating the rehabilitation and reformation of custodial sentenced sexual offenders for community reintegration through training, counseling, educational and professional programmes.
- Control and training of youthful sexual offenders in Borstal and Youth Corrective
- Training Centres

### **2.6.7. Office of the Attorney General and Department of Justice**

The mandate is to: -

- Spearhead in sexual policy formulation and institutional reforms.
- promotion, fulfillment and protection of human rights enhance access to justice for victims and sexual offenders

### **2.6.8. Civil Society and Community Based Organizations**

- Advocacy and training of society, service providers like health workers, police officers etc on sexual violence at the community level.
- Provide economic empowerment to victims by helping the victims gain financial independence.
- Establishing safe houses for victims.

### **2.6.9. Ministry of Interior and Coordination of National Government**

- Provision of security and safety to people and property.
- Facilitate administration of justice to victims and sexual offenders.
- Provision of correctional services to convicted sexual offenders.

### **2.6.10. National Crime Research Centre**

- Carry out coordinated research into, and evaluate the impact of, programmes pursued by the Agencies responsible for the administration of criminal justice
- Collate all crime data including sexual offences cases.
- Carry out research into any crime activity.
- Carry out research into the efficacy and adequacy of criminal investigation, prosecution agencies, the panel system and treatment of criminal offenders.
- Disseminate its sexual offences research findings through publications, workshops, seminars, mass media and other appropriate means of dissemination.
- Communicate sexual offence research findings and propose recommendations to the Agencies of Government concerned with administration of criminal justice, with a view to assisting them in their policy formulation and planning.
- Liase with any other research bodies within or outside Kenya engaged in the pursuit of similar or related research on sexual offences.

### **2.6.11. Government Chemist**

- Provide forensic science services for the criminal justice system on sexual offences.
- Provide scientific crime scene support services to the law enforcement agencies
- Provide technical reports and expert evidence in courts



- Undertake forensic tests

#### **2.6.12.State Department of Gender**

- Provide policies and programmes on gender based violence
- Gender mainstreaming in ministries, departments and agencies
- Gender policy management

#### **2.6.13.Ministry of Health**

- Examine and test evidentiary items such as sexual assault evidence collection kits, weapons, clothing, and swabs collected in connection with a variety of crimes.
- Collaborate with other government agencies to promote awareness and proper evidence collection in sexual assault cases.
- Identify DNA sources such as blood, other bodily fluids and debris that can be compared to a potential suspect or victim, if appropriate.
- Work closely with investigators to determine the probative value of evidence and evaluate findings.

#### **2.6.14.Probation and Aftercare services**

- Implement of sexual violence policies.
- Facilitate in the administration of criminal justice through generation of social inquiry reports to inform decision making regarding Bail, Sentencing and Penal release.
- Supervise offenders on probation orders, community service orders and other penal release licenses
- Re-integrate and re-settle offenders in the community
- Provide services for Victim protection and promotion of rights and welfare
- Participate in social crime prevention activities

#### **2.6.15.National Council for Children Services**

- Protect children against sexual abuse and child prostitution
- Formulate policies, plans and guidelines on safeguarding the rights and welfare of children

#### **2.6.16.National Gender and Equality Commission**

- Facilitate the operationalization of a functional national TWG for stakeholder coordination.
- Put in place mechanisms for Gender Based Violence data collection, analysis and reporting.
- Ensure that the country adheres to its international and African Convention, protocol on GBV.

- Prepare and disseminate annual indicators status and progress reports in key milestones as detailed in the strategic plan and plan action.

#### **2.6.17. Religious Institutions**

- Develop and implement advocacy programs and sensitize the public on sexual violence

#### **2.6.18. Public Benefits Organizations Regulatory Authority**

- Register public benefit organizations handling sexual violence cases
- Facilitate information sharing on sexual offences among public benefit organizations
- Advise the Government on the activities of public benefit organizations handling sexual offences
- Institute inquiries into the activities of public benefit organizations handling sexual violence.

### **2.7. RECOMMENDATIONS**

Establishment of GBVRC at major hospitals in counties to offer counseling to victims of sexual offences. There should be established rescue centers for victims of sexual offences at the county to offer counseling services.



## CHAPTER 3

### 3.1. SITUATIONAL ANALYSIS

#### 3.2. Introduction

In 2006, the enactment of the Sexual Offences Act was a major milestone in the law on Sexual offences. There has been increase in defilement cases and new forms of sexual violence which were not addressed in the Sexual Offences Act.<sup>3</sup>

##### 3.2.1. Justice System

The constitution of Kenya clearly enshrines the rights and fundamental freedoms. It protects against any form of discrimination and guarantees equality<sup>4</sup>. There are also legislations which have been enacted to curb sexual offences. However, despite the existence of this legislations there is a rise of cases of sexual offences.

Sexual offences are often dismissed due to poor investigations, lack of sufficient supporting evidence and more importantly due to the lack of understanding of forensic principles. Justice is also often delayed due to frequent adjournment of the cases and the absence of crucial witnesses. In some cases, the doctor and caregivers or guardians of child victims fail to appear before the courts due to various reasons including the lack of expert witness management guidelines addressing absent support mechanisms while victims are prevailed upon by the family or local administration to drop their cases and accept compensation from the offenders. In some communities, traditional and customary laws are used to settle cases of sexual offences thus denying the victims justice in accordance with the laws of the land. Working closely with the local administration, community and religious leaders is therefore essential in order to help them understand the need to report such cases to the police and link them with the necessary referral networks

Trainings conducted by the judiciary and various NGOs such as Physicians for Human Rights to magistrates and judges more so on medical aspect of sexual offences and key ingredients to look for have also assisted both the prosecution and the courts to

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<sup>3</sup> The National Police Service Annual crime rate report, 2018 indicates a 2% increase in defilement cases;

<sup>4</sup> Ibid article 27

improve the quality of evidence and testimony adduced. However, the training does not capture the forensic aspect which is a vital aspect of medical evidence needed in the prosecution and conviction of sexual offenders.

While it is commendable that occurrences of sexual offences are reported and the culprits apprehended and charged with the offence, there are instances when most cases of sexual violence go unreported. In some cases, law enforcement agencies failed to institute investigations on time. In one instance, the High Court in Meru in Petition No. 8 of 2012 (C. K (A CHILD) through ripples international as guardian and next friend) & 11 others Vs Inspector General of Police, Director of Public Prosecutions, Minister of Justice, National Cohesion and Constitutional Affairs and the Kenya National Human Rights Commission (The Meru Girls Case), the Court directed the Inspector General of Police to conduct prompt, effective, proper and professional investigations into the 1st to 11th petitioners' respective complaints of defilement and other forms of sexual violence and to implement Article 244 of the Constitution in as far as it is relevant to the matters raised in this Petition.

The facts in Meru High Court Petition No. 8 of 2012 highlight the plight of victims of sexual offences when law enforcement agencies fail to discharge their mandate effectively and efficiently. The above case and other incidences of rape and sexual assault call for an overarching policy framework to provide administrative guidelines for a coordinated approach to combat sexual offences.

The emergence of other forms of sexual violence which have not been addressed by the Sexual Offences Act like the use of social media to propagate sexually abusive materials; rise of child pornography; sodomy, oral sex and use of other crude objects like sticks, bottles etc should be addressed. There is need to prioritize research on sexual offences victim's experiences and the effectiveness of the use of forensic psychology by correctional facilities as a way of preventing sexual offenders from being repeat offenders.

### **3.2.2. Health**

Post-sexual violence health services are limited in Kenya and are mainly found in urban areas such as Nairobi, Eldoret and Mombasa. There are 15 Gender violence Rescue

Centres in the whole country. Almost all cases of gender based violence are handled by clinical officers who are not properly trained on forensic medical work. In Nairobi the services are available at Kenyatta National Hospital and the Gender Violence Recovery Center (GVRC) within the Nairobi Women's Hospital, Mater Hospital, medecins San Frontier in Mathare and Tumaini which lack properly trained forensic Medical Doctor.

According to Kenyatta National Hospital gender based violence unit statistics, 60% of reported cases are rape of adult women, 30-35% defilement cases and 5% are sodomy of boys/ adult men. Despite the numbers, Kenyatta National hospital facilities lack resources to employ sufficient staff. The doctors available are either, medical students or work on substitute. Further, there are less than 5 forensic medical specialists in the state and one of whom is trained to deal with sexual offences and other complex cases involving the living injured.

Forensic specimens should be collected from the health facility respecting the chain of custody and submitted at the government chemist by the investigating police officer immediately after the collection of these samples from either the victim, suspect. Currently, this is not the case in the Kenyan setting. Forensic specimens in a majority of cases are not collected from the victim/suspect. Furthermore, if collected are improperly preserved/stored. In addition, the police may never collect these samples from the health care facilities and they may end up discarded after some days/weeks due to insufficient storage space at health care facilities. Samples collected from the victim/suspect are incomplete or inadequate. There is overdependence on the collection of a high vaginal swab ignoring the other various types of specimens that can be gathered. Comprehensive collection of evidence including clothing material may never be asked for or even collected. A majority of reference samples are hardly ever collected impeding comparative DNA analysis. Worse still, the labeling of these specimens is frequently inadequate rendering the specimens unacceptable at the government chemist for analysis.

Another major hitch is in the filling of the medical evidence in the Post Rape Care (PRC) form which clinicians use to document the injuries sustained by the survivor, history, and any samples collected from a victim. Regrettably many nurses at various medical facilities have never seen a PRC form and those who have, do not know how to fill it.

This is compounded by the fact that the process of filling the PRC form is a lengthy one which most nurses abandon mid-way to attend to other patients. This poses a problem to the police officer handling the survivor as he does not know what to fill in the blank spaces.

### **3.2.3. Psychological and Social Response**

Methods of collecting evidence of some forms of sexual offences are obtained by examination of semen deposits, bruises and laceration which is an invasion into the privacy of an already traumatized victim. In some cases, absence of this kind of evidence renders the prosecution case more difficult to prove.

The police and medical personnel handling sexual offences are key in ensuring that victims of sexual offences get justice. Most medical staff are inadequately trained and lack experience on how to take specimens for forensic analysis. If there is a suspect, police often do not ensure that a doctor examines him for corroboratory evidence, such as a sexually transmitted disease, DNA of a child where the offence leads to a pregnancy which is acceptable to the court as evidence. The lack of skilled support and inadequate resources for health professionals, especially in documenting sexual offences, means that, the few cases that go to trial are often dismissed for lack of adequate forensic and medical evidence.

The sensitive nature of sexual offences requires specially trained personnel to handle victims and perpetrators to manage evidence preserve and present evidence in court as expert witness testimony. Medical personnel manning peripheral health institutions where majority of reported sexual offence victims seek medical attention are equally limited in terms of facilities to provide comprehensive management of sexual victims and their perpetrators. Medical personnel managing these cases require post graduate training in forensic medicine to properly manage these cases and report on them. Facilities to collect and preserve evidence are largely lacking and DNA tests can only be found in Nairobi, Mombasa and Kisumu.

Sexual offences inflict lifelong psychological consequences of sexual trauma especially to victims who are minors. Inadequate training of police officers on how to handle sexual

offences makes victims of sexual offences shy away from reporting. There is absence of counseling protects victims of childhood sexual abuse from experiencing traumatic events that can lead to PTSD.

#### **3.2.4. National Police Service**

Most of the cases of sexual violence fail to be prosecuted because of failure to report. There should be a separate desk for handling sexual offences matters which is gender sensitive at the police station. Currently, the victim may report to a police station or a hospital first, at the police station the victim must present with a medical report before a statement is recorded.

At the medical facility the victim receives medical treatment. Forensic medical examination/investigation including evidence gathering and forensic specimen collection is hardly ever carried out. Forensic specimens should be collected from the health facility respecting the chain of custody and submitted at the government chemist by the investigating police officer immediately after the collection of these samples from either the victim, suspect. Further, the police may never collect these samples from the health care facilities and they may end up discarded after some days/weeks due to insufficient storage space at health care facilities. Some investigation officers may be approached by the offenders with the aim of bribing the police officers to destroy evidence.

#### **3.2.5. Prosecution**

The office of the DPP has mandate to prosecute all the offences on behalf of the republic. However, they rely on the police for investigation and gathering of the evidence. However most of the cases are withdrawn owing to lack of cooperation from the complainant or sufficient evidence from the investigative agencies. The DPP'S office has been derailed by Corruption, resulting to frequent withdrawal of cases.

#### **3.2.6. Judiciary**

The judiciary is a crucial institution which is mandated to deliver justice to affected victims of the sexual offences. The SOA mandates the magistrate's court to handle sexual offences. However there is little training of the bench in order to fully understand

the forensic evidence aspect of sexual offences. In cases where training has been done, little has been achieved. There is still a problem because the prosecution and judiciary need to understand the forensic medical aspect of investigations and not the medical which is straight forward.

The SOA gives minimum sentences which are imposed on a person convicted of sexual offence. This has been viewed as a restriction to the discretionary power which is key in rendering justice by the bench.

The sexual offences are heard and determined in open court like other offences. This has become impediment to witnesses to freely give evidence without embarrassment especially minors. There should be a separate court division to try sexual offences with exclusion of public.

It should be clarified that most cases of sexual violence remain underreported. Even for those who report and seek medical attention, many are unable to access to court for various reasons.

### **3.2. Challenges facing the Prevention and Combat of Sexual offences in Kenya**

#### **3.2.1. General**

- a) In some cultures, there is still practice of forced and early marriages.
- b) Societal perception – victims of sexual offences sometimes fear stigma and fail to report occurrences of sexual violence on time.
- c) Poor handling of victims of sexual abuse during reporting to law enforcement agencies noting the sensitive nature of sexual offences
- d) Lack of good will by police officers (police station gender officers) to arrest sexual offenders which discourages victims from reporting.
- e) Fear of exposing the perpetrators of sexual and gender-based violence, most victims and witnesses suffer in silence.

- f) In intra-family violence, victims of incest, marital rape, domestic violence, and corporal punishment, suffer in silence out of fear of loss of means of sustenance.
- g) Emerging cases of sexual offences between minors below the age of 12 years old. The Penal Code caps the offence of carnal knowledge to 12 years and above.
- h) Unlawful charges by police officers. Victims are made to pay for P3 forms.

### **3.2.2. Investigation**

- a. Lack of knowledge on SGBV matters by state and non-state actors.
- b. Lack of SGBV unit that is made up of highly specialized police forensic investigators
- c. Lack of logistical support.
- d. Fragmentation of key investigative functions - police forensics, medical forensics (forensic medical specialists), laboratory science forensics
- e. Lack of measures to safeguard confidentiality of the witness and the victims of sexual offences.
- f. There is a challenge in the chain of custody for obtained evidence, including lack of specific forms to record transmission of evidence from one sector to another. There is limited training within the police stations and hospitals on how to maintain this chain, as several people can take custody of this evidence.
- g. Frequent withdrawal of SGBV cases at all levels
- h. Lack of public awareness and sensitization to enlighten the public on matters of sexual offences.
- i. Societal/cultural practices which hinders reporting of sexual offences and allows for compensation by the aggressors.

### **3.2.3. Prosecution**

- a. Prosecutorial officers are not trained to understand the principles governing sexual offences from a forensic perspective. (Forensic medicine or medical jurisprudence is



the branch of medicine dealing with the application of medical knowledge to establish facts in civil or criminal legal cases.

- b. There is poor handling of witnesses (absent pre-trial preparation, lack of logistical support to and from the courts etc).
- c. The office of the Director of Public Prosecution is yet to update its prosecution policy in order to include vital guidelines on prosecuting cases of sexual offences.
- d. Cases take too long to finalize because of numerous adjournment requests
- e. Some victims and witnesses end up as fatalities due to lack of witness protection.
- f. Unavailability of school going witness. If schools are in session students/children are unable to attend court during the school term sessions
- g. Evidence compromised by the victims, for example when a victim showers after a sexual assault.
- h. Age of victims can sometime cause a challenge that young children and very old persons cannot express themselves.
- i. Victims leaving with disabilities are usually in a predicament with reporting cases, testifying in courts for example if a victim is dumb, blind, deaf or mentally disabled.
- j. Late reporting: some victims report when they realize that they are pregnant and absence of scientific evidence.
- k. Rules of chain of custody are not respected: investigators fail to submit evidence in their custody.
- l. Absence of corroborative evidence.
- m. Where both the accused and the accuser are minors there is considerations on alternatives to dispute resolutions or withdrawal.
- n. Accused persons are often the breadwinners of the family; This deters victims from reporting and/or seeking legal intervention often leading to repeated abuse.
- o. Emerging forms of sexual assault, which do not fall squarely within the offences as provided under the relevant laws.



#### **3.2.4. Medical services**

- a. Examination and filing in of a P3 form should be done by a government doctor. However, most rural facilities have clinical officers.
- b. Lack of properly trained staff especially in forensic medicine which is a key proponent in examination of victims.
- c. Poor forensic medical examination is carried out leading to inadequate collection of evidence.
- d. Lack of a standardized forensic evidence collection kit.
- e. Collection of DNA samples is an expensive undertaking and most medical facilities do not have the capacity to offer this service.
- f. There exist few referral hospitals to render services to sexual violence victims.

#### **3.2.5. Judiciary**

- a. There is no proper data on the number of sexual offence cases reported and determined.
- b. Difficulty in tracing sexual offences cases that had been reported in the court system. This is because all sexual offences cases were registered in the criminal case register together with all other criminal cases.
- c. Backlog of sexual offences cases.
- d. Lack of awareness on the availability of a register for convicted sexual offenders.
- e. No central registry for sexual offences cases.

#### **3.2.6. Education sector**

- a. Discrimination of boys in education and participation in SGBV issues
- b. Increased sexual violence in school environments targeting boys.
- c. Inefficient gender-responsive safety and security measures in institutions of learning and training to minimize cases of sexual violence.
- d. Unavailability of efficient gender guidance and counselling units at all levels to effectively handle sexual violence issues.

### **3.2.7. Kenya National Human Rights Commission**

- a. No legislative and institutional framework to address conflict-related sexual violence during conflict situations.
- b. No response strategies where there is history or eminent sexual violence especially in rural areas.
- c. Inadequate personnel to handle arising issues of SGBV arising in the country
- d. Absence of clear instructions and guidelines in respect of human rights and SGBV for security officers deployed during conflict situations

### **3.2.8. Civil Society Organizations**

- a. Lack of cooperation by the government in implementing policies and programmes for the prevention, recovery and reintegration of sexual offence victims.
- b. No mechanisms of ensuring child victims of Sexual Violence in need of care are separated from counterpart child offenders especially in institutions like foster care homes.
- c. Difficulty in protecting street children against sexual violence. This is because street children are considered to be in conflict with the law.
- d. The need to have prevention, recovery and reintegration of SGBV victims and offenders into the society.
- e. Inadequate rescue centers for SGBV victims.

## **3.3. EMERGING ISSUES**

- a. Due to Covid-19 pandemic and the restrictions that followed thereafter, there was increased prevalence of sexual violence perpetrated within homes owing to prolonged confinement triggered by fear and stress arising from loss of income and livelihood.
- b. It has been noted that during elections, cases of electoral related sexual violence increases. These offences are perpetuated by security officers and opponents as a weapon of coercion against voting patterns.

- c. Increased number of sexual violence cases among children below 12 years while criminal liability is capped at 12 years. Children below 12 years do not have carnal knowledge.
- d. Marital Rape
- e. Emerging forms of sexual offences not stipulated under the Sexual Offences Act. (Stealthing, Sodomy, inserting objects in the genitals etc).

DRAFT

## **CHAPTER 4:**

### **4.1. POLICY PRIORITY ISSUES AND POLICY ACTIONS**

The success or failure of a prosecution against sexual violence is usually informed by actions or omissions in the formative stages of the investigation including the time when the report is filed, the forensic medical investigation process, witness statements and the time taken to prosecute the case. This policy therefore identifies and proposes policy priority areas and actions to address the challenges facing the prevention of sexual offences and responses to victims of sexual offences.

#### **4.1.1. PREVENTION AND RESPONSE**

##### **4.1.1.1. Protection of victims and witnesses of sexual offences**

The Sexual Offences Act sufficiently provides for the protection of Victims and Witnesses in the stages of prosecution. However, the Sexual Offences Act does not provide for protection of victims and witnesses of sexual violence post trial. The Witness Protection Programme as established by the Witness Protection Act also provides protection to the witnesses of sexual offences. Some more protection can however be accorded in the pre-investigation, investigation, and post-trial stages.

Some of the areas that would need improvement are as follows:

##### **4.1.1.2. Prohibition of Extraction of Sexual Favors by persons in position of Authority**

Enforcing, reporting and monitoring mechanisms need to be put in place in order to back up Section 24 of the Act which prohibits law enforcement Officers, prosecution and judicial officers from extracting sexual favors from people who seek their services.

##### **4.1.1.3. Adequate staffing of psychological assistance offices to SGBV Victims**

There is need to provide adequate staff to Kenya Counselling Association (KCA) and Kenya Psychologists Association (KPA) which are bodies established to provide psychological assistance to SGBV victims.

#### **4.1.1.4. Establishment of Gender Based Violence Rescue Centers in every county in Kenya and a body to manage them**

There should be at least one GBVRC in every county due to the number of prevailing sexual violence cases in the country. A nationwide body should therefore be established to manage the gender based violence rescue centers in each county.

#### **4.1.1.5. Enhanced Psycho-social Assessment of Children and Strengthened Referral to Safe Shelters for Those Abused within their homes.**

Many cases of Sexual offences are perpetrated by individuals who are familiar with the victims. This creates a challenge in cases where the Victim lodges a complaint but is still physically exposed to the perpetrator. This may further prevent victims from reporting such matters, there is therefore a need for enhanced psycho social assessment of children and strengthened referral to safe shelters for those abused within their homes.

#### **4.1.1.6. Practicality of protection**

There is lack of procedural clarity and practicality as to the protection of witness statements and identities. The operationalization of the Witness Protection Program is hampered by infrastructural and financial challenges as well as lack of collaboration between government departments and other stakeholder organizations. This should be streamlined with specific reference to victims of sexual offences. The procedure for protection should be clearly stated and a specific body given the mandate to handle such cases.

#### **4.1.1.7. Sentencing**

The penalties imposed in sentencing of sexual offenders is based on the age of the complainant. It is therefore important to have an age assessment done on a complainant using scientific methods before sentencing a sexual offender. While sentencing, sexual offenders shall be bound by the prescribed minimum sentence. The Courts shall follow the sentencing guideline where an offender has been convicted. Further, the Court may rely of the victim impact assessment report before sentencing a person convicted of a sexual offence.

Dangerous sexual offenders shall be supervised by an appointed officer of a probation officer after serving their term in prison. The supervision period is for a period of not less than five years as provided in the sexual offences Act. Probation officer or a person appointed by the Court to supervise the offender will prepare a report on the offender

and submit the same to Court. This is aimed at rehabilitating sexual offenders into society in order to prevent them from committing further sexual offences more so whether the offender and the victim are relatives. Where the victims are children related to the offenders, Children officers shall protect the children from convicted sexual offender to prevent further sexual abuse by the offenders.

Furthermore, first offenders in other offences are not liable to police supervision save for following few exceptions:

- a. The offender has more than one conviction for a sexual offence;
- b. The offender has been convicted of a sexual violence which was accompanied by violence or threats of violence; and
- c. The offender has been convicted of a sexual offence against a child.

The policy provides for mandatory testing and disclosure of the offender's HIV status for purposes of sentencing. A person accused of a sexual offence shall be subjected to mandatory HIV testing. The judicial officers will make a determination on whether the accused deliberately or recklessly infected the victim with HIV contrary to the HIV and AIDS Prevention and Control Act. This offence shall be sentenced differently from the sentence of a sexual offence from which the accused has been convicted.

There have been calls for special provisions and more lenient sentences to deal with child offenders. The Act should address itself to Romeo and Juliet cases whereby two children are involved in sex with each other particularly in cases of pre-existing relationships between minors. Article 53(1) (f) of the Constitution of Kenya 2010 gives a special protection to all children by stating in that every child has a right not to be detained except as a measure of last resort and when detained for the shortest and appropriate period of time. Romeo and Juliet scenario of cases have not been addressed in the Sexual Offences Policy. Persons charged with sexual offence while under the age of eighteen years should upon conviction, need to be sentenced in accordance with the provisions of the Borstal Institutions Act and the Children's Act. Rehabilitation of sexual offenders needs a holistic approach including decongestion of prisons and other standards found within the Mandela Rules.

The Judiciary under the direction of the Chief Justice shall increase and enhance sentencing of sexual offenders in the following ways: -

- a) Ensure that all Magistrates and Judges are comprehensively trained on matters of sexual offences by qualified practitioners in the various fields
- b) Develop and periodically review Sexual Offences sentencing guidelines.
- c) Ensure all key players in the CJS handling SOA cases are de-briefed/counseled regularly.
- d) Ensure the full implementation of the Register of convicted sexual offenders
- e) Create awareness on the availability of a sexual offender's register
- f) Ensure that convicted the sexual offenders register is updated
- g) Ensure adherence to the sentencing policy and guidelines when dealing with sexual offences
- h) Ensure the full implementation of supervision and rehabilitation process of dangerous sexual offenders and the DNA database

## **4.2. SECTOR SPECIFIC PRIORITY AREAS**

### **4.2.1. GOVERNANCE AND JUSTICE SECTOR**

This sector covers the Office of the Attorney General and Department of Justice, the office of the Director of Public Prosecutions, the Judiciary, National Police Service, Kenya Prisons Service, Probation and After- Care Services, Coordination of National Government, Witness Protection Agency and the National Council on the Administration of Justice.

#### **4.2.1.1. Office of the Attorney General and Department of Justice**

Under the direction of the Attorney General who is responsible for legal affairs, the role of the Department of Justice is:

- 1. *Specifically, the Attorney General shall:***
  - a. Establishment of a multi-agency committee on the Administration of the Sexual Offences Act. The committee shall be responsible for the development of multi-agency assault management centers (MAAMC) that create a multi-agency environment where the investigation, the two-way treatment comprising the forensic medical examination (medical examination/treatment and forensic medical examination/investigation) and the prosecution's buildup of cases will occur in

proximity of one another.

- b. Ensure that the committee is established under the Sexual Offences Act.
- c. Develop and review regulations relating to the Sexual Offences Act

***2. To streamline the development and implementation of legislation. Specifically, the Attorney General in conjunction with the Office of the Director of Public Prosecutions shall:***

- a. Develop and review legislation to strengthen and accommodate modern methods of evidence delivery.
- b. Review the Sexual Offences Act to address emerging challenges

***3. To expand access to justice for the vulnerable groups and victims. Specifically, the Director of National Legal Aid and Services shall:***

- a. Roll out the National Legal Aid and Awareness Programme to the Counties.
- b. Reform and expand legal aid services to provide effective and efficient services to vulnerable groups including victims of sexual offences.
- c. Implement the Legal Aid Act and policy with regard to sexual offences

#### **4.2.1.2. Prosecution Services**

Under the direction of the Director of Public Prosecutions, the Office of the Director of Public Prosecutions shall:

***1. Enhance the capacity of Public Prosecutors to prosecute cases of sexual violence. Specifically, the ODPP shall:***

- a) Train Prosecution counsel responsible for prosecution of sexual offences under the Sexual Offences Act
- b) Liaise with investigating officers to ensure adequate preparation of sexual offences cases
- c) Conduct effective prosecution of sexual offences and minimize delays as much as possible
- d) Make use of the protective provisions of the sexual offences Act in respect of vulnerable witnesses
- e) Analyze the trends of sexual offence so as to inform interventions
- f) Examine appeals and find out reasons for acquittals in sexual offences so as to address the gaps



- g) Train prosecutors on crime scene management and principles.

#### **4.2.1.3. Judiciary**

Under the Direction of the Chief Justice the Judiciary shall:

***1. Increase and enhance the institutional capacity of all courts to administer the Sexual Offences Act. Specifically, the judiciary shall:***

- a) Ensure that all Magistrates and Judges are comprehensively trained on matters of sexual offences.
- b) Ensure the full implementation of the Witness Protection Act in relation to sexual offence cases.
- c) Ensure expert witnesses in sexual offences are heard as soon as possible
- d) Develop and periodically review rules relating to the Sexual Offences Act
- e) Ensure Judicial Officers handling sexual offence cases are de-briefed/counseled regularly.
- f) Periodically update the convicted sexual offenders register
- g) Establish a central registry of sexual offenders
- h) Ensure adherence to the sentencing policy and guidelines when dealing with sexual offences
- i) Establish special courts to handle sexual offence cases

#### **4.2.1.4. National Police Service**

Under the Direction of the Inspector General of Police the National Police Service shall:

***1. Enhance the capacity of the police to effectively handle and investigate sexual offences. Specifically, the National Police Service shall:***

- a) Establish a SGBV Unit and retain skilled officers within the unit, specifically trained to manage sexual offences.
- b) The SGBV Unit when established, shall Conduct prompt and thorough investigations in cases of sexual offences as an emergency. These cases should be categorized as High Level Priority crimes.
- c) Expand gender desks to integrate medical facilities or rescue centers to include Child Protection Units, in each police station
- d) Adoption of the newly proposed P 3 form by the Forensic Team along with the integration of the gender desk/police officer trained in sexual offence case

management within a multi-agency center to avoid contradictions between the P.3 form and PRC form.

- e) Train police officers to understand what sexual offences are in order to comply with the Sexual Offences Regulations
- f) Issue forms for collection of information for the Register of convicted sexual offenders.
- g) Sensitize the public on the existence and usage of emergency call lines to the police and increase the number of hotlines. Integrate the number of hotlines within an rescue center for efficient response
- h) Incorporate best practices in the electronic data management of Sexual Offences
- i) Work with the committee on the Administration of the Sexual Offences Act to develop and sustain partnerships with the National Police Service and other relevant stakeholder Ministries to provide improved multi-agency victim care services.

#### **4.2.1.5. Correctional and Rehabilitation Services**

##### **4.2.1.5.1. Prison Services**

Under the direction of the Officer in Charge of the Prisons and other Correctional institutions, the Kenya Prisons Service shall:

***1. Ensure prisons officers have sufficient details on inmates necessary to commence appropriate action. In this regard, the Officer in charge of Prisons shall:***

- a) Introduce electronic data management in prisons, borstal institutions and other rehabilitation centers to contain sufficient information that will assist in monitoring and rehabilitative processes
- b) Ensure effective management of data on sexual offenders.
- c) Institute appropriate training programs geared at reform and rehabilitation of sexual offenders. Sex offences have the highest rate of recidivism. Further, the cruel, inhumane, and degrading conditions of prisons makes it almost impossible for any reasonable rehabilitation to take place.

***2. Ensure that prisons officers have sufficient knowledge on equipment for HIV testing of inmates. Specifically, the Officer in charge of the National Prisons Service shall:***

- a) Encourage voluntary HIV/AIDS and STI counseling, testing, and care of inmates.
- b) Develop mechanisms to prevent rape and other sexual offences in prisons, borstal institutions and remand centers.
- c) Institute mechanisms for reporting and redressing cases of sexual violence among inmates
- d) In collaboration with the Judiciary, National police and Directorate of Criminal Investigations collect information on sexual offenders to be used in the Register of convicted sexual offenders.

***4.2.1.5.2. Probation and After-care Services***

Under the direction of the Cabinet Secretary responsible for Probation and Aftercare Services the Director shall:

***1. Ensure proper community rehabilitation and treatment programs for sexual offenders, are integrated into Probation and After-care services. In this regard, the Director of Probation and After-care Services shall:***

- a) Generate pre-bail, pre- sentence reports and victim impact statements to courts as provided for in the Sexual Offences Act for dispensation of justice.
- b) Conduct supervision, reintegration and resettlement of Sexual offenders in the community as prescribed in section 39(2) of the Sexual Offences Act
- c) Ensure that the department maintains updated database of sexual offenders on supervision
- d) Support community based efforts towards sexual offenders' rehabilitation and reintegration
- e) Provide Victim Support Services such as; psychological counseling, restorative justice and advice to the victims of sexual offences
- f) Ensure effective supervision of ex-offenders upon completion of their jail terms

***2. Capacity Building of Probation Officers on Implementation of the SOA***

- a) Build the capacity of the probation officers to adequately handle matters of sexual offences

- b) Train Probation Officers to enhance their skills on supervision and writing of pre-bail and pre-sentencing reports
- c) Sensitize the communities on the role of Probation officers in implementation of the Sexual Offences Act

#### **4.2.1.6. Networking and Inter- Agency Collaboration**

- a) Network with other stakeholders on matters of victim support and re-integration of convicted offenders under supervision to increase coverage and sufficiency of services
- b) Encourage Inter-agency collaboration in handling victims and perpetrators of sexual offences in a Multi-Agency rescue Center fashion/model.

#### **4.2.1.7. National Council on the Administration of Justice**

The NCAJ shall:

- a) Ensure inter-agency collaboration on matters of sexual violence
- b) Ensure a coordinated approach among all agencies dealing with sexual violence including the health sector
- c) Through CUCs, conduct public education and awareness on the SOA
- d) Develop a programme to sensitize stakeholders on the provisions of the SOA
- e) Ensure that officers under National Government Coordination in conjunction with the police register all cases of sexual offences in their areas
- f) Facilitate the establishment of Multi agency rescue centers in each county

#### **4.2.1.8. Witness Protection Agency**

Under the direction of the Director, the Witness Protection Agency shall:

- a) Provide special protection on behalf of the State to vulnerable witnesses under the Sexual Offences Act.
- b) Carry out programmes to sensitize the public and other stakeholders on the existence and role of the agency with respect to protection of witnesses and victims of sexual offences
- c) Take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of witnesses by having regard to all relevant factors including age, gender and health.

- d) Educate the public on the role of the Witness Protection Agency with regard to sexual offences.

#### **4.2.1.9. National Crime Research Centre**

The role of the National Crime Research Centre is to increase access to sexual offences crime research information with a view to informing policy formulation and planning. Specifically, the NCRC shall:

- Conduct research and analysis on sexual offences trends, roots, consequences and prevention by engaging all stakeholders and service providers for data.
- Facilitating /strengthening data collection mechanisms
- Establish and maintain a sexual offences crime data repository within the SAGA
- Conduct research on the efficacy of institutions responsible for investigation, examination, prosecution, adjudication, correction and rehabilitation of sexual offenders
- Disseminate research findings to relevant stakeholders

#### **4.2.2. National Government Coordination**

Quite often, even before the cases are reported to the Kenya Police, the Chiefs and Assistant Chiefs are the first to know of the incident. They are therefore expected to affect arrest or in the cases of the chief, attempt to establish the facts of the case before referring the matter to the police for further investigations.

***Build the capacity of the officers under National Government Coordination to:***

- a) Ensure that line officers are fully trained so as to understand how to effectively contribute to the handling of sexual offences.
- b) Provide hotline numbers.
- c) Ensure that perpetrators are arrested with immediate effect before they destroy evidence or threaten witnesses.
- d) Ensure protection of the victims of sexual offences

#### **4.2.3. Health Sector**

The health sector plays a crucial role in the response to sexual violence. Medical personnel conduct medical treatment and forensic medical examination including forensic evidence gathering of victims and suspects of sexual offenses. Most often, health

professionals appear in court as prosecution witnesses and the scientific testimony provided by health professionals is crucial in the prosecution and conviction of sexual offenders. These services are provided by National referral hospitals, county government hospitals, health facilities, private hospitals and the Police Surgeon.

**4.2.3.1. The National Government Ministry of Health shall:**

- a) Develop and review policies for handling of sexual offences victims and suspected offenders by medical personnel.
- b) Develop standards for forensic investigation of sexual offences.
- c) Develop training guidelines for forensic medicine
- d) Train medical personnel at post graduate level in forensic medical investigations.

**4.2.3.2. National Referral Hospitals and County Health Facilities shall**

Ensure that survivors of sexual violence are accorded high priority access to medical treatment and forensic medical examinations/investigations and safe spaces/rescue centers and use basic health services and facilities free of charge. Specifically, the County governments shall:

- a) Ensure that examiners who have the qualification in forensic medical examination from recognized institutions conduct these examinations for victims and suspects to enhance evidentiary integrity.
- b) Provide free medical treatment, forensic medical examination, completion of PRC forms and psycho social care as soon as possible/immediately and preferably up to 120 hours to 2 weeks after the incident for survivors of sexual offences. In cases where there is no PRC form any document pertaining the forensic expert notes shall be used as exhibit
- c) Ensure forensic documentation including and not limited to PRC/P3 forms are properly filled to capture relevant information on victims and suspects of sexual offences.
- d) Ensure a secure and confidential space for the entire process of management of the victim/suspects from beginning to the end, in health facilities/custodial settings.
- e) Ensure a secure location for preservation and storage of forensic specimens
- f) Provide continuous capacity building for healthcare workers on medical

management of sexual violence.

**4.2.3.3. The County Governments shall**

***1. Increase the availability of quality services at health facilities to care for survivors of sexual offences. Specifically, County governments shall:***

- a) Ensure that health workers initiate the chain for the collection and preservation of evidence. As a participant in the chain of custody, health workers must understand and respect the chain of custody.
- b) Provide for preservation and transportation of specimens in each county.
- c) Strengthen multi-sectoral collaboration within the county
- d) Establish Gender Based Violence Recovery Centers at all health facilities.
- e) Provide health experts to the multi-agency rescue center established within the county.
- f) Ensure that county referral hospital have a forensic expert to handle sexual violence cases.
- g) Construct, fund and operationalize shelters for survivors of GBV in every county with assistance from counties and NGO's.

***2. Improve the capacity of health care providers to collect, preserve and present evidence to the judicial system. Specifically, County governments will:***

- a) Train medical officers in Forensic medicine from recognized institutions
- b) Ensure efficient collection, preservation and storage of evidence
- c) Collaborate with the Government Chemist Department to ensure guidance and timely analysis of specimen samples from victims and perpetrators.
- d) Facilitate collection of DNA evidence in the public health facilities
- e) Collaborate with the private sector to undertake Public Private Partnerships on provision of DNA services under the supervision of a Government Chemist

***3. Sensitize health providers and law enforcement officers on the appropriate packaging mechanism (post rape, defilement, sodomy, assault and incest). Specifically, the County governments shall:***

- a) Train and engage full time counselors to provide continuous Trauma Therapy



services to victims and perpetrators before, during and after management.

- b) Cooperate and coordinate with the National Government in training and re-training of law enforcement officers on proper handling and management of victims and perpetrators.
- c) Ensure that the Sexual Offences Act is mainstreamed in the daily duties of health workers to enable screening at integrated models.
- d) Coordinate the referral mechanism for survivors of sexual violence across the different sectors in the county.
- e) Monitor and review sexual violence prevention and response programmes in the counties

#### **4.2.4. Education and Training**

Under the direction of the Cabinet Secretary responsible for education, the national Government will:

***1. Ensure safety from sexual violence for all learners and members of staff in learning institutions. Specifically, the government shall:***

- a) Ensure that managers of learning institutions are responsible for safety from sexual violence for learners under their custody.
- b) Expand the mandate of the Boards of Governors (BoGs) to sensitize pupils in relation to sexual offences.
- c) Ensure that managers of learning institutions put in place sexual harassment policies.
- d) Re-evaluate School based curriculum to offer safety to pupils and students from sexual violence.
- e) Educate and create awareness among learners on forms of sexual abuses, and how to detect and avoid sexual violence risky environments
- f) Standardize times of reporting to and leaving school so as to protect learners from sexual violence
- g) Coordinate with the Police and CSOs to facilitate prosecution of identified cases of sexual offences within the school setting.
- h) Enforce the Teachers Code of Conduct in relation to sexual offences.
- i) Develop the unit of an ombudsman in MoE for independent forensic reporting for



sexual offences.

- j) Ensure all teachers and staff within the school institution have been vetted/declared non sex offenders and licenced.

***2. Educate parents and the community on the contributory factors of child sexual abuse and the need to protect children. In this regard, the Ministry responsible for Education shall:***

- a) Support progressive social and cultural events which promote good behaviour amongst boys and girls
- b) Sensitize communities against harmful cultural practices that underlie and breed sexual violence.
- c) Liaise with the Ministry responsible for social protection to expand the cash transfer programme to poor families to enable parents to provide basic services for their children so as to deter them from being lured into sex in exchange for money and other basic items.
- d) Organize, fund and support community-based sensitization campaigns and forums on sexual violence against pupils and students
- e) Enlighten parents on signs which a child may exhibit if she/he is being sexually abused or has been abused and circumstances under which sexual abuse is likely to take place.
- f) Monitor students during extra-curricular activities to ensure they are not sexually molested.
- g) Ensure mandatory reporting of sexual abuse/sexual violence by parents to authorities. Settling out of court should NOT be an option.

**4.2.5. Vulnerable Groups**

**4.2.5.1. Children**

Under the Direction of the Cabinet secretary responsible for Children's affairs, the relevant state department shall:

***1. Use legal instruments, institutions and structures to protect and safeguard children from all forms of sexual abuse. Specifically, the Department shall:***

- a) Ensure implementation of the protection measures including continuous

government scrutiny of Charitable Children's Institutions.

- b) Establish toll free hotlines for reporting cases of children experiencing sexual abuse.
- c) Advocate for a total ban on out of court settlement of matters relating to child sexual abuse
- d) Encourage parents to warn their children of online sexual predators and as far as possible control/ monitor their interaction with the media, internet and social media
- e) Popularize and disseminate the child helpline and other hotlines for reporting violence against children.

***2. Partner with Civil Society to develop strategies for multi-stakeholder interventions to mitigate the impact of sexual offenses on children in different circumstances. Specifically, the Department shall:***

- a) Liaise with the National Council of Children's Services in conducting regular inspections in all charitable children's institutions to ascertain the physical and mental conditions of the children.
- b) Put in place mechanisms to prevent sexual exploitation and abuse in children's homes
- c) Enlist the services of professional counselors to offer rehabilitation services to children who have been sexually abused
- d) Develop capacity of all those involved in handling children in children's institutions in respect to managing and handling sexual offenders

#### **4.2.5.2. Women**

Women are among the vulnerable groups that are at risk of being sexually violated. Sexual violence is systematically entrenched in culture and society and is reinforced by patriarchy. In order to address sexual violence against women, the Ministry in charge of gender and the National Gender and Equality Commission shall:

***1. Popularize the Sexual Offenses Act (2006) in order to increase knowledge amongst the public especially women, girls and men in order to protect victims and prevent sexual violence. Specifically, the National Gender and Equality Commission in***

***collaboration with the Committee on Sexual Offences shall:***

- a) Conduct public awareness on the Sexual Offences Act at all levels.
- b) Disseminate this Policy through workshops and public meetings in all counties.
- c) Provide and intensify gender sensitive human rights education and training for all public officials.

***2. Strengthen the capacity of institutions and individuals in sexual violence prevention and response. Specifically, the Gender National Gender and Equality Commission in collaboration with the Committee on the Administration of the Sexual Offences Act will:***

- a) Mainstream gender in all policies, plans and programmes
- b) Advocate and lobby the Ministries responsible for internal security and Prison services to incorporate sexual offences into the Police curriculum as an examinable subject for training law enforcement officers.
- c) Improve data collection and research on sexual and gender based violence
- d) Monitor trends of sexual violation and disseminate reports.

**4.2.5.3. Men**

Men are usually not considered as vulnerable groups at risk of getting sexually violated. When counselling male survivors of sexual violence, counselors need to be aware that men experience physical, emotional and psychological trauma as a result of sexual violence.

**4.2.5.4. Youth**

The youth constitute a large proportion of the population and are disproportionately affected by sexual violence. Adolescents and young adults engage in pre-marital sex sometimes under coercive circumstances without understanding the legal consequences. In order to minimize the unlawful sexual practices among the youth the Ministry in charge of youth affairs shall:

**Enhance the capacity of the youth to address sexual violence by**

- a) Sensitizing the youth on sexual violence and the Sexual Offences Act

- b) Encourage the youth to report cases of sexual violence
- c) Discourage the youth from engaging in unlawful or coercive sex.
- d) In collaboration with the Ministry responsible for health, provide youth friendly health services and psycho social support to victims of sexual violence
- e) Come up with programmes aimed at empowering the youth and keeping them meaningfully engaged in order to avoid peer pressure and situations where they fall into unlawful sexual practices including rape and defilement.

#### **4.2.5.5. Older members of society**

Abuse of the elderly is a universal phenomenon that has increasingly been witnessed in Kenya. It takes many forms including sexual abuse. In order to address this type of abuse the Government shall:

- a) Create public awareness on sexual abuse of the elderly
- b) Train relevant stakeholders on prevention and response
- c) Sensitize the elderly on self-defense and encourage them to report cases of sexual abuse
- d) Develop sector-specific protocols and guidelines for dealing with cases involving sexual abuse of the elderly
- e) Facilitate the establishment of networks and support groups for elderly people to share experiences
- f) Provide access to Gender Based Violence Recovery Centers by the elderly.

#### **4.2.5.6. Persons with disabilities**

There is a growing body of evidence showing that persons with disabilities experience worse socio-economic outcomes than persons without disabilities. It is therefore not surprising that sexual abuse is very common among persons with disabilities and goes unreported. In order to address this, the Cabinet Secretary in charge of persons with disabilities in collaboration with the NGEC shall:

- a) Ensure that disability issues are mainstreamed within all institutions addressing sexual offences and monitor its implementation

- b) Conduct public awareness and empower communities on the rights of Persons with disabilities.
- c) In collaboration with the National Council of Persons with Disabilities, train law enforcement agencies on the importance of securing justice for persons with disabilities
- d) Ensure that Persons with disabilities are treated with dignity and respect when they report cases of sexual violence or seek other services in that regard
- e) Involve persons with disabilities in running certain sections of institutions that provide services to victims of sexual violence
- f) Ensure that persons with disabilities access Gender Based Violence Recovery Centers free of charge
- g) Ensure the National Council for Persons with disabilities is adequately equipped to assist PWDS and that PWDs have access to the Council.

#### **4.2.5.7. Refugees and Internally Displaced Persons**

Refugees, internally displaced persons and homeless persons are highly vulnerable to sexual abuse during periods of conflict, subsequent displacement and complex humanitarian situations. In order to address the plight of refugees and IDPs, the government through the ministries in charge of refugees and disaster management shall:

- a) Establish and strengthen mechanisms for reporting, response to, treatment and examination of cases of sexual violence among refugees and IDPs
- b) Build competencies, compassion and collaboration among service providers and protection officers to respond to cases of sexual violence
- c) In collaboration with humanitarian agencies create awareness on the Sexual Offences Act and sexual violence among refugees and IDPs
- d) Map out physical locations, and settings in which sexual violence is likely to take place and put into place mitigation mechanisms and warning to the public.
- e) Identify innovative methods to assist victims of sexual violence in situations of displacement such as by integration of routine sexual violence screening in protection and health programmes

- f) Ensure that in the event of disasters, unrest or conflict resulting in displacement of people, persons in institutions or camps receiving relief services are served by persons of the same gender to avoid the possibility of sexual offences relating to persons in position of trust
- g) Provide psycho social support services and livelihood programmes for victims of sexual violence.

#### **4.3. LIVELIHOOD, CULTURE AND TRADITIONS**

##### **4.3.1. Livelihood and sexual offences**

There is a very strong link between sexual offences, livelihood, insecurity and poverty in this regard, the committee on the Administration of the Sexual Offences Act will:

***1. Facilitate the reporting of sexual offences cases amongst the poor and vulnerable. Specifically, the committee on the Administration of the Sexual Offences Act will:***

- a) Establish a sexual offences victim kitty and allocate a budget that will provide funds to support victims especially from the poor sectors of the community to report cases, receive appropriate treatment (including psycho-social support) and attend to all court proceedings until judgment is made.
- b) Provide and disseminate abridged version of the SOA
- c) Liaise with the ministry in charge of internal security to ensure that police officers have resources to facilitate and support proper reporting of all cases of sexual offences in their jurisdiction. This will include facilitating transport for the sexual offence victims, availing P3 forms at all police stations and ensuring sexual offences victims get medical treatment and forensic examination.

***2. Build partnerships to increase collaboration and enhance implementation capacity and expand outreach. In this regard the committee will:***

- a) Develop and sustain partnerships which provide improved multi-agency victim care services
- b) Develop, in collaboration with relevant departments and stakeholders annual work plans for coordinated implementation.
- c) Ensure annual conferences on sexual offences in which all stakeholders, including International Agencies shall be invited to assess Kenya's rating in reduction of incidences of sexual violence are held.

**3. Continuously identify and appraise environments with high potential of sexual offences and institute preventive measures. Specifically, the Committee will:**

- a) Ensure security personnel serving displaced persons comprise a balanced representation of male and female workers to enable displaced persons to freely seek help without fear of sexual exploitation.
- b) Collaborate with Area Advisory Councils under the department of Children's services to effectively monitor children's homes for cases of sexual violence and recommend appropriate action to the National Council for Children's Services (NCCS).

**4. Educate and sensitize the public especially the poor and vulnerable on the importance of reporting all sexual offences to the police. In this regard the committee will:**

- a) Enlist the services of decentralized units at the county level to record and document all sexual offences. The records will be forwarded monthly to the committee for follow up action.
- b) Set up a secretariat that will oversee public awareness campaigns on the procedures to follow and things to do when reporting sexual offences.
- c) Establish toll free lines known to the local residents for reporting cases of sexual violence
- d) Strengthen the Child Help line to absorb the rapid response needs.
- e) Conduct surveys and do evaluations at regular intervals to assess reporting of sexual offences amongst the poor and vulnerable.
- f) Ban the settlement of cases of sexual offences through Alternative Dispute Resolution mechanisms.

**5. Conduct public legal literacy awareness on sexual offences utilizing all reliable channels of communications. Specifically, the sexual offences committee shall:**

- Ensure comprehensive capacity building and training on implementation of the sexual offences Act.
- Ensure civic education on Sexual Offences Act is continuously conducted nationally.



- Ensure coordinated public awareness activities on SOA is conducted by stakeholders to ensure standards and quality of messages being released to the public.
- Build capacity and train public prosecutors on effective measures and methods of conducting sexual offences trials including application of protective mechanisms in matters of Sexual offences.

#### **4.3.2. Culture and Traditions Regarding Sexual Offences**

There are many cultural and traditional practices that are at variance with the Sexual Offences Act thereby making it difficult to comprehensively implement the Act. In this regard the committee will work with the office of the Director of Public Prosecutions to:

- Deepen their understanding of traditional and behavioral aspects of perpetrators to enable them try cases of sexual violence in an environment that respects the privacy of the victim.
- Deepen the understanding of the law enforcement officers of regional diversity, culture and traditions while handling suspects and victims of sexual offences.
- Sensitize communities against child marriage especially as way of settling sexual offences cases.

### **4.4. MEDIA AND CIVIL SOCIETY**

#### **4.4.1. Media**

Although media space has been liberated, and the media has been in the forefront in exposing sexual violence cases, these efforts have been uncoordinated hence they have borne little impact in creating public awareness on sexual violence. In this regard the Media Council will:

***1. In collaboration with the committee, build the capacity of media on the sexual offences and engage them in relaying the right messages to public. Specifically, the Media Council shall:***

- a) Discourage media houses from gender biased advertisements and reporting
- b) Strengthen its inspection, vetting and monitoring of pornographic materials that come into the country
- c) Encourage airing of productive content containing mitigation and response strategies.



## ***2. Advocate for responsible promotional and marketing activities***

- a) Ensure that programs that air sexually provocative films are at appropriate times and have clear warning messages.
- b) Discourage the use of stereotypes and promotion of negative attitudes and derogatory messages in media in respect of sexuality that promotes gender biases

## ***3. Support Media houses in championing the fight against sexual violence to:***

- a) Through the Kenya Broadcasting Corporation, collaborate with Ministry of Education to develop educational programs on the SOA to be aired in schools
- b) Expose the magnitude, extent and impact of sexual offences by publishing and airing statistics on these offences.

### **4.4.2. Civil Society**

The government recognizes the importance of civil society contribution amongst grassroots. This is because of their effectiveness and efficiency in delivering services to all communities. In this regard, the civil society in collaboration with the committee on the Administration of the Sexual Offences Act shall:

#### **1. Develop strategies for multi-stakeholder interventions to mitigate the impact of sexual offences especially on children and the poor by**

- a) Building the capacity of vulnerable and poor people to understand and fight sexual violence.
- b) Create public awareness on sexual violence and the measures to take when violated
- c) Support the publication of popular versions of the Sexual Offences Act and Policy and disseminate them widely
- d) Provide legal aid services to victims of sexual violence

#### ***2. Provide rehabilitation for victims of sexual offences. In this regard the civil society shall:***

- a) Provide appropriate trauma counselling psychosocial support to victims of sexual violence
- b) Establish support groups for victims of sexual violence

- c) Develop linkages and referral mechanisms with Gender Violence Recovery Centres and shelters

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## CHAPTER 5

### 5.1. IMPLEMENTATION ARRANGEMENTS

#### 5.1.1. Introduction

The different stakeholders involved in the implementation of the Act need to be coordinated to ensure effective handling of victims and prosecution of perpetrators of sexual offences. There is also need to create public awareness on what one needs to do if she/he has been violated. Information sharing and administration of standard operating procedures and protocols at service delivery level is equally important. This calls for a strong coordination mechanism to sufficiently implement the various aspects of the Act.

#### 5.1.2. Institutional Framework for Implementation

Support the formation of project based secretariat with key technical persons in the police forensics, psychological care, psycho social support services, medical examination/treatment and forensic medical examination investigation, medical forensics, evidence analysis, lab science forensics, prosecution expert and ICT consultants.

Through the OAG bring on board relevant ministries and key decision makers to make agreements roles including MOU'S. Support restructuring of key services such as police forensics and lab science forensics.

The major functions of the project based secretariat will be to:

- a) Maintain liaison with the Department of Justice and ODPP on matters relating to sexual violence
- b) Provide information to the National and County governments, the Department of Justice, and the general public on all matters relating to legal matters on sexual violence
- c) Serve, at the request of the Attorney General, as the Department's representative on domestic task forces, committees, or commissions addressing policy or issues relating to sexual violence.
- d) Develop policy, protocols, and guidelines; Provide assistance and support to the following: (1) other components of the Judicial System, in efforts to develop

policy and to enforce laws relating to sexual violence , including the litigation of civil and criminal actions; (2) other agencies, in efforts to develop policy, provide technical assistance, and improve coordination among agencies carrying out efforts to eliminate sexual violence; and (3) grantees, in efforts to combat sexual violence and to provide support and assistance to victims of such violence.

- e) Bring together (on annual basis) all those involved in the administration of the law, to produce multi-sector annual plans with specific targets and outcomes which will be monitored on regular basis and evaluated on annual basis.

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## CHAPTER 6

### 6.1. MONITORING AND EVALUATION FRAMEWORK

Effective monitoring and evaluation (M&E) of the activities of the National Policy and Guidelines for Administration of Sexual Offences is critical for delivery. This M&E system will provide essential data and insights for drawing lessons, priority setting and informed review of the policy outcomes offering the assurance that resources are used for agreed purposes. The M&E System will be carefully framed for it to serve as an effective template for monitoring the performance. This will entail guiding the collection, analysis and presentation of specific data, based on pre-defined indicators, with the purpose of *quantifying* the extent and magnitude of sexual crimes in the country.

Monitoring of sexual offences will demand day to day routine follow up of surveillance by concerned departments and other stakeholders on the effectiveness and impact of this policy on the prevention of sexual violence. Evaluation on the other hand will complement monitoring in that, when signals from the monitoring processes suggest that the sexual offences indicators are going off-track, it will help to point out the causes and suggest corrective measures to the Board and ultimately to Government Policy Makers.

In the designing of the M&E Framework, a process of identifying indicators will be applied to ensure that they can provide evidence on the nature, extent and magnitude of sexual offences dis-aggregated by geography. The following assumptions will however be made while selecting the number of these performances indicators:

1. Considering the capacity limitations that characterize most stakeholders as outlined in the situational analysis, the number of indicators chosen will be core and will be aligned to the ability of the national systems to meaningfully apply them with a reasonable level of dependability.
2. For an indicator to be included, it will be assumed that there exists readily available quality data on that indicator and that the data source for the indicator can be clearly identified or.
3. The required data for the selected indicators will be readily collected regularly;

In this regard the selected indicators will have to meet the following criteria:

- a) The data is relevant to users in terms of its timeliness, adequacy, relevance, and accessibility.
- b) Data collection processes are affordable and cost-effective.
- c) It will be possible to dis-aggregate data on the indicator in desirable classifications.
- d) Data collected will help to monitor and evaluate the implementation of the Sexual Offences Act.
- e) The indicators will be able to help in predicting outcomes and impact with reasonable degree of reliability
- f) Indicators will assist in conducting periodic surveys on sexual offences and publish reports showing trends, prevalence and magnitude of the crime with a view to developing strategies for intervention

The role of the National Crime Research Centre is to increase access to sexual offences crime research information with a view to informing policy formulation and planning. Specifically, the NCRC shall:

- a) Conduct research and analysis on sexual offences trends, roots, consequences and prevention
- b) Establish and maintain an annual sexual offences crime data repository from all correctional facilities in the country
- c) Conduct research on the efficacy of institutions responsible for investigation, examination, prosecution adjudication, correction and rehabilitation of sexual offenders
- d) Disseminate research findings to relevant stakeholders

## **6.2. RESOURCING PLAN**

Full and effective implementation of the Policy will require mobilization of resources from all sources and across all sectors. Towards realization of this goal, the Government will ensure integration of gender perspectives in all its budgetary decisions and policies and programs in order to engender the budgetary process. The National Directorate on

Administration of Sexual Offences which will be funded through the office of the Attorney general. Development partners will also be approached to support the operations of the Board to attain a high profile to fight against sexual offences in the country.

The government and its development partners, civil society and private sector will also provide funding for specific programs that will address sexual and gender violence. As much as additional funding will be sought through bilateral and multilateral arrangements, the Government will provide a greater proportion of the required resources for the implementation of the policy. Non –Governmental Organizations, the private sector, women groups and the civil society will also be encouraged to continue their support of this policy. An enabling environment will be created for such organizations to mobilize resources for complimenting government efforts.

## IMPLEMENTATION MATRIX

NO.	Recommendation	Specific action by the responsible institution	Indicators of progress/implementation	Institution Responsible	Time frame
Justice Sector					
	Establish of a multi-agency committee on the Administration of the Sexual Offences Act.	Develop and manage multi-agency rescue centers	Establish Multi-Agency implementation committee	OAG&DOJ	
	Streamline development and implementation of legislation	Review the sexual offences act	Sexual offences act amended		
		Develop regulations	Regulations developed	OAG&DOJ	
		Review regulations	Regulations reviewed	OAG&DOJ	
	Expand access to justice for the vulnerable groups	Implement the Legal Aid Act and policy with regard to sexual	Legal Aid Act fully implemented	National Legal Aid and Services	



	and victims	offences			
		Roll out the National Legal Aid Awareness Programme to the Counties	Awareness created	National Legal Aid and Services	
		Expand legal aid services to provide effective and efficient services to vulnerable groups including victims of sexual offences	legal aid services expanded to include victims of sexual offences	National Legal Aid and Services	
	Enhance the capacity of Public Prosecutors to prosecute cases of sexual violence	Train Prosecution counsel	Prosecution Counsel trained	ODPP	
		Liaise with investigating officers to ensure adequate preparation of sexual	Number of cases prosecuted	ODPP	

		offences cases			
		Conduct effective prosecution of sexual offences and minimize delays	Sexual offences cases prosecuted and completed	ODPP	
	Increase and enhance the institutional capacity of all courts to administer the Sexual Offences Act.	Train Magistrates and Judges on matters of sexual offences	Number of judges and magistrates trained	Judiciary	
		Implementation of the Witness Protection Act	Operationalize the witness protection fund	Judiciary/OAG&DOJ	
		Develop and review rules relating to	Rules relating to sexual offences developed/reviewe	Judiciary/OAG&DoJ	

		the Sexual Offences Act	d		
		Regularly counsel/de-brief Judicial Officers handling sexual offence cases	No. of Judicial officers counseled	Judiciary	
		update the convicted sexual offenders register	Convicted sexual offenders register updated	Judiciary	
		Establish a central registry of sexual offenders	central registry of sexual offenders established	Judiciary	
		Establish special courts to handle sexual offence cases	Special divisions of the court to handle sexual offences established	Judiciary	
	Enhance the capacity	Establish a SGBV Unit and retain	SGBV unit established in every police station	National Police Service	

	of the police to effectively handle and investigate sexual offences.	skilled officers within the unit, specifically trained to manage sexual offences	Deploy and retain officers skilled and trained to manage sexual offences in all SGBV units	National Police Service	
		Expand gender desks in all police stations	Gender desks established	National Police Services	
			Medical officers integrated in gender desks	National Police Service	
			Child protection units included in gender desks at police stations	National Police Service	
		Adopt the newly proposed P 3 form.	New p 3 form adopted	National Police Service	
			P 3 form and PRC form merged and adopted	National Police Service	
		Train police officers to understand what sexual offences	Number of police officers trained	National Police Service	

		Issue forms for collection of information for the Register of convicted sexual offenders	Forms issued	National Police Service	
	Ensure prisons officers have sufficient details on inmates necessary to commence appropriate action	Introduce electronic data management in prisons, borstal institutions and other rehabilitation centers	Information on sexual offenders for monitoring and rehabilitative processes	Prisons Services/Borstal Institutions/Hostels/Probation officers	
		Effective management of data on sexual offenders	Sexual Offenders register in place	Prisons Services/Borstal Institutions/Hostels/Probation officers	
		Training programs geared at reform and rehabilitation of sexual	No. of sexual offenders trained	Prisons Services/Borstal Institutions/Hostels/Probation officers	

		offenders.			
	Ensure that prisons officers have sufficient knowledge on equipment for HIV testing of inmates.	Encourage voluntary HIV/AIDS and STI counseling, testing, and care of inmates	Number of inmates tested and counseled	Prisons Services/Borstal Institutions/Hostels/Probation officers	
		Develop mechanisms to prevent rape and other sexual offences in prisons, borstal institutions and remand centers	Reduction in the number of sexual offences in prisons, Borstal institutions and remand homes	Prisons Services/Borstal Institutions/Hostels/Probation officers	
		Institute mechanisms for reporting and redressing cases of sexual	Number of sexual violence cases among inmates reports and addressed	Prisons Services/Borstal Institutions/Hostels/Probation officers	

		violence among inmates			
	Ensure proper community rehabilitation and treatment programs for sexual offenders, are integrated into Probation and After-care services	Generate pre-bail, pre-sentence reports and victim impact statements to courts as provided for in the Sexual Offences Act for dispensation of justice	pre-bail, pre-sentence reports and victim impact statements submitted to courts	Probation and After-care Services	
		Supervise, reintegrate and resettle Sexual offenders in the community	Sexual offenders supervised, integrated and resettled	Probation and After-care Services	
		Maintain an updated database of sexual	An updated database of sexual offenders	Probation and after care services	

		offenders on supervision			
		Provide Victim Support Services	Counselling centers established	Probation and after care services	
		Ensure effective supervision of ex-offenders upon completion of their jail terms	Mechanisms for supervision of ex-offenders	Probation and after care services	
	Capacity Building of Probation Officers on Implementation of the SOA	Train probation officers on Sexual Offences	The number of probation officers	Probation and after care services	
		Sensitize the public on the role of probation officers in Sexual Offences	The public sensitized	Probation and after care services	



	Networkin g and Inter- Agency Collaborat ion	Network with other stakeholders on matters of victim support and re- integration of convicted offenders	Victim support and re-integration programs in place	Multi-Agency Committee	
		Encourage Inter-agency collaboration in handling victims and perpetrators of sexual offences in a Multi-Agency rescue Center fashion/mod el	Victims handled in the rescue centers and perpetrators handled	Multi-Agency Committee	
	Multi- Agency Approach to Sexual Offences	Ensure inter- agency collaboration on matters of sexual violence	Availability of coordinated approaches among all agencies dealing with sexual violence	National Council on Administration of Justice	
		Conduct public	Stakeholders sensitizations on the	National Council on Administration of	

		education and awareness on the SOA	provisions of the SOA conducted	Justice	
		Facilitate the establishment of Multi agency rescue centers in each county	Multi agency rescue centers in each county established	National Council on Administration of Justice	
	Witness Protection Agency	Provide special protection on behalf of the State to vulnerable witnesses	Witness protection Mechanisms in place	Witness Protection Agency	
		sensitize the public on the existence and role of the agency with respect to protection of witnesses and victims of sexual offences	Public and stakeholder sensitizations conducted	Witness Protection Agency	

	Increase access to sexual offences crime research information with a view to informing policy formulation and planning	Conduct research and analysis on sexual offences trends, roots, consequences and prevention	Number of research conducted	National Crime Research Center	
		Establish and maintain a sexual offences crime data repository within the SAGA	Sexual Offences crime data available	National Crime Research Center	
		Disseminate research findings to relevant stakeholders	Research findings disseminated	National Crime Research Center	
Health Sector					

	Policies on handling of sexual offences victims and suspected sexual offenders	Develop and review policies for handling of sexual offences victims and suspected offenders by medical personnel.	Policies on sexual offences developed and reviewed	Ministry of Health	
		Develop standards for forensic investigation of sexual offences.	Guidelines on forensic investigation	Ministry of Health	
	Improve the capacity of health care providers to collect, preserve and present evidence to the judicial system	Develop training guidelines for forensic medicine	Training Guidelines for forensic medicine	Ministry of Health	
		Train medical personnel at post graduate level in forensic medical investigations	Training of medical personnel on forensic medicine	Ministry of Health	
		high priority access to medical treatment and forensic medical examinations	Access to medical treatment and forensic medical examinations	Ministry of Health/National Referral Hospitals/County referral hospitals	
	Increase the availability	use basic health services and facilities	Free of charge of medical services	County Governments/	

	of quality services at health facilities to care for survivors of sexual offences	free of charge		Health Centers	
		referral to safe spaces/rescue centers	referral to safe spaces/rescue centers	County Governments/ Health Centers	
		Increase the availability of quality services at health facilities to care for survivors of sexual offences	preservation and transportation of specimens in each county, Establishment of Gender Based Violence Recovery Centers at all health facilities and Construct, fund and operationalize shelters for survivors of GBV in every county with assistance from counties and NGO's	County Governments	
	Improve the capacity of health care providers to collect, preserve and present evidence to the judicial	Train medical officers in Forensic medicine	Train medical officers in Forensic medicine.	Ministry of Health/National Referral Hospitals/County referral hospitals/county governments/Government chemist	

	system	Collaborate with the Government Chemist Department to ensure guidance and timely analysis of specimen samples from victims and perpetrators.	Timely analysis of specimen samples from victims and perpetrators,	Ministry of Health/National Referral Hospitals/County referral hospitals/county governments/Government chemist	
		Collaborate with the private sector to undertake Public Private Partnerships on provision of DNA services under the supervision of a Government Chemist	Collection of DNA in Public health facilities	Ministry of Health/National Referral Hospitals/County referral hospitals/county governments/Government chemist	
	Sensitize health providers and law enforcement officers on the appropriate packaging	Train and engage full time counselors to provide continuous Trauma Therapy services to victims and perpetrators before, during and after management,	full time and trained engaged	Ministry of Health/National Referral Hospitals/County referral hospitals/county governments/Government chemist	

	mechanism (post rape, defilement, sodomy, assault and incest)	Monitor and review sexual violence prevention and response programmes in the counties	sexual violence prevention and response programmes in the counties	Ministry of Health/ County Government	
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#### Education Sector

	Ensure safety from sexual violence for all learners and members of staff in learning institutions.	Ensure that managers of learning institutions are responsible for safety from sexual violence for learners under their custody	Learners safety from sexual offences	Ministry of Education	
		Expand the mandate of the Boards of Governors (BoGs) to sensitize pupils in relation to sexual offences.	Expanded BOG mandate		
		Ensure that managers of learning institutions put in place sexual	Sexual harassment policies put in place		

		harassment policies.			
		Re-evaluate School based curriculum to offer safety to pupils and students from sexual violence.	A re-evaluated school bases curriculum		
		Educate and create awareness among learners on forms of sexual abuses, and how to detect and avoid sexual violence risky environments	Awareness of forms of sexual abuse		
		Standardize times of reporting to and leaving school so as to protect learners from sexual violence	Standardized schedule of reporting and leaving school		
		Coordinate with the Police and CSOs to facilitate prosecution of	Prosecution of identified sexual offences cases		



		identified cases of sexual offences within the school setting.			
		Enforce the Teachers Code of Conduct in relation to sexual offences.	implementation of teachers code of conduct		
		Develop the unit of an ombudsman in MoE for independent forensic reporting for sexual offences.	Creation of office of the ombudsman		
	Ensure all teachers and staff within the school institution have been vetted/declared non sex offenders and licenced.	Vetting of all teachers and staff			
	Educate parents and the	Support progressive social	Progressive social		

	community on the contributory factors of child sexual abuse and the need to protect children	and cultural events which promote good behaviour amongst boys and girls	and cultural events		
		Sensitize communities against harmful cultural practices that underlie and breed sexual violence.	Sensitization on harmful cultural practices		
		Liaise with the Ministry responsible for social protection to expand the cash transfer programme to poor families to enable parents to provide basic services for their children so as to deter them from being lured into sex in exchange for money and other basic items.	Expansion of cash transfer programme		

		Organize, fund and support community-based sensitization campaigns and forums on sexual violence against pupils and students	Organization of community-based sensitization campaigns		
			Funding of community-based sensitization campaigns		
			Support of community-based sensitization campaigns		
		Enlighten parents on signs which a child may exhibit if she/he is being sexually abused or has been abused and circumstances under which sexual abuse is likely to take place.	Identification of signs of a sexually abused child		
		Monitor students during extra-curricular activities to	Monitoring of students during extra – curricular activities		

		ensure they are not sexually molested.			
		Ensure mandatory reporting of sexual abuse/sexual violence by parents to authorities. Settling out of court should NOT be an option.	Reporting of sexual abuse		