

**STRUCTURAL FACTORS INFLUENCING IMPLEMENTATION OF THE SEXUAL  
OFFENCES ACT IN AINABKOI SUB-COUNTY, KENYA**

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**DECLARATION**

This research project is my original work and has not been presented for research and/ or for any other academic award in any other university.

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## **ABBREVIATIONS AND ACRONYMS**

AU	African Union
CEDAW	Committee on the Convention of the Elimination of all forms of Discrimination against Women
CJPC	Catholic Church Justice and Peace Commission
CK	Constitution of Kenya
CODIS	Combined DNA Index System
CPS	Crown Prosecution Service
DNA	Deoxyribonucleic Acid
GL	Gender Links
GVRC	Gender Violence Recovery Center
NACOSTI	National Commission for Science, Innovation and Technology
NWH	Nairobi Women's Hospital
PC	Penal Code
SADC	Southern African Development Community
SAFE	Sexual Assault Forensic Evidence
SOA	Sexual Offences Act
SPSS	Statistical Package for Social Sciences
TFSOA	Task Force on Implementation of the Sexual Offences Act
U.S	United Nations

UK	United Kingdom
UNAMID	United Nations and African Union Mission to Darfur
UNSCR	United Nations Security Council Resolutions
WHO	World Health Organization

## ABSTRACT

The Sexual Offences Act offers considerably promise for decreasing Sexual offences in Kenya. It nonetheless remains unclear whether its implementation is effective in terms of victims getting justice. The study did seek to analyze structural factors influencing implementation of the Sexual Offences Act in Ainabkoi Sub-County. The objectives of the study were: To find out how economic factors influence implementation of sexual offences Act, to establish how social factors influence implementation of sexual offences Act, to establish how legal factors influence implementation of sexual offences Act and finally to find out how political factors influence implementation of sexual offences Act in Ainabkoi sub-county. Descriptive survey research design was employed in the study since it enables the researcher to study factors influencing the implementation of the sexual offences Act by targeting a representative number of 99 respondents from the target population. The research instruments used in the study were questionnaire and interview schedule. Quantitative data collected was analyzed using Statistical Package for Social Sciences (SPSS) 20.0 version. The data was analyzed descriptively and inferentially. The analyzed data was presented using tables. The study findings revealed that (mean=4.07, Std dev=1.50) of the respondents were of the opinion that there is poor legal funding support for protection and assistance to government implementing agencies, (mean=2.55, Std dev=1.76) of the respondents were of the opinion that the number of corruption cases on sexual offences are too high and therefore justice is interfered, (mean=3.22, Std dev=1.64) of the respondents were of the opinion that the duration of litigation process against sexual assault covers a wide scope of time that needs patience and drain resources and (mean=4.45, Std dev=2.18) of the respondents were of the opinion that political context to the implementation of the sexual offences Act are involved in the molding the proposals for reform. Inferential statistical findings revealed that there was a moderate uphill (positive) relationship between economic factors and Implementation of Sexual Offences Act, which was statistically significant ( $r = 0.475, n = 91, p < 0.01$ ), there was a (negative) linear relationship between Social factors and Implementation of Sexual Offences Act, which was statistically significant ( $r = -0.279, n = 91, p < 0.01$ ), there was a moderate uphill (positive) linear relationship between Legal factors and Implementation of Sexual Offences Act, which was a statistically significant ( $r = 0.461, n = 91, p < 0.01$ ), finally that there was a moderate positive correlation between Political factors and Implementation of Sexual Offences Act, which was statistically significant ( $r = 0.500, n = 91, p < 0.01$ ). In conclusion the study results revealed that there is poor legal funding support for protection and assistance to government implementing agencies. The nature of relationship with individuals also interferes with normal procedures of implementing sexual offence Act. Further the level of bureaucracy at jurisdiction offices lie in the hands of the officers in judge. The study recommends that the government should lower the rates of taxes on general income of workers as well as increase remuneration so as to curb the problem of temptation on bribing advocates. The study recommends to the county governments to increase access of services at the local set up by building more legal structures of jurisdiction at the constituency level. The study suggests further research to be done on the evaluation of social challenges influencing performance of judicial offices on implementation of sexual offences Act.

## **CHAPTER ONE**

### **INTRODUCTION**

#### **1.1 Background of the study**

Globally, in March 2014 during the 58<sup>th</sup> session during conference held addressing the women status, the agreed conclusions called to ensure elimination of all forms of sexual offences covering a wider scope of private and public spaces, it employed a unified approach to come up with mitigation measures in solving offences directed to women and girls by employing suitable diligence and knowledge to identify, investigate and prosecute prosecutors (Alder, 2014).

Sexual offences against most women and girls remains a key focus of concern that the women's rights movement wants it integrated in 2015 post Development Agenda during the specified period that the Millennium Development Goals are ending, and a new development framework is rewritten. The world over is facing numerous challenges of dealing with Sexual offences in this light many non-Governmental Organizations and the different governments have initiated programmes to fight against vices in the society that dims other lives (Lawoti, 2005).

It is reported that in Wales and England the management and supervision of sex offenders to be the main goal and focus to be looked upon. Historically sexual offence has been known and it is not a new agenda. More attention is given by the world in solving sexual offences a part of the contemporary problem facing nations (Zack, 2016).

Historically sexual offences were associated with old lonely people who were targeting small children on the street corners. The rise of new millennium saw the rise of sexual offenders in

with predatory instincts to fulfill their own urge and appetites. The sexual offenders were smartly dressed, related to the victim, intelligent and would be capable of concealing evidences by killing victims. It is during this period that it led to predatory gang's targeting vulnerable teenaged girls. Another emergence in the year 1980 was child sexual exploitation through celebrities' status, where children were molested sexually in open videos and nothing was executed to prevent that. This was then regarded as celebrity predator. Several cases, convictions and allegations led to more several cases leading to a push leading to sexual offence brought forward (Thomas, 2015).

The international media has taken a leading role in providing awareness to the public on sexual offenders and offences. There is positive contribution if media advocates for legislative agenda to tackle sexual related offences. Public awareness creates a watchdog in which individuals become aggressive and offensive towards such vices committed in the community. Cases have been reported where the public have taken law on their hands regarded a case that was highlighted by the media. In addition cases have been expedited in scenarios where media has highlighted (Budd, 2011).

In Africa, Sexual offences remain a challenge because the culture of offence is part of a bigger culture of crime protected by police and the justice system. Offence perpetuated by the mighty and uniformed forces is protected and there is no justice for the victims especially at the family level. African countries, in the Strengthening African Women's Voices in Post-2015 meeting organized in Kampala to discuss the Africa We Want in the Post-2015 Development Agenda put emphasis on the significance of ensuring that any kind of aggression against women and girls is not tolerated. In South Africa, mitigation schemes have been put in place in schools to help tackle these issues of rights abuse within the school compounds. The presence of a police officer

within the school compound was mooted. This was noted would help come up with sustainable remedies that can be adopted using a cop programme for managing schools (Mncube, 2014).

A sexual offence is regarded to be the major contributor to HIV infections in Lesotho among women. Statistics from the country have shown that about 86% of the women have faced gender related violence. The greatest predominant form of sexual offences is IPV. It is regretful that cases of IPV are continuing and remain unreported. Only a significant number of 2-3% seek medical interventions or report to the police for help. Statistics have shown Lesotho is having a high number of rapes occurring annually it is estimated that 92 of about 100000 peoples are victims of rape. Further it shows that 35% of the victims are married women raped. Much is not do in terms of reporting or interventions although it is the main cause of HIV new infections (Sartorius, 2013).

In Zambia, sexual offences are rampant. The government is obligated to tackle the high number of sexual offences occurring in the country. Health survey report conducted in Zambia on its demographics found that nearly 47% of all the women are victims of sexual physical offence since their junior years by either their husbands, former or current boyfriends. One in five (20%) Zambian women must encountered sexual offence in their lifespan by a present-day, former partner or spouse or fiancé. Midst girls younger than age 15, the sexual offence transpired 19% by a comparative; 6% by a personal colleague; and 10% by the girl's friend. Virtually half (47%) of the girls who faced physical or sexual exploitation did not seek out help or communicate to anyone about their ill-treatment (Parkes, 2013).

Further the levels of sexual offences still continue be a worry. Regardless of the enactment of a number of gender regulations and policies, for example the Domestic Offence Act of 2007,

women and girls in Zimbabwe, remain to be the fatalities in 99% of sexual offences belongings. In reference to Zimbabwe Demographic and Health Survey in 2010-11, 42% of women have one or the other knowledgeable physical, emotional, or sexual offence (or both) at certain opinion in their be in this world. 30% of women aged 15-49 be necessary been exposed to bodily misdemeanor subsequently at the age of 15. It is reported that most common offender of physical violence to women are former partners or husbands. A substantial number of women approximated at 22% stated that their first sexual intercourse was done forcefully and was against their will. Mashiri (2013) reports that women who have faced physical sexual molestations have only sought help from families, in-laws, neighbors and friends.

In the year 2010 an agency Gender Links (GL) together with Mauritius Research Council did a study to establish gender related violence among women in Mauritius. Sexual Offences Indicators Research Reforms reported major reforms in management of reforms stated that 24% of women have experienced physical sexual molestations. It is reported that 23% of men have admitted to have committed physical offences once in their life time (GL, 2010). It estimated that 3% of Mauritian women have reported to have faced sexual violence over the period (GL, 2010). The findings have shown the country to have the highest levels of sexual crimes in SADC region. There are a number of contributing factors that have been linked with physical sexual violence in Africa which is similar in manifestation. Africa is faced with several challenges in management of sexual related violence's which is deeply rooted with African customs and beliefs (Machisa, 2012).

In South Africa it established by the Human Rights Watch Report that many of the girls face substantial amount of sexual violence preventing them from accessing education. It is alarming to note that no careful measures are in place to manage or discourage students from attending



schools. South Africa government is thinking for better policies and measures that can be used to manage the various cases of women being sexually physically abused. Strict rules have been put in place to tackle the high rate of cases reported in police stations. Monitoring tools like CCTVs have been placed strategic in secluded places like toilets, and classrooms where they form potential Girls were being sexually abused in toilets or secluded classrooms in schools where there was no supervision (DePalma& Francis, 2014).

In Kenya, Federation of Women Lawyers, Kenya Chapter (FIDA–K) it is stated that 16,482 of rapes took place every year in Kenya. Some of these cases have remained unreported. Concerned persons have stated that about one case of rape is reported per hour. The agency FIDA mentioned it has processed about 521 brought forward so far across the country. A conference titled elimination of gender related violence was conducted which outlined 5<sup>th</sup> and 6<sup>th</sup> reports on various forms of gender violence facing women. It is reported that about 1675 out of 2000 of cases of gender violence occurred in the year 2004. Since then the civil society and NGO have heightened their approach in tackling the problem. Nairobi women’s hospital (NWH) has been a key central place hosting victims from sexual abuse and physical violence. Police reporting desks have been created that are used to collect information regarding gender violence. It has emerged to become one of the leading hospitals in managing sexual related violence in Kenya. Sexual related offences especially in slums areas have seen suspects being beaten up or lynching. The consequences of public taking law on thee hands led to the need to have an act that governs violence and sexual related cases. Management of fundamental rights of the citizens has made Kenya to develop acts that directly manage sexual abuses in Kenya. The increasing number of sexual abuses makes the country to focus on developing and implementing tougher measures to manage sexual abuses in the country (Truth, 2013).

The trend proves an influx of reported defilement cases yet many more are unreported. The under reporting of sexual violations can be explained in many ways. The World Health Organization (WHO) attributes the non-reporting emanating from fear, lack of confidence and ridicule coming from the police, health workers and investigators. A study report done by crusaders of human rights quarters leading to cultural inhibitions, stigma among victims, and lack of substantial prosecutions showed that such factors have contributed significantly in managing sexual abuses. Other unreported cases that lack proper management is when cases are closely related to friends, neighbors, close families, and relatives (Kara, 2013).

Best remedy and justice to the victims can be advocated if only proper awareness programs are created that increase confidence among the police, health workers, and investigators. Cases reported to Gender Offence and Recovery Centre (GVRC) have also shown an increase largely due to advocacy of the centre for victims to seek medical help (Kara, 2013).

One notable finding is that gender and cultural biasness is directly manifested by some of the judicial and police officers handling sex abuse cases in Kenya. In most cases the enforcing agents look for simple and lighter remedies in order to bring mutual understanding between parties involved in the case. The quick remedy response has led to suspects and offenders released back to the society to continue with their vice or to precipitate more occurrence of the case. It is a bad methodology for solving problems where offenders are protected from justice or get away from prosecution (Hornbeck, 2006). According to the Sexual Offences Act formulated opines that once a sexual crime is filed no withdrawal can take place completely. It is only the Attorney General who is given the powers to put off a case or decide on the same. There are certain instances where corruption has overtaken justice system some of the police officers, prosecutors, and judicial staff frustrate such cases from not happening. Cases have been reported

where enforcers of the sexual act have frustrated the justice system for the victims and cases remain unanswered. Some of these actions are deliberate but others are mistakes that happen. A different approach and trainings need to be developed that will encourage more understanding of the law and remove biasness created by religious and society which is still inherent with minds of several legal enforcers.

## **1.2 Statement of the problem**

During the past decade, levels and number of sexual offences in Kenya have risen significantly although a tougher law was implemented replacing the infective penal code which existed. Statistics released by a taskforce agency of sexual offences act execution in 2014 showed that sexual offences in the country have gone up by 22 percent since 2013 with one in every five women sexually abused.

Gender Violence Recovery Centre (GVRC) located at the Nairobi Women's Hospital reported about 2762 cases to have occurred between April 2013 and March 2014, about 2,762 cases of sexual and physical offences were recorded from its four branches. Furthermore, statistics from the Moi Teaching and Referral Hospital indicate that there has been an increase in the number of sexual offences victims at the Centre for Assault Recovery of Eldoret (CAR-E) from 250 cases reported in 2007 to over 900 in 2010 (Abdi, 2016). TFSSOA identified various challenges that hindered implementation of the SOA which included insufficient awareness among victims and communities regarding the law itself, chilling effects of stigma around sexual offences and sector challenges. However, the report did not look at other factors that could influence implementation of the SOA. It is therefore imperative to further analyze the extent to which the law on sexual offences is implemented by the institutions mandated to do so to find more effective ways of reducing sexual offences in Kenya. This research study intends therefore to determine factors

influencing implementation of the Sexual Offences Act in Ainabkoi Sub-County which previous reports did not cover.

### **1.3 Purpose of the study**

The purpose of the study was to determine the structural factors influencing implementation of the Sexual Offences Act in Ainabkoi Sub-County.

### **1.4 Research objectives**

The study was guided by the following research objectives:

- i. To find out how economic factors influence implementation of sexual offences Act in Ainabkoi sub-county
- ii. To establish how social factors influence implementation of sexual offences Act in Ainabkoi sub-county
- iii. To establish how legal factors influence implementation of sexual offences Act in Ainabkoi sub-county
- iv. To find out how political factors influence implementation of sexual offences Act in Ainabkoi sub-county

### **1.5 Research questions**

The study was guided by the following research questions:

- i. How do economic factors influence implementation of sexual offences Act in Ainabkoi Sub-county?
- ii. How do social factors influence implementation of sexual offences Act in Ainabkoi Sub-county?

- iii. How do legal factors influence implementation of sexual offences Act in Ainabkoi sub-county?
- iv. Do what extend political factors influence implementation of sexual offences Act in Ainabkoi sub-county?

### **1.6 Significance of the study**

The study is hoped to be helpful in Ainabkoi Sub-County since it provided information on implementation of sexual offences Act. These residents got to know how they had to handle cases of sexual offences in collaboration with key implementers in order to reduce the cases of sexual offences and protection of every individual right.

Scholars with the aim of learning more on sexual offences will find thee secondary data useful. Researchers interested in sexual offences will find the study a useful literature for reference, thus ensure reliable additional body of knowledge on the aspect of sexual offences prevention.

Moreover, the study findings were of great significance to the government as they had relevant information to be used in implementation of sexual offences Act to cut on the cases of sexual offence.

The direct beneficiaries of this study include the victims of sexual offences who in most cases are women and children due to their vulnerability also the urban poor, those living in the informal settlements and the rural communities who need to be assured of justice.

### **1.7 Delimitations of the study**

The current studied made insightful research on implementation of sexual offences Act in Ainabkoi sub-county. The study specifically looked addresses social, economic, legal and political factors contributing to implementation of sexual offence act. In addition the study did

focus on the institutions mandated on implementation of the sexual offences Act. The study targeted magistrates, prosecutors, police, children officers, medical practitioners and probation officers as the respondents.

### **1.8 Limitations**

There are several limitations that faced the study; first, the respondents were found to be too busy with their daily duties and had little time to respond to study questions. Also some of the respondents were hesitant to give information due to fear of victimization.

The researcher overcame all these by getting clear consent from the various respondents, and assurance was made to them that information presented was treated with utmost confidentiality, through prior communication to potential respondents and seeking of consent before the study is conducted.

### **1.9 Basic assumptions of the study**

The study was guided by assumptions that; that co-operations and reliability was to be upheld by all respondents in which the study was to encounter. The respondents provided relevant information to the researcher. Further, the findings can be used for policy recommendation in the whole country.

### **1.10 Definition of significant terms used in the Study**

**Economic factors:** Economic factors are variables within the economy which impact on the way a business operates (Chang, 2000).

**Implementation:** Implementation refers to putting of an Act into compliance, fulfillment or effect (Komori, 2016).

**Sexual Offences Act:** It is an act passed by the parliament aimed at preventing and providing remedies for any sexual offence committed. It provides a framework to guide sexual offences in the country of Kenya.

**Social factors:** Refers to local and international behaviors, lifestyles and beliefs manifested by communities and persons (Seyfang, 2005).

**Legal factors:** They represent rules and regulations that provide remedies and decisions for actions committed against public or private order (Baginski, 2002).

**Political factors:** They represent administrative and substantive procedures that provide framework for civil to follow and make valuable decisions that would change a society. In addition it represents conditions in which individuals can live and depend upon (Hula, 1999).

### **1.11 Organization of the study**

The current study is divided into five sections discussed systematically. Chapter one is the introduction of the study that discusses parts like background to the study, statement of the problem, purpose, research objectives, research questions, significance of the study, limitations and delimitations of the study. Chapter two discusses the literature review based on the themes of the study with conceptual framework and research gaps of the study. Chapter three is the methodology of the study defining how the study was conducted. It consists of research design, target populations, sample size and sampling procedure, methods of collecting data, procedure of collecting and analyzing data. Chapter four discusses findings presented and interpreted based on the theme of the study. Chapter five outlines summary, conclusion, recommendations and suggestions for further studies.

## **CHAPTER TWO**

### **LITERATURE REVIEW**

#### **2.0. Introduction**

This chapter presents the literature review on Factors influencing implementation of the Sexual Offences Act. The literature is based on secondary sources of the data which discusses theoretical and empirical studies that are useful in explaining relationship of the study variables. In addition it conceptually illustrates the key variables of the study and mentioning the knowledge gap.

#### **2.1. Conceptual review**

##### **2.1.1 Sexual offences Act**

The Sexual Offences Act (SOA) is an example of Act of parliament which was passed on the 4<sup>th</sup> July, 2006 and became operational on 21<sup>st</sup> July 2006. The Act defines sexual offences and provides for ways to prevent and protect all people from harm from unlawful sexual Acts. The SOA's legislative history was guided by the outcry in the society over impunity with which sexual offences before 2006 were being handled by the enforcement mechanism. There were minimal successful prosecutions due to hindrances in the evidence tendering processes. In an effort to stem the rise in the sexual offences, the motion for the sexual offences bill was introduced by Hon Njoki Ndung'u. Though the bill sought to deal with a serious national problem then, it faced stiff opposition from a majority of the male members of parliament due to various reasons. There are several factors contributing to barriers towards implementation of the act it include ignorance of the law, negative social attitudes, controls from the male who are the dominant (Kara, 2012).



The act precisely these undertones that overwhelmed parliamentary debates that must critically be examined to see whether as they undermined the passage of the bill then, they still undermine the implementation of the Act making it less effective in its intended purpose. The SOA under the convention of children rights defines a child to be those under 18 years. This is consistent with the Convention of the Rights of the Child which defines a child as such. The Act in its bid to protect children has also deemed victims as vulnerable and thus requires the court to handle the victims with sensitivity to facilitate access to justice. The Act further provides for the offence of attempted defilement and provides for a minimum sentence of 10 years (Kara, 2012).

### **2.1.2 Implementation of the Sexual Offences Act**

The past years have seen the members of public and other leading stakeholders like the civil society, lawyers, and legislator's making criticism on how the sexual offence is being implemented. Rising cases of sexual offences have been reported over the years but no sufficient remedies have been put in place and the judiciary has been reported to be lenient. Consequences of such occurrence have seen the civil societies requesting for reforms to be conducted. The enactment of the sexual offence act in 2006 saw a replacement of an effective penal code that was in place since 1930. Complications and high stakes led to inadequacy and ineffectiveness of the penal code that was formulated. An example of how ineffective the penal code was is in reference to rape in which it referred to it has moral offence but in real sense it is a criminal offence against individuals. The public uproar led to the need to have a unified policies and legislations that would deal with sexual offences in the country (Mair, 2003).

The federations of women lawyers under the umbrella FIDA-K did a study and established a total of 16482 rapes occur every year. Some of the cases did remain unreported to the relevant authorities. The statistics illustrates one raping occurring after every hour. During the period the

agency was able to handle about 521 cases filled. The findings was supported by the study by 5<sup>th</sup> and 6<sup>th</sup> convention focusing on eliminating all form of discrimination against women that outline statistics that cases of rape had rope from a huge significant number of 1675 to a value of 2000 increasing to about 2908 in the year 2004 (Kenya, O. C. I., 2013).

Emergence of the case led the civil society and government as a result of these trends the government and civil society responded in various ways. The Police established specific help desks within police stations where victims of sexual offence can report the crimes freely while the Nairobi Women's Hospital (NWH) was established as a primary and referral hospital for victims of sexual offence. However, in a number of cases the public responded in extra-judicial ways such as lynching (Bond, 2011).

This was a clear indication that major improvements in the existing legal framework were long overdue. The problem of the increasing numbers of reported sexual abuse cases in Kenya as indicated above needed urgent action which came by way of a new law, the SOA.

## **2.2. Empirical review**

Sexual based offence refers to all forms of Sexual offences on women, men, girls and boys. It is manifested in different dimensions which include sexual assault, physical assault, rape and forced marriages. In addition it can take the form of emotional, psychological abuses and segregation of gender. It can also be contextualized to include sexual exploitation/abuse, domestic offence/intimate partner offence and harmful traditional practices. Women internationally are the victims of offence rooted in patriarchy and its underlying assumption of the subjugation of women.

However these cannot be implemented and enforced before issues of the cultural beliefs and traditional practices have brought inequality in the society which makes it difficult to solve the gender problem. Capacity building and awareness need to be set up among the masculine gender in order for them to take a lead in fighting sexual violence and other related offences. The approach is different by looking at the issue of sexual gender in totality representing victims and victimizers. They need to be mutually integrated in a solution seeking endeavor to bring a unified solution of the problem. Men and women in community need to form part of the solution by raising warning signs and conflict management solutions. The implementation of the approach will require support from other stakeholders either financially or emotionally. Values and norms in the society are the ones making the like look inferior thus killing their self-esteem and worth compared to the boy child creating a foundation of injustice. There is critical need to make perpetrators of sexual offences accountable for their actions by persecuting them effectively (Kariuki, 2014).

Several agencies like women networks and civil societies need to be profiled to provide advocacy role in tackling the sexual offences, it is known that they agencies take a major role in fighting and safeguarding the rights of the victims or survivors. Implementation of sexual violence act requires a wider approach including strengthening local mechanisms and facilitating independency of judiciary to solve disputes related to the problem in a sustainable manner. In schools there is need to promote a gender based curriculum, the police need trainings, youth need sensitizing in order to have a unified approach to solve the problem. Example of a general solution to the problem was outlined by the African Union that involved use of gender parity principle that was adopted and enforced in 2002. The principle was to be applied by the African

states especially AU members and it is hoped be fully implemented and reflected in the UNSCR 1325 (Nhamo, 2016).

After the post 2015 development agenda all the African states reinstated the need to tackle all kind of offences related to sexual violence. It was established that the African Union Agenda by the end of 2063 will be committed in creating and building a peaceful Africa and prosperous country by making emphasis on youth and women development within the continent. It also ensured that women are provided with equal opportunities and same treatments like the male counterparts (Swart, 2014).

UNAMID has a very comprehensive Sexual based offence response strategy but it is more or less on paper. Sexual offences continue on the ground usually form citizens that wear uniforms as research found out in the case of Somalia. In Darfur area there is a lot of stigmatization attached to any Acts of sexual offence and many victims do not speak out after the ordeal due to norms and values of the cultural aspects in the region. Another factor reinforcing this heinous crime is the fact that for a rape victim to be heard there has to be at least four witnesses. This is really difficult because in the case of women, the sexual abuse happens whilst they are out of the homesteads undertaking their daily chores. Most of the times, in secluded areas such as the bushes where they go to look for firewood or even in their small farms as they try to eke a living for their families. To make matters worse is the fact that the victims are excommunicated from the homesteads where they are prone to undergo the same vice over and over again.

Reports from Somalia have shown that a significant number of women and girls have been displaced due to severity of famine and conflict. It is difficult to ascertain the number of sexual violence that women have faced ever since but it is estimated to be big and unreported. In other

picture the women have to fond by their families and are then exposed to abusive and exploitative situations (Gardner, 2004).

### **2.2.1 Economic factors that influence implementation of the Sexual Offences Act**

Economic factors relate to income and livelihoods of individuals or community. The economic factors define how the community is supporting its daily needs and lives. Henning (2001) defines economic factors to be those activities that a community or individuals utilize to make their lives fruitful or get daily bread. Economic factors are closely linked with implementation of the sexual offence act both negatively and positively (Schroeder, 2001). More sexual offences are reported in poverty infested regions or where economic activities are low.

Economic resources like funding is required in implementing the sexual offence act by necessitating the legislative procedure and collection of required statistical data on the problem. Economic resources are valuable in providing supporting services to the victims for example provision of counseling, shelter and treatments by coming up with rape crisis centers and complain collection centers. Part of the member states AU declarations is that member states need to institute financial aid for sexual victims to assist in legal and medication of victims. In addition the fund would support advocacy initiatives that discourage sexual related violence within the country. All member states would be responsible in developing development and reconstruction through a special kitty that provide solution to the problem. The aim of the kitty is to aid in implementation of sexual offence act and provide supporting initiatives like counseling, medical, treatments to survivors or victims of the stated violence. In other cases the kitty will facilitate rehabilitation process of gender sexual related violence victims (Buneiet *al.*, 2013).

Lower economic status of individuals and communities is also an indication of harsh economic situations existing which contribute significantly to higher crime rates. Economists and sociologists have reported that economic hardships have led individuals to fend for basic needs using illegitimate processes. Policy makers argue that any reduction of crime in society can be reduced using economic related programs and initiatives that stimulate thinking of individuals positively out of crime. Lack of economic opportunities is the biggest threat in managing sexual related offences among several households and communities (Herzog, 2005).

The lower economic status has created idleness among individuals which have led to stressful outcomes making individuals turn to be sexual offenders. There is positive relationship between crime levels and poverty levels. If one increases it consequently leads to another increasing significantly. Economic challenges compounded with other factors like education and lack of employments have contributed to unstable families and lack of morals among individuals in a community. Life in slums and ghettos are clear indication of how economic challenges compounded with other factors have contributed to sexual offences in societies. Poverty levels have become a major hindrance for the poor to seek opportunities or obtain sustainable solutions to their problems. Eventually poor individuals lack confidence with existing systems and legislations making them prone to crimes. The social problems faced by the poor render them unprepared to take advantage of employment opportunities even in tight labour markets (Rosenfeld, 2013).

Statistical estimations around the world have shown that poor communities and societies have the highest sexual related crime rates reported. Lack of equity and unfair representation makes the poor to participate in negative ways either to punish the rest of the society or feel satisfied. Income inequality is the main contributing agent to crime levels in societies in several countries.

It has also proven the significantly the positive correlation existing between crime incidences and poverty levels in communities. Policies that promote economic development and growth in countries have justified slower rates of crimes in communities. It has brought sustainable measures and solutions in solving gender related violence and sexual offences. As per economists and sociologists crime levels indicators include use of income distribution and change in income levels. The more probable remedy is to employ economic related policies that will help in poverty reduction in respective communities (Fajnzyber, 2002).

The more does economic exploitation is taking place the like hood that those working will feel insecure and discontented. The consequences of the discontenting are individual challenging validity and relevancy of state policies formulated. Marx supports the argument that if cognition theories are employed individuals will form part of contestation by forming their own class levels. Marx opines that effective solutions should cover policies related to capitalization and distribution of resources in an equitable manner. Marx aids in his argument by linking crime and inequality created by crime levels in societies. Capitalism have contributed directly to laziness and communal affair in which the upper class have remained on top not minding those at lower levels creating more crime levels occurring at lower levels (Rosenfeld, 2013).

### **2.2.2 Social factors that influence implementation of the sexual offences Act**

Social factors like beliefs, cultural beliefs, gender superiority and inferiority have contributed to sexual violence and assault. In societies where the male are dominating is contributing to a higher percentage of sexual violence to the women regarded to be the inferior ones. Societies see marriage to be the causal effect to some of the sexual problems facing them. It is because women were seen to be sex tools in which they were not allowed to go against the wishes of the men. It

is reported that women in some societies have limited powers to prevent or stop issues related to sexual advances (Syombua, 2014).

Majority of the Kenyan citizens live in low income areas and rural areas where they face concentrated problem which has become a social problem. The media is in the forefront in tackling issues related to poverty and homelessness among the communities. Lack of basic properties makes the communities not to support their general livelihood (Mashego, 2015). Women found in poverty infested localities are suffering from lack of health, education, nutritive values and clothing's which contributes them to be prone to any courtesy provided by the men thus contributing sexual assaults (Misturelli, 2010). The poverty index in the world of less than one dollar is estimated to be 1.3 million people. Communities are deprived from critical opportunities and critical services if they are excluded by ethnicity, gender, disability and feel isolated (Misturelli, 2008).

Protagonists argue that sexual assault is a behavior based criteria that originates from social conditions that is brought by different norms, rules, cultural practices and attitudes. Offenders are brought up with such behaviors that it becomes difficult to distance with different conditions in a broader social system. No cultural traditions and behaviors are there to prevent sexual violence among the adults and male gender. Studies have proven a relationship between pattern of violence and society norms and cultures. The society encourages male aggressiveness in sexual matters in order to get wives and be the head of the families. The male dominance in society has contributed to female and economic empowerment and leads to higher sexual inclusion and separations.



The beliefs and cultures of communities and tribes have created a negative approach to tackle issues related to rape in majority of the countries. In US in the year 2003 in Air force academy it was reported a significant number of female graduates about 12% had suffered from sexual related violence or were prone to sexual abuses. Interviews conducted by researchers and investigators found that it was an in house problem that the male were too aggressive and hostile to the female gender leading to sexual assaults and abuses in which the female gender had to bear it silently and remain unreported.

Three years after the Sexual Offences Act (2010) came into effect and over a year after amendments were made to the Act, the National Task Force for the prevention of sexual offences and the sexual offences unit mandated under the law, are yet to become a reality. This denies victims of sexual crimes the all-encompassing assistance envisioned by what some have described as revolutionary legislation (Syombua, 2014).

Many in civil society who work with victims of sexual crimes and campaign on their behalf, have found this situation disappointing and have been calling on the government and more so the Ministry of Human Services & Social Security to ensure that these two crucial aspects of the law are not only paraded as examples of advanced legislation, but actually become reality and benefit the victims. The lack of implementation of the Sexual Offences Act has been very, very disappointing to many of us who worked really hard on all aspects of getting that Several activities are faced with uphill task of implementing the sexual offence act due to rigid communities cultures and norms a women rights activist Danuta Radzik told a certain newspaper in a interview (Palermo, 2007).

Details of CPS guidelines shows that for any prosecution to take place certain aspects are taken in considerations for examples the ages of the parties, relationship, consent, exploitation, seduction, and emotional maturity must be considered. They form critical ingredients for any prosecutions to take place and different changes have to be considered in order to come up with valuable considerations. If there is contradiction of some of the ingredients mentioned prosecutors and investigators find a challenge in deciding the appropriate steps to take. CPS guidelines outlining several social factors are also a negative contributor in implementing the sexual offence act (Njehu, 2015).

Kadish (2016) argues that if only prosecutions and substantive laws are only focused it will be difficult to solve a social problem. Social problems requires suitable integrative solutions that factors social approach and involvement of the communities in managing problems directly affecting them. As per the litigation process the law will facilitate the process only if the defendant plea is considered or it is maintained. Counseling need to take place in several occasions in that young offenders are given space to correct themselves this will avoid discrimination and stigmatization of the young offenders. Offenders and rehabilitated sexual offenders need counseling services or else they will find themselves returning back to the previous behavior (Krug, 2011).

The 2003 act did actually criminalize certain types of sexual offences mainly affecting small children. It therefore focuses on young victims forgetting that adults can also form part of the victims. Therefore the 2003 act need to be overlooked in order to develop a different approach in managing the problem of sexual related violence and abuses. In any judgment involving adults it is difficult to context the problem because adults the need for consent need to be considered and other related environmental factors. There several cases in which offenders have gone free due to

the issue of consent which throws out the litigation process. Cases of adults become a bigger problem that cannot be solved and involving several dynamics and intention to sexual offences is ignored in several litigation processes which in long run becomes a bigger problem in communities. If prosecutions of intention to sexual violence and offences are conducted it will eliminate repetitive sexual offences due to fear of prosecutions (Vigil, 2010).

Another factor that is a social problem is corruption which is rooted in many communities it negatively affect implementation of the sexual offence act. Several countries are affected by corruption in prosecuting offenders of sexual violence abuses and offences. Individuals use corruption as a means of evading justice from sexual offences committed. Those given the duty to implement the sexual offence act find themselves in corrupt scenario leading to evasion of justice of the offenders. Traditional systems in African heritage through soft corruption contribute to injustice of sexual related violence or abuses in several communities. The village elders and local chiefs are bribed by offenders with few properties or monetary gifts thus declaring remedy to what could have been a criminal offence prosecuted by the state (Mabille, 2006).

Corrupt menace as also affected the litigation process by subduing evidences to prosecute offenders. There are several parties in the process of the litigation process from the police, doctors to the judges. If one of the parties to the litigation process is compromised it throws out the entire process of prosecuting sexual related offenders. Corruption on the other as seen innocent individuals prosecuted illegally thus is undermining the motivation of implementing the sexual offence act. Corruptions makes the individuals motivated with ill feelings to directly decide to wrongly provide falsely evidence on sexual offences in order to have one locked on a criminal offence. Sexual offenders or suspects are locked out for sometimes as they keep fighting

for their innocence and truth suffering if innocent. The sexual offence act needs to be implemented in a way that several factors to be considered to avoid the corrupt on the process. Proper mechanisms need be considered that will enable management of offenders of sexual violence through corruptions prosecuted over their consequences (Rider, 2007).

### **2.2.3 Legal factors that influence implementation of the sexual offences Act**

Implementation of sexual offences is a major legal problem worldwide. In pacific new dimension of litigation process is being followed where feminist advocacy and human right lawyers are used in court systems to prosecute cases of gender sexual violence and offences relatively than over legislative transformation. Even though this is extreme from perfect, as pattern can be inverted by superior courts, it is legal crusading, and not legislative transformation, which has stood the maximum triumph in cultivating the legal protections that woman and girls have faced (Harris, 2015).

In demand to ensure a claim for sexual offences, the volume of reparations will have to be measureable. The types of damages which one can predict a sexually hassles woman misery are psychological trauma or even bodily reparation caused by violent pimps or connected with overuse of their bodies for sexual facilities, for example pelvic inflammatory disease or incompetence to convey a foetus to tenure. Conversely it may be very tough to demonstrate causation in sexual offence cases anywhere the raped person is requesting against a specific victim. The costs complicated with mission expert witnesses, like psychologists for example, to attest psychological trauma, may also be one more heckler. These costs, united with the other expenses connected with litigation, may concentrate this remedy out of influence for numerous sexually harassed societies (Clark, 2014).

In litigation process it is reported that sexual violence and abuse evidence is stored in police department for a longer period without tests being conducted which may tamper with quality of the evidence. It forms part of CODIS records instead of it being treated as evidence of DNA criminal sample. The slow process of handling evidences by the police makes individuals to lose confidence with the litigation process. Legal cases backlog is another contributor of negative implementation of sexual offence act. There are several cases that have piled up that need urgent attention to see them off. Victims are delayed from getting justice and offenders too suffer due to slow litigation process. Several states are crumbling with the problem and looking for sustainable problem to reduce backlogs of cases (Cusack, 2015).

Sexual Assault Forensic Evidence (SAFE) kit was study conducted in Kentucky that found for metrics is litigation process this include procedure, funding, victim notification and collaborations. The SAFE kit has been useful method in managing the backlog of cases in the country. The methodology has been effective in tackling backlog cases that need agent attentions like criminal cases related to sexual offences. The positives of the kit have seen several countries adopting the methodology in its litigation process. The evidence of the SAFE kit methodology is a good example of how litigation process can affect implementation of an act in judiciary system (Lewis, 2015).

In Kenya the law society and commission recommends victim and witness protection in order to safeguard evidence and comprise of sexual related offences. Judges and prosecutors are taking a wider scope in which they ensure that complete cases with full investigations have been conducted to ensure the cases moves to the next step. In safeguarding cases involving minors the judiciary takes a major role in protection and safeguarding child rights molested through sexual acts. The court can give a remedy to stop any publication of images of the children through

media to protect their identity and encourage sustainable healing process. Several contributions have been advanced in the act to allow victims with disabilities or underage to be represented with able persons during the prosecution process. Several reviews are in place to ensure that sustain justice is implemented and criminal offences related to sexual acts are taken with a unique approach and methodology (Decker, 2017).

The federal government has operated with the outlying areas and zones to create numerous victim-related reorganizations to the law in contemporary years. This piece reflects current defenses for victims in light of the Law Commission's endorsements, and defines creativities that are designed at cultivating the understandings of victims in the criminal justice development. Victims at this time profit from a number of defensive dealings inside the criminal justice progression. For instance, the route of providing witness has stood complete at ease, victims' safety is well-thought-out in bail verdicts, and victims are permitted to defer to victim impact accounts at the time of punishing. Other actions that reflect the victim's wants contained by the criminal development which has improved evidence about this method, and sensitizing the judiciary about the desires of victims (Fattah, 2016).

#### **2.2.4 Political factors that influencing implementation of the sexual offences Act**

According to philosophies postulated by Devlin's and Mill's; Devlin's theories may be more popular than Mill's. Mill's stand was that immorality as such is that the only resolution for which authority can lawfully be applied over any adherent of a refined community contrary to their will is to avert damage to others. In his own way, Professor Hart endeavors to justify this principle and rebuke Lord Devlin's theory that morality should be envisaged in a positive way (Wacks, 2017).

Political context to the implementation of the sexual offences Act are involved in the implementation, in edging the projects for alteration, in determining whether or not to instrument the recommendations and influential the final form which the law would takings in statute. In the event of the sexual offences modifications, politics in this sense was complicated at all these stages, and it is dreadful to recognize how we now ought to the law in the form it is wanting being conscious of these administrative factors. Many law activists are cautious of these political encouragements. Law Commissions employ significant time and hard work in sounding any reforms finished to accomplishment. Yet, often sufficient, the strength and purity of their projects for restructuring are frequently watered dejected in the politically aware procedure of the passage of an applying bill in the Scottish or UK Parliament. Inferior still, the Government, whether in Holyrood or Westminster, might resolve counter to legislative enactment of the endorsements of an entire reform, repeatedly but not all the time, because it do in advance a hostile political rejoinder to any instigating bill (Maher, 2013).

The two main sources of reforms for the Commission are items which are part of its own programme of law reform and topics which are referred to it directly by the Government. These references usually involve a relatively short timetable, and if taken on by the Commission will be given priority over programme items. References are not at all infrequent and can be made for various reasons but it was obvious that in the present case a political dimension had been set by the media coverage. The Commission would have been rightly wary of taking on a reforms simply to get the Government out of political hot water but that was not how it saw the proposed reference (even though by kicking reform of the law on sexual offences out to the long grass of the Scottish Law Commission the Government might have bought itself some time and staved off some immediate political pressure). The Commission is very much aware that law on sexual

offences had profound social and political dimensions and that working on this topic would involve high-profile media interest. But these were hardly reasons for not taking on the reference. The Commission had in any case already identified this area of law as one which needed its attention during its consultation on its next programme of reform (Maher, 2013).

In Canada new mandatory standards for minimum sentences on sexual offences have been implemented and formulated, this is to ensure cases related sexual offences are taken in consideration. As one scholarly article recommends, legal process is effective in tackling more of the complicated cases and sentences related to sexual violence and abuses. Canadian government has set up stationery points in which quick responses can be addressed related to sexual violence. Politics takes a major role in formulating suitable legislations that can address individual needs and solutions. It is through politics that high regarded cases of sexual violence are expedited and prosecutions done immediately and victims of sexual violence arrested immediately (Doob, 2016).

The types of sentences in many countries have led to several problems that need to be addressed by the parties involved in a litigation process. Politics forms part of civilization process in which it can take a major role in advocating for better justice system and accountability from various implementing agencies. They can be a positive propeller of social justice by advocating for gender representation and vices against women in the society. There is need for the community to be aware of causes related to sexual abuse and this emanates from politicians openly speaking in open forums. Politicians in 1997 through the South African law reform agenda advocated for a goal oriented approach to make individuals aware of the gender related violence and discourage bad behaviors among individuals. Part of the agenda is to have politician formulate reactive rules and legislation that will give tough remedies on cases related to sexual violence and assaults in



the country. The adoption of minimum sentences by politicians have facilitated fewer sexual related offences termed to be minor discouraged in the country and providing a mitigating solution to the vices at earlier stages of sexual offences (Mallett, 2015).

Politics help in polarizing and creation of awareness of the nature of a vice leading to the members of the public seeking justice and requesting for tougher remedies to suspects found to have committed the offences. Although poor politics can also have negative consequences it can make the members of the public to take law in their own hands leading to mob justice which is against the rights of safeguarding suspects rights of being jailed once proven guilty. Slower processes led by infighting through politics results to dire consequences like prolonged litigation process, more costs in the process and delayed justice of the litigants. Political factors would positively or negatively contribute to increased tension among the parties involved in the litigation process thus creating hostilities between communities. Healing process in a litigation process involving families or communities need calmness and no animosity that can originate from politics (Garland, 2013).

## **2.3 Theoretical framework**

### **2.3.1 The Radical Feminists Theory on Crime**

Feminists believe that the society and necessarily the legal order is patriarchal. This creates unequal power relations between men, women and children in society thereby making the latter two to be discriminated against. These unequal power relations are not just in terms of economic or political sphere but equally in the sexual sphere. Women are socialized to believe that men should be in control even of their sexuality. According to Finkelhor and Russell, women are not expected to initiate sexual relations. Men are provided with expectations of managing and

ensuring that the litigation process of sexual offences is implemented successfully without any resistance from them. Women advocacy and other civil society argue that the system is dominated and controlled by men and according to Catherine MacKinnon; mentions that the clear difference between men and women in sexual related offences is who controls power and money in influencing the process. It is her view that feminists should concentrate on identifying dominance so that gender equality issues are clearly identified as issues of distribution of power which will then challenge male supremacy and female subordination (Lynch, Jewell, Golding & Kembel, 2017).

Feminists believe that in patriarchal cultures, sexuality is defined in terms of what is advantage to the others and which the appropriate mechanism to prevent aggressiveness and superiority of the male gender in managing sexual related offences. It is important for the various parties through the theory to understand and change their perspective on how to manage vices related to sexual related violence. The men should not look at women as sex objects to satisfy their own needs or think they are entitled to have compulsory sex cause of being their possessions. The perpetrators will have a sense of justification for their Acts. The offenders feel entitled to sexually abuse females since the society has inculcated in them that it is right to behave that way. Where a victim does not yield to their demands, they will use force and offence to conquer irrespective of the harm occasioned to the victim.

This theory is important to this research as radical feminists are committed to using the law to ensure that sexual offences cases need to critically examine cases related to sexual violence and avoid any leading consequence. This can only be achieved if the laws protecting men, women and children from sexual offences are rigorously implemented and enforced to avail the victims an opportunity to be heard and to get real justice.

### **2.3.2 The Rational Choice Theory of Crime**

The stated theory was opined by Finkelhor, (2009). The theory states that individuals are guided and motivated by their goals and expectations in which they highly prefer. The theory is guided by certain conditions in which individuals are expected to make choices rationally upon them. Bentham in consideration driving force human action concluded that by proper governance through pain, pleasure and sovereign masters. This is principle utility which shows that human beings will primarily decide on whether to obey or break the law depending on the fear of the consequences that arise out of noncompliance. Where the chances of facing a long jail term are real then, the expectation is that the person would reconsider before breaking the law (Das, 2009).

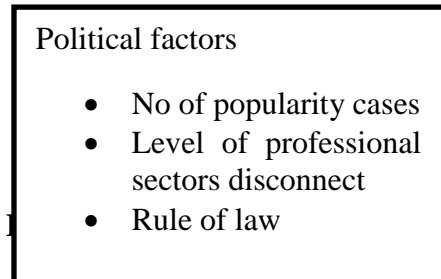
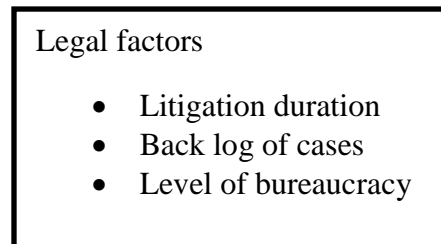
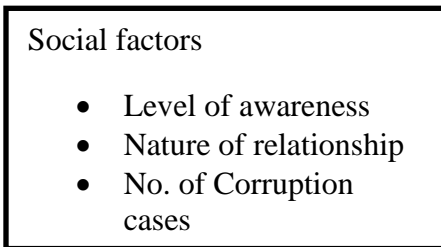
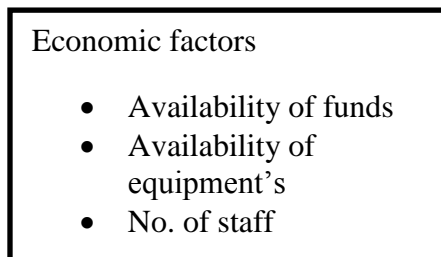
Humans and animal behaviors are related positively but can be determined by their respective behaviors which his manifested by other. Rationally people do certain activities that leads to the rewards or punishments that are encountered. People do those things that lead to rewards and they avoid whatever they are punished for. Through rewards and punishments it can lead to conditioning in determining human behavior in the work place. The theory focuses on the individuals committing the offence and decisions made before committing the crime. It posits that offending behaviour is purposive and the individual offender hopes to gain in the offence. Offenders have goals when they commit offences even though these goals may be short lived or account for only a few benefits of the offence and take into account just a few of the risks concerned.

Sexual offenders have their immediate goal as sexual gratification irrespective of the age of the person with whom the need is met. This gives perpetrators an opportunity to calculate the risk factor of the victim overcoming their approach as close to zero which then reduces their risk of

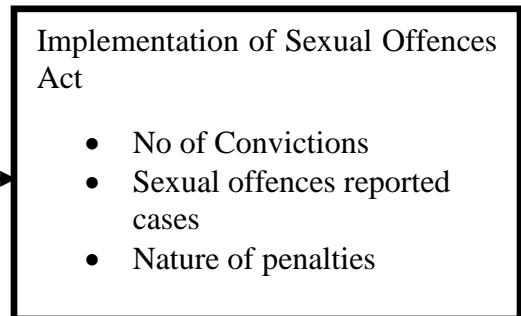
being caught. Their perceived minimization of being apprehended is heightened by their manipulation of the victim by threats and hence rarely do they attach much weight to the likely jail term in case of being arrested. This theory is relevant to this research as the primary approach to the Kenyan law in preventing sexual offences has been through enactment of deterrent laws and minimizing the discretion of the judicial officers in sentencing. The law however can only achieve its deterrence if it is properly implemented so as to afford a potential offender no chances of escaping without meeting the punishment outlined. Where the potential offender is assured that their chances of getting quick, effective and timely justice is real, then there would be a significant reduction in crime rate (Simon, 2010).

## 2.4 Conceptual framework

### Independent Variable



### Dependent Variable



## 2.5 Summary

This chapter outlines the relevant literature in reference to research questions outlined the research study. The chapter accrues that implementation of sexual offences Act undergoes a number of challenges that constrains and delays the process in relation to service delivery. Economic, social, legal and political factors are among the factors that contribute largely to poor implementation of sexual offences Act. The main challenges within the judicial system which delay timely implementation of the Act include prosecution challenges such as capacity gaps and

lack of witness protection; forensics challenges such as one government DNA laboratory for the entire country with poor equipment and backlog of evidence; judicial challenges such as capacity gaps and lack of standardized procedures and guidelines for handling sexual offences; prison and probation challenges such as lack of rehabilitative programs and prevention strategies such as database management.

## **2.6 Research gap**

A sexual offence is very common during conflict and post-conflict situations. Recent studies and analysis are pointing at the growing complexity form of sexual offences showing a shift away from simple rhetoric's. The scholars and interested parties creates an inclusion for the better conceptualizing sexual offence and the implementation of sexual offences Act that recognizes parties to the sexual violence act implementation process that include offenders, victims and offenders. Volatile situation and gross human rights violations demonstrates that, there is a need for constant monitoring and analysis of the situation (Wanjiru, 2014).

## **CHAPTER THREE**

### **RESEARCH METHODOLOGY**

#### **3.1 Introduction**

This section outlines the research methodology adopted for the study discussed systematically. Its coverage include research design, the target population, sample size and sampling procedure, data collection instruments, data collection procedures and data analysis.

#### **3.2 Research Design**

A descriptive survey design was used in conceptualization of the study methodology. According to Polit and Beck (2010) the research methodology provides the required knowledge though fact seeking. The design provides answers to the questions of who, what, when, where and how associated with certain research problem. It involved the process of measuring, classifying, analysis, comparing and interpreting of data.

#### **3.3 Target population**

Target population is units to be studied in the study, they are vital in achieving the set objectives (Kombo & Tromp, 2006). Target population representation includes medical practitioners, Magistrates, Prosecutors, Police officers, Children officers and Probation officers in Ainabkoi Sub-County. Therefore the study used 133 officers as the target population and 3 key informants.

**Table 3.1 Target population**

<b>Target population</b>	<b>Frequency</b>
Medical practitioners	40
Magistrates	10
Prosecutors	15
Police	52
Children officers	4
Probation officers	12
Key informants	3
<b>Total</b>	<b>136</b>

*Source Uasin Gishu County 2017 (Human Resource Department and Head of department registries)*

### **3.4 Sample size and sampling procedure**

Sample size is the actual size of the number of respondents to form part of the study observations representing the entire population (Busk & Marascuilo (2015)). The representation of the sample size is useful in making valuable deductions and inferences for the study (Shao, Wang & Lokhnygina, 2017). The study employed Fishers formulae in determining the target population that is below 10,000. Fishers (2014) are calculated as follows:

$$NF = \frac{384}{1 + \frac{384}{N}}$$

Where;

NF = Sample size (when the population is less than 10,000).384

n = Sample size (when the population is more than 10,000);

N = Population size; 133

Therefore the sample size for this survey was calculated as follows;

$$NF = \frac{384}{1 + (384/133)}$$



= 99

This study therefore sampled 99 respondents

The sampled size was represented in table 3.2 below:

**Table 3.1 proportionate sampling procedure**

<b>Population</b>	<b>Target population (f)</b>	<b>Sample size</b>
Medical practitioners	40	$(40/133*99) = 30$
Magistrates	10	$(10/133*99) = 7$
Prosecutors	15	$(15/133*99) = 11$
Police	52	$(52/133*99) = 39$
Children officers	4	$(3/133*99) = 3$
Probation officers	12	$(12/133*99) = 9$
Key informants	<b>3</b>	<b>3</b>
<b>Total</b>	<b>133 + 3 = 136</b>	<b>99 + 3 = 102</b>

*Source: Human Resource Department Uasin Gishu County (2017)*

This study employed random sampling method as a technique of probability method which was done according to various institutions (hospital, police station, court of law, probation department and department of children services). Simple Random Sampling technique was used to selected 99 officers in institution all officers had same characteristics and the probability of being chosen is equal.

### **3.5 Data Collection Instruments**

The research employed structured questionnaires in obtain data from key implementers of sexual offences Act which included; medical practitioners, magistrates, prosecutors, police, children officers and probation officers in Ainabkoi Sub-County. Closed ended questionnaires were administered to all the officers from various sections and departments while interview schedules were given to specifically 3 departmental heads within the scope of the study.

### **3.5.1 Pilot study**

The Pilot study was conducted in Kesses Sub-County to test the validity and reliability of the instruments. The study administered randomly 30 questionnaires to medical practitioners, police officers, prosecutors and probation officers and 3 interview schedules to the heads of various sections and departments key in implementing the sexual offences Act.

### **3.5.2 Tests for validity and reliability**

Reliability tests are used to measure the extent to which the research instruments would provide consistent results. Split half reliability method is employed determine the reliability of research instrument used in the study. In split-half reliability where two parts are created and both parties are tested independently and correlations is conducted to ascertain their association or relations. The scores if found to have a positive correlation value of  $p=0.7$  then the study will conclude that there is close relationship between variable and therefore the research instrument is reliable to continue with the study (Bush 2007). According to Mugenda & Mugenda (2003) validity is the extent to which the contents found in the research instrument will answer the required information's or requirements. The study did conduct content validity of the instruments by seeking expertise guidance from various individuals with the aid of the research supervisors scrutinizing and advising on the nature of the questions to be asked. During the answering process responses of 70% and above answered correctly did translate to validity of the instruments and allowed the study to continue further.

### **3.6 Data Collection Procedure**

The data collection began by seeking permission from the University of Nairobi for an introductory letter to facilitate research permit from National Commission for Science, Technology and Innovation (NACOSTI). Upon acquiring the research permit, the study used the

permit to seek permission from county department of children services, hospitals, police stations, county probation department and the law courts. The questionnaires were administered to the sampled respondents and were given instructions on how to respond to the questionnaires. Due to the busy schedule of the researcher, the drop and pick latter approach was employed by the researcher. The method was to facilitate the respondent's humble time in order to complete and fill the questionnaire without rushing. Follow up was done on each questionnaire to increase return rate and reduce lost questionnaires. Collected data was then stored safely ready for data analysis to be conducted.

### **3.7 Data Analysis**

Data collected were both qualitative and quantitative in nature. Quantitative data from the questionnaire were analyzed using descriptive statistics (percentages, frequencies) and were presented in form of frequency distribution tables. Inferential statistics of Pearson moment correlation was used to obtain the relationship between the study variables. From the correlation analysis a value:  $p=0$  -no correlation,  $p=0.5$ -average, above 0.7- there is close relations). Qualitative data from the questionnaires were analyzed qualitatively and presented in statement form. Report was therefore documented thereafter to present findings, recommendations and suggestions for further studies.

### **3.8 Ethical Considerations**

The study did ensure that ethical considerations is managed and maintained. The study did ensure that participants are voluntarily participating in the study. During the process the study did ensure that respondent's identity and privacy are maintained. Names of the respondents were not used for the study and they were keep secrets. Consent from the respondents was sought

before the actual data was done. The various institutions permission and authorization was sought before conducting the actual data collection process.

### 3.9 Operationalization of Variables

**Table 3.1: Operationalization of variables**

<b>Category</b>	<b>Objective</b>	<b>Variable/Indicators</b>	<b>Measurement</b>	<b>Analysis</b>
<b>Independent variable</b>	Economic factors influencing implementation of the sexual offences Act	<ul style="list-style-type: none"> <li>•Availability of funds</li> <li>•Availability of equipment's</li> <li>•No. of Staff</li> </ul>	Nominal Nominal Nominal	Descriptive Descriptive Descriptive
	Social factors influencing implementation of the sexual offences Act	<ul style="list-style-type: none"> <li>•Relationship</li> <li>•level of awareness</li> <li>•No of corruption cases</li> </ul>	Nominal Nominal Nominal	Descriptive Descriptive Descriptive
	Legal factors influencing implementation of the sexual offences Act	<ul style="list-style-type: none"> <li>•Litigation duration</li> <li>•Backlog of cases</li> <li>•level of bureaucracy</li> </ul>	Nominal Nominal Nominal	Descriptive Descriptive Descriptive
	Political factors influencing implementation of the sexual offences Act	<ul style="list-style-type: none"> <li>•Rule of law</li> <li>•No of popularity cases</li> <li>•Level of professional sectors disconnect</li> </ul>	Nominal Nominal Nominal	Descriptive Descriptive Descriptive
	<b>Dependent variable</b>	<b>Implementation of the Sexual offences Act</b>	<ul style="list-style-type: none"> <li>•No of Convictions</li> <li>•Sexual offences reported cases</li> <li>•Nature of penalties</li> </ul>	Ordinal Ordinal Ordinal

## CHAPTER FOUR

### DATA ANALYSIS, INTERPRETATION AND DISCUSSIONS

#### 4.1 Introduction

Chapter four presents' findings related to the themes of the study. The research did determine structural factors that influence implementation of the Sexual Offences Act in Ainabkoi Sub-County. This chapter is discussed various information arranged systematically according to the theme of the study.

#### 4.2 Response Rate

The study did issue 99 research instruments to the sampled respondents to be filled and collect the desired information. Out of the total questionnaires only 91 were returned for data analysis which was completely filled. This represented 92% response rate which is acceptable for the study to continue. Mugenda and Mugenda (1999) mentioned that a response rate of over 70% is suitable for the study do be conducted. Table 4.1 shows the response rate.

**Table 4.1 Response rate**

Category	Frequency	Percentage
Administered	99	100.0
Returned	91	92

#### 4.3 Validity and Reliability

Reliability was tested by the study through test-retest technique. The respondent's feedback was analyzed, and informed decisions were made about the effectiveness of each question. Thus, the questionnaire developed included all items on the independent and dependent variable.

Cronbach's Alpha was used to test for reliability where value above 0.7 was considered acceptable. According to Pallant (2011) any finding on Cronbach's Alpha coefficient value above 0.7 was considered acceptable. The results of the reliability tests were as shown in the (Table 4.2);

**Table 4.2 Reliability Test**

Items	Cronbach's Alpha	N of Items
<b>Economic factors</b>	0.993	6
<b>Social factors</b>	0.921	6
<b>Legal factors</b>	0.865	5
<b>Political factors</b>	0.858	5
<b>Implementation of the Sexual Offences Act</b>	0.953	6

Table 4.2 shows the findings of reliability test. The values of Cronbach's Alpha were above 0.7 giving an implication that the research instruments used for data collection were reliable.

#### **4.4 Demographic Characteristics of the respondents**

The study sought to establish the gender, age, education level, work occupation and experience of the respondents. Table 4.3 shows findings on the question of gender

**Table 4.3: Gender of the respondents**

<b>Gender</b>	<b>Frequency</b>	<b>Percentage</b>
Male	50	49.9
Female	41	45.1
<b>Total</b>	<b>91</b>	<b>100.0</b>

Table 4.3 findings on the responses on the question of gender. Findings indicated that 49.9% of the respondents were male while 45.1 % were female. This implies that the employers take into consideration the third gender rule according to the constitution of Kenya.

**Table 4.4: Age of the respondents**

Age	Frequency	Percentage
<b>21-30 years</b>	16	17.6
<b>31-40 years</b>	25	27.5
<b>41-49 years</b>	30	33.0
<b>50 years and above</b>	20	22.0
<b>Total</b>	<b>91</b>	<b>100.0</b>

Table 4.4 shows findings on the question of age. Findings indicated that 17.6% of the respondents were aged between 21-30 years, 27.5% stated they are aged between 31-39 years, 33.0% were aged between 41-50 years and 22.0% were of 50 years age and above. This can be interpreted to mean the respondents had knowledge on the intention of the study and hence gave a true and fair view of the study questions.

**Table 4.5: Highest level of education**

Highest level of education	Frequency	Percent
<b>Certificate</b>	14	15.4
<b>Diploma</b>	37	40.7
<b>Degree</b>	25	27.5
<b>Post graduate</b>	15	16.5
<b>Total</b>	<b>91</b>	<b>100.0</b>

Table 4.5 shows findings on respondent's level of education. Findings indicated that 15.4 percent were certificate holders, 40.7 were diploma holders, 27.5 percent were degree holders and 16.5 percent were post graduate. This shows that the study was able to collect data from all levels of education background levels which is interpreted to mean that it represented the opinions of all respondents avoiding bias in terms of education levels meaning that it was a true representation of the happenings in the institutions.

**Table 4.6: Occupation**

<b>Occupation</b>	<b>Frequency</b>	<b>Percent</b>
<b>Medical practitioners</b>	28	30.8
<b>Magistrates</b>	7	7.7
<b>Prosecutors</b>	10	11.0
<b>Police</b>	35	38.5
<b>Children officer</b>	3	3.3
<b>Probation officer</b>	8	8.8
<b>Total</b>	<b>91</b>	<b>100.0</b>

Table 4.6 presents data on the question of occupation. Findings revealed that 30.8 percent of the respondents were medical practitioners, 7.7 percent were magistrates, 11.0 percent were prosecutors, 38.7 percent were police, 3.3 percent were children officers and 8.8 percent were probation officers.

**Table 4.7: Work Period**

<b>Work Period(Years)</b>	<b>Frequency</b>	<b>Percentage (%)</b>
<b>0 to 5</b>	11	12.1
<b>6 to 10</b>	41	45.1
<b>11 to 15</b>	26	28.6
<b>Above 15</b>	13	14.3
<b>Total</b>	<b>91</b>	<b>100.0</b>

Table 4.7 shows the findings on work period. The study results revealed that 12.1% have worked for 0-5 years, 45% have worked 6-10 years, 28% have worked for 11 – 15 years and 14.3% have worked over 15 years. The findings implied most of respondents had good knowledge of work experience and therefor they provided desired information.



#### 4.5 Analysis of Specific Objective

The study did seek to establish factors that influence implementation of the Sexual Offences Act in Ainabkoi Sub-County. Descriptive statistics (frequency and percentage) are discussed in the section. Study therefore determined respondents' level of agreement on a five point Likert scale.

##### 4.5.1 Economic factors influence implementation of sexual offences Act

The study did seek to determine economic factors that influencing the implementation of sexual offences Act in Ainabkoi Sub-county. Findings have shown in table 4.8

**Table 4.8: Economic factors influence implementation of sexual offences Act**

Statements		SD	D	N	A	SA	Total	Mean	Std. Dev
There is inadequate funding for creation of mechanism to oversee implementation and report back to Parliament regularly as well as ensure the collection of statistical data	F	14	11	1	20	45	91	3.78	1.533
	%	15.4	12.1	1.1	22.0	49.5	100.0	75.60	
There is poor legal funding support for protection and assistance to government implementing agencies	F	14	4	3	11	59	91	4.07	1.504
	%	15.4	4.4	3.3	12.1	64.8	100.0	81.32	
Economic hardships have produced stressful situation of shortage which in turn, may increase the chances of advocates turning to crime to provide for individual or family needs	F	12	11	3	7	58	91	3.97	1.538
	%	13.2	12.1	3.3	7.7	63.7	100.0	79.34	
Government has provided enough staff that can work to support implementation of the sexual offence Act	F	16	5	4	9	57	91	3.95	1.580
	%	17.6	5.5	4.4	9.9	62.6	100.0	78.90	
The greater the extent of economic exploitation, the more likely that the working class will experience discontent and that the state policies will be violently challenged	F	12	10	5	22	42	91	3.79	1.457
	%	13.2	11.0	5.5	24.2	46.2	100.0	75.82	
Government has created special facilities for the purpose of providing social and legal	F	14	8	1	18	50	91	3.90	1.521
	%	15.4	8.8	1.1	19.8	54.9	100.0	78.02	

The research findings in table 4.8 on economic factors that influence implementation of sexual offences Act showed that (mean=3.78, Std dev=1.533) of the respondents were of the opinion that there is inadequate there is no sufficient data that would be useful in implementing policies in parliament, (mean=4.07, Std dev=1.504) of the respondents were of the opinion that there is poor legal funding support for protection and assistance to government implementing agencies, (mean=3.97, Std dev=1.538) of the respondents were of the opinion that economic hardships have produced will lead to a situation in which they have to turn to crime to feed their families (mean=3.95, Std dev=1.580) of the respondents were of the opinion that government has provided enough staff that can work to support implementation of the sexual offence Act, (mean=3.79, Std dev=1.457) of the respondents were of the opinion that the greater the working class would be economically exploited it would lead to a huge discontent to government policies (mean=3.90, Std dev=1.521) of the respondents were of the opinion that government has created special facilities purposely providing legal, medical treatments, counseling, and rehabilitation in victors and survivors.

Majority of the respondents revealed that there is poor legal funding support for protection and assistance to government implementing agencies. In this regard there is great emphasis on protection of vulnerable groups and the affected persons on the sexual abuse cases through the constitution provision but the government has not taken enough initiative to salvage the crisis by funding the legal local authorities who are held responsible to cover all the cases under sexual offences. This is shown by many cases that are unresolved by the judiciary at the courts of law in the county levels. Further the resolution of both minor and major sexual abuse cases should have

been based at the constituency level so as to help the common citizen who cannot afford to travel to the county headquarters jurisdiction offices seeking same justice. This is coupled with economic hardships which have produced stressful situation due to shortage of funds leading to various stakeholders including advocates to turn into crime to provide for the needs of the families.

The study concurs with Buneiet *al.*, (2013) who found that a good legislative process should be able to facilitate implementation by collecting statistical data that can be used by the parliament. Protection, support, and assistance to complainants/survivors, a funding need to be created that will serve several functions which include: supporting rape services, bringing equity at job, providing medical assistance, sensitization and managing survivors of cases of injustice. In addition it would provide necessary financial support for those who have suffered from molestations and sexual assaults. As per section 6 of the act the members states are required to provide a special facility that would be useful in development and reconstruction purposes and providing required assistance both legal and social. In addition it would provide training, counseling, reintegration, and rehabilitation to those affected by the sexual violence.

Further the study is supported by Herzog (2005) who discussed that the indicator of people turning to crime is the economic turnout affecting nations, individuals and states. The economic situation has made people to approach crime as for livelihood. The government needs to develop a different approach in implementing its policy of tackling crime by use of simulations, involvements especially to different population groups. It is established that lack of jobs, scarce resources and no alternative sources of income makes individuals turn to crime in order to manage their welfare services.

#### 4.5.2 Social factors influence implementation of sexual offences Act

The research did seek to determine the social factors influencing implementation of Sexual Offences Act in Ainabkoi Sub-county. Table 4.9 shows findings.

**Table 4.9: Social factors influence implementation of sexual offences Act**

Statements		SD	D	N	A	SA	Total	Mean	Std. Dev
Most of the Kenyans in particular victims are not well informed about the existence of the sexual offence Act.	F	54	4	8	3	22	91	2.29	1.71
	%	59.3	4.4	8.8	3.3	24.2	100.0	45.71	
The sexual assault is widespread due to the hostile culture towards women.	F	50	8	3	8	22	91	2.38	1.73
	%	54.9	8.8	3.3	8.8	24.2	100.0	47.69	
The number of corruption cases on sexual offences are too high and therefore justice is interfered.	F	44	12	1	9	25	91	2.55	1.76
	%	48.4	13.2	1.1	9.9	27.5	100.0	50.99	
A number of sexual offences are not well addressed by the authorities due to interference by some corrupt individuals who bribe the system.	F	51	10	1	7	22	91	2.33	1.73
	%	56.0	11.0	1.1	7.7	24.2	100.0	46.59	
The nature of relationship with individuals also interferes with normal procedures of implementing sexual offence Act.	F	41	18	2	7	23	91	2.48	1.69
	%	45.1	19.8	2.2	7.7	25.3	100.0	49.67	
The prevailing attitudes about sex and cultural norms foster rape-prone environments.	F	40	17	6	7	21	91	2.47	1.64
	%	44.0	18.7	6.6	7.7	23.1	100.0	49.45	

The study findings in table 4.9 on social factors that influence implementation of sexual offence act showed that (mean=2.29, Std dev=1.71) of the respondents were of the opinion that most of the Kenyans in particular victims are not well informed about the existence of the sexual offence Act, (mean=2.38, Std dev=1.73) of the respondents were of the opinion that the sexual assault is widespread due to the hostile culture toward women, (mean=2.55, Std dev=1.76) of the respondents

were of the opinion that the number of corruption cases on sexual offences are too high and therefore justice is interfered, (mean=2.33, Std dev=1.73) of the respondents were of the opinion that a number sexual offences are not well addressed by the authorities due to interference by some corrupt individuals who bribe the system, (mean=2.48, Std dev=1.69) of the respondents were of the opinion that the nature of relationship with individuals also interferes with normal procedures of implementing sexual offence Act and (mean=2.47, Std dev=1.64) of the respondents were of the opinion that the prevailing attitudes about sex and cultural norms foster rape-prone environments.

It was established based on huge significant responses that the number of corruption cases on sexual offences is too high and therefore justice is interfered. This means that corruption is not limited to sexual offences which hinder implementation of sexual offences Act. The sexual crimes committed by individuals can fail to get justice due to the corruption cases that are on the rise in the society. Corruption is one of the key cultures that interfere justice administration to all people by the rule of law. The taking seriously of direct evidence is seen to be the panacea to solve miscarriage of justice during the prosecution process.

The research finding concurs with Mashego (2015) who discussed that majority of the Kenyan are found in areas that are low income and that translates to several social problems. Majority of the media coverage focus on the low income community's survival tactics and how they are homeless. Poverty means not providing the basic needs needed by individuals for daily survival. Poverty management requires that decisions are taken that enable several deficiencies. It is witnessed that poverty level covers a wider dynamics involving communities in terms of clothing's, sanitations, health education and lack of education.

The study's findings further concur with Rider (2007) corrupt activities are habitually concealed; consequently, it is frequently problematic to safe direct suggestion to provision fair principles in put on trial on corruption cases. Moreover, accusations around who is corrupt require often been call for to have a great prospective of being used as a means of mudslinging and aspersing radical and or social challengers. It is for this goal that cast iron resilient has often been necessitated in corruption action. The favoring of direct proof over indirect indication has often been realized as one of the worth to safeguard against likely insufficiency of justice in the trial of corruption cases.

#### 4.5.3 Legal factors influence implementation of sexual offences Act

The researcher did seek to determine how legal factors influence implementation of Sexual Offences Act in Ainabkoi Sub-county. Table 4.10 shows the results findings:

**Table 4.10: Legal factors influence implementation of sexual offences Act**

Statements		SD	D	N	A	SA	Tota	Mean	Std. Dev
The duration of litigation process against sexual assault covers a wide scope of time that needs patience and drain resources	F %	20 22.0	20 22.0	5 5.5	12 13.2	34 37.4	91 100	3.22 64.40	1.65
The court of law experiences a challenge of back log of cases therefore failing to solve many bending cases.	F %	32 35.2	6 6.6	2 2.2	22 24.2	29 31.9	91 100.0	3.12 62.20	1.75
Costs involved with calling expert witnesses, like psychologists for example, proving psychological trauma.	F %	36 39.6	16 17.6	3 3.3	19 20.9	17 18.7	91 100	2.89 52.31	1.90
Public safety is diminished as criminal DNA when not tested and entered into CODIS.	F %	36 39.6	16 17.6	3 3.3	19 20.9	17 18.7	91 100	2.62 52.31	1.61
The level of bureaucracy at jurisdiction offices lie in the hands of the officers in charge	F %	35 38.5	12 13.2	2 2.2	18 19.8	23 25.3	91 100.0	3.11 55.38	1.74

The study findings in table 4.10 on the legal factors that influence implementation of sexual offences act showed that (mean=3.2, Std dev=1.64) of the respondents were of the opinion that the extent of litigation procedure alongside sexual assault protections a wide scope of time that needs patience and drain resources, (mean=3.12, Std dev=1.75) of the respondents were of the opinion that the court of law experiences a challenge of back log of cases therefore failing to solve many bending cases, (mean=2.89, Std dev=1.90) of the respondents were of the opinion that costs convoluted with profession skillful witnesses, similarly psychologists for instance, proving psychological trauma, (mean=2.62, Std dev=1.61) of the respondents were of the opinion that public security is weakened as criminal DNA is not verified and move in into CODIS and (mean=3.11, Std dev=1.74) of the respondents were of the opinion that the level of bureaucracy at jurisdiction offices lie in the hands of the officers in judge.

Significant number of respondents were in opinion that the duration of litigation process against sexual assault covers a wide scope of time that needs patience and drain resources. Too long process and procedures has made common citizen vulnerable to give up because of the limited resources and time needed. Most cases on sex crimes that are committed by government figures or statesmen normally fail to get ultimate justice because of the bureaucracy powers that normally limits common citizen rights and justice without apparent reason. Also the study revealed that the duration of litigation process against sexual assault covers a wide scope of time that needs patience and drain resources. Further the daunting and disaffecting atmosphere of the courtroom is the greatest universally recognized obstruction to actual participation in the legal system for individuals with an academic disability. People with a cognitive impairment are reported to find giving evidence stressful and difficult, particularly when faced with tactics used

to undermine their evidence. Persons may turn into nervous during cross-examination, and the cross-examiner's interrogative technique may underscore the one's disability.

The study concurs with Clark (2014) who found that in command to ought to a right for sexual offences; the quantity of compensations will have to be measureable. The types of compensations which one can predict a sexually harasses woman anguish are emotional trauma or even physical damage exacted by fierce pimps or related with overdoing of their bodies for sexual services, such as pelvic seditious disease or helplessness to transfer a fetus to term. Nevertheless it might be very problematic to prove causation in sexual offence cases where the raped person is claiming against a particular victim. The charges convoluted with calling expert observers, like psychologists for example, to evidence emotional trauma, may also be another detractor. These charges, combined by means of the other overheads connected with litigation, may solidify this preparation out of reach for numerous sexually stressed people.

Further Cusack (2015) concurs that sexual assault indication over and over again stands in a police department or hospital for ages short of being verified. As countries have advanced inventive and real approaches for give a talk the buildup, their achievements and letdowns have aided as a improper for others who are bearing in mind variations to evade impending bottlenecks.



#### 4.5.4 Political factors influence implementation of sexual offences Act

The research sought to determine political factors that influence implementation of Sexual Offences Act in Ainabkoi Sub-county. Table 4.11 shows the results

**Table 4.11: Political factors influence implementation of sexual offences Act**

Statements		SD	D	N	A	SA	Total	Mean	Std. Dev
The number of popularity of cases and crisis affecting the country is given priority by the parliament to be implemented hence marginalizing sexual offences implementation act.	F	10	11	9	29	32	91	3.68	1.36
	%	11.0	12.1	9.9	31.9	35.2	100.0	73.63	
The rule of law does not have clear procedure to widely curb sexual offence implementation.	F	17	4	9	31	30	91	3.58	1.46
	%	18.7	4.4	9.9	34.1	33.0	100.0	71.65	
Implementation of the sexual offence act is greatly dependent on the politicians who unfold to the public about the presence of the law.	F	13	10	6	23	39	91	3.71	1.47
	%	14.3	11.0	6.6	25.3	42.9	100.0	74.29	
The move on the way to mandatory condemning strongly points just before the lobbied environment of punishing, and of re-joining to perceived demands for tougher castigation starting the public.	F	13	5	2	28	43	91	3.91	1.42
	%	14.3	5.5	2.2	30.8	47.3	100.0	78.24	
Political context to the implementation of the sexual offences Act are involved in the molding the proposals for reform.	F	5	5	4	24	52	91	4.45	2.18
	%	5.5	5.5	4.4	26.4	57.1	100.0	84.18	

The study findings in table 4.11 on the political factors that influence implementation of sexual offence act showed that (mean=3.68, Std dev=1.36) of the respondents were of the opinion that the number of popularity of cases and crisis affecting the country is given priority by the parliament to be implemented hence marginalizing sexual offences implementation act, (mean=3.58,

Stddev=1.46) of the respondents were of the opinion that the rule of law does not have clear procedure to widely curb sexual offence implementation, (mean=3.71, Std dev=1.47) of the respondents were of the opinion that implementation of the sexual offence act is greatly dependent on the politicians who unfold to the public about the presence of the law, (mean=3.91, Std dev=1.42) of the respondents were of the opinion that the interchange on the way to compulsory penalizing strongly points on the way to the campaigned nature of penalizing, and of rejoicing to perceived anxieties for tougher penalty from the community and (mean=4.45, Std dev=2.18) respondents mentioned that political context to the implementation of the sexual offences Act are involved in the molding the proposals for reform.

Significant large number of respondents stated that political context to the implementation of the Sexual Offences Act are involved in molding the proposals for reform, the Sexual offence can be effectively be implemented by members of parliament are key bill initiators therefore if they take an initiative to develop sexual offence act and implement it then justice on sexual crimes can be resolved with ease. Also politicizing rallies enables high percentage of citizens to understand the constitutionalized act. Further most of the laws are wary if not rallied upon for the citizens to learn them and adopt it for the benefit of all the citizens who seek justice. Politics play key role in law enforcement since most politicized issues are well understood by citizens and therefore seeking justice becomes easier.

The study concurs with Maher (2013) findings that political context to the implementation of the sexual offences Act are involved in decoration the suggestions for improvement, in determining whether or not to instrument the endorsements and influential the final form which the law would yield in statute. In the situation of the sexual offences reorganizations, politics in this intellect was complicated at all these phases, and it is difficult to realize how we at the tiny have

the law in the system it is deprived of being mindful of these political factors. Many law reformers are wary of these political influences.

#### 4.6 Inferential Statistics

This sector describes the results of correlation analysis based on study objectives. Correlation analysis was to examine the association amongst each of independent variables and dependent variable, Correlation coefficient  $r$  dealings in strength and direction of a linear relationship each of independent variables and dependent variable. The  $r$ -value is always between +1 and -1.

##### 4.6.1 Correlation between Economic factors and Implementation of Sexual Offences Act

The study examined the relationship between economic factors and Implementation of Sexual Offences Act. The correlation analysis results are presented in 4.12;

**Table 4.12 Correlation between Economic factors and Implementation of Sexual Offences Act**

			Economic factors
<b>Implementation of Sexual Offences Act</b>	Pearson Correlation		.475
	Sig. (2-tailed)		.000
	N		91

From the study findings (table 4.12) on correlation revealed that Pearson correlation coefficient,  $r$ , was 0.475, and that it was statistically significant ( $p < 0.01$ ). A Pearson product-moment correlation was run to determine the relationship between economic factors and Implementation of Sexual Offences Act. There was significant positive relationship between economic factors and Implementation of Sexual Offences Act, which was statistically significant ( $r = 0.475$ ,  $n = 91$ ,  $p < 0.01$ ).

##### 4.6.2 Correlation between Social factors and Implementation of Sexual Offences Act

The study examined the relationship between Social factors and Implementation of Sexual Offences Act. The correlation analysis results are presented in 4.13.

**Table 4.13 Correlation between Social factors and Implementation of Sexual Offences Act**

			Social factors
<b>Implementation of Sexual Offences Act</b>	Pearson Correlation		.279
	Sig. (2-tailed)		.007
	N		91

From the study findings (table 4.13) on correlation revealed that Pearson correlation coefficient,  $r$ , was  $-0.279$ , and that it was statistically significant ( $p < 0.01$ ). A Pearson product-moment correlation was used to relate between Social factors and Implementation of Sexual Offences Act. Negative relationship exist between Social factors and execution of Sexual Offences Act, which was statistically significant ( $r = -0.279, n = 91, p < 0.01$ ).

#### **4.6.3 Correlation between Legal factors and Implementation of Sexual Offences Act**

The study examined the relationship between Legal factors and Implementation of Sexual Offences Act. The table 4.14 shows findings of correlation analysis.

**Table 4.14 Correlation between Legal factors and Implementation of Sexual Offences Act**

			Legal factors
<b>Implementation of Sexual Offences Act</b>	Pearson Correlation		.461
	Sig. (2-tailed)		.000
	N		91

From the study findings (table 4.14) on correlation revealed that Pearson correlation coefficient,  $r$ , was  $0.461$ , and that it was statistically significant ( $p < 0.01$ ). A Pearson product-moment correlation be set up explain the relationship between Legal factors and Implementation of Sexual Offences Act. The research found a positive relationship between Legal factors and Implementation of Sexual Offences Act, which was a statistically significant ( $r = 0.461, n = 91, p < 0.01$ ).

#### **4.6.4 Correlation between Political factors and Implementation of Sexual Offences Act**

The study examined the relationship between Political factors and Implementation of Sexual Offences Act. Table 4.15 shows findings on correlation analysis.

**Table 4.15 Correlation between Political factors and Implementation of Sexual Offences Act**

		Political factors
<b>Implementation</b>	<b>of</b>	Pearson Correlation
<b>Sexual Offences Act</b>		.500
		Sig. (2-tailed)
		.000
		N
		91

From the study findings (table 4.15) on correlation revealed that Pearson correlation coefficient,  $r$ , was 0.500, and that it was statistically significant ( $p < 0.01$ ). A Pearson product-moment correlation was used to establish the relation between political factors and Implementation of Sexual Offences Act. There was a moderate positive correlation between Political factors and Implementation of Sexual Offences Act, which was statistically significant ( $r = 0.500$ ,  $n = 91$ ,  $p < 0.01$ ).

#### **4.7 Interview schedule results (key informants)**

The study revealed that respondents had attended seminar or workshop training on Sexual Offences Act in the recent past and it was appropriate. The implementation of Sexual Offences Act has influenced the sexual offenders by reforming their lives to better persons in the society while others have ended up jailed for ever.

The positive and negative effects of the SOA in the prevention of sexual offences include; Reduction on cases on the offences, good address on prosecution and sexual offences, negative effects is that legal framework did not adequately address the problem, offenders are sentenced, minors do not get harsh punishment and there are no lesser or bigger crimes.

The capacities of implementers of the SOA now compared to the period before the introduction of the Act showed that there are many cases recorded daily, rape and sexually humiliated victims get justice and finally the new policies have improved performance of legal authorities.

On the adequacy of the resources allocated to legal institution by the government for implementation of the SOA showed that there are limited resources.

Some things that can be done to enhance effective implementation of the Act is to increase access to justice, increase legal responsibilities and accountably and finally enhance legal advocacy to the public.

The key barriers towards full implementation of the Sexual Offence Act include, Lack of responsiveness of lawful rights and choices, Higher reliance on others to takings accomplishment, Fear of retribution, Disability or impairment is not recognized, Message obstacles, False impression about people with intellectual impairment, Anxiety, stress and legal processes, The reliance on formal written processes, Alternative dispute resolution and Under-resourcing of specialist services.

The study reports that the stakeholders support towards effective implementation of the Act is still low and can be rated as fair.

## CHAPTER FIVE

### SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

#### 5.1 Summary of Findings

##### 5.1.1 Economic factors influence implementation of sexual offences Act

The research findings in table 4.8 on economic factors that influence implementation of sexual offences Act showed that (mean=3.78, Std dev=1.533) of the respondents were of the opinion that there is insufficient aid for formation of instrument to supervise enactment and report back to Parliament frequently as well as safeguard the gathering of arithmetic data, (mean=4.07, Std dev=1.504) of the respondents were of the opinion that there is poor legal funding support for protection and assistance to government implementing agencies, (mean=3.97, Std dev=1.538) of respondents stated that due to stressful life due to economic turnouts people are moving to crime as part of the daily live endeavours , (mean=3.95, Std dev=1.580) of the respondents were of the opinion that government has provided enough staff that can work to support implementation of the sexual offence Act, (mean=3.79, Std dev=1.457) of the respondents were of the opinion that the the working class would feel discounted with state policies which in turn would result crime levels and other crimes emerging (mean=3.90, Std dev=1.521) of the respondents were of the opinion that government has created special facilities for the purpose of providing social and legal support, medical action, counseling and restoration of the survivors and victors.

### **5.1.2 Social factors influence implementation of sexual offences Act**

The study findings in table 4.9 on social factors that influence implementation of sexual offence act showed that (mean=2.29, Std dev=1.71) of the respondents were of the opinion that most of the Kenyans in particular victims are not well informed about the existence of the sexual offence Act, (mean=2.38, Std dev=1.73) of the respondents were of the opinion that the sexual assault is widespread due to the hostile culture toward women, (mean=2.55, Std dev=1.76) of the respondents were of the opinion that the number of corruption cases on sexual offences are too high and therefore justice is interfered, (mean=2.33, Std dev=1.73) of the respondents were of the opinion that a number sexual offences are not well addressed by the authorities due to interference by some corrupt individuals who bribe the system, (mean=2.48, Std dev=1.69) of the respondents were of the opinion that the nature of relationship with individuals also interferes with normal procedures of implementing sexual offence Act and (mean=2.47, Std dev=1.64) of the respondents were of the opinion that the prevailing attitudes about sex and cultural norms foster rape-prone environments.

### **5.1.3 Legal factors influence implementation of sexual offences Act**

The study findings in table 4.10 on the legal factors that influence implementation of sexual offences act showed that (mean=3.22, Std dev=1.64) of the respondents mentioned that the duration of litigation development against sexual assault covers a wide scope of time that needs patience and drain resources, (mean=3.12, Std dev=1.75) of the respondents were of the opinion that the court of law experiences a challenge of back log of cases therefore failing to solve many pending cases, (mean=2.89, Std dev=1.90) of the respondents were of the view that costs tangled with establishing an expert observers, like psychologists for instance, proving psychological trauma, (mean=2.62, Std dev=1.61) of the respondents were of the opinion that public safety is weakened as illegal DNA is not



verified and inserted into CODIS and (mean=3.11, Std dev=1.74) of the respondents were of the opinion that the level of bureaucracy at jurisdiction offices lie in the hands of the officers in judge.

#### **5.1.4 Political factors influence implementation of sexual offences Act**

The study findings in table 4.11 on the political factors that influence implementation of sexual offence act showed that (mean=3.68, Std dev=1.36) of the respondents were of the opinion that the number of popularity of cases and crisis affecting the country is given priority by the parliament to be implemented hence marginalizing sexual offences implementation act, (mean=3.58, Std dev=1.46) of the respondents were of the opinion that the rule of law does not have clear procedure to widely curb sexual offence implementation, (mean=3.71, Std dev=1.47) of the respondents were of the opinion that implementation of the sexual offence act is greatly dependent on the politicians who unfold to the public about the presence of the law, and (mean=4.45, Std dev=2.18) of the respondent mentioned that political context to the implementation of the sexual offences Act are involved in the molding the proposals for reform.

Inferential statistical findings revealed that the first objective showed a moderate uphill (positive) relation between economic factors and Implementation of Sexual Offences Act, which was statistically significant ( $r = 0.475, n = 91, p < 0.01$ ). The second objective showed that there was a (negative) linear relationship between Social factors and Implementation of Sexual Offences Act, which was statistically significant ( $r = -0.279, n = 91, p < 0.01$ ). The third objective showed a moderate uphill (positive) linear relationship between Legal factors and Implementation of Sexual Offences Act, which defines a statistically significant relation of ( $r = 0.461, n = 91, p < 0.01$ ). The fourth objective revealed a positive correlation between Political factors and Implementation of Sexual Offences Act, which was statistically significant ( $r = 0.500, n = 91, p < 0.01$ ).

Finally the research revealed that respondents had attended seminar or workshop training on Sexual Offences Act in the recent past and was it appropriate. The implementation of Sexual Offences Act has influenced the sexual offenders by reforming their lives to better persons in the society while others has ended up jailed for ever. Also some things that can be done to enhance effective implementation of the Act is to increase access to justice, increase legal responsibilities and accountably and finally enhance legal advocacy to the public. Further the key barriers towards full implementation of the Sexual Offence Act include, Lack of responsiveness of legal rights and options, higher reliance on others to take exploit, Fear of vengeance, Disability or weakening is not predictable, Communication obstacles, Misunderstandings about individuals with cognitive deficiency, Anxiety, stress and legal processes.

## **5.2 Conclusions**

### **5.2.1 Economic factors influence implementation of sexual offences Act**

In conclusion the study results revealed that there is poor legal funding support for protection and assistance to government implementing agencies. In this regard there is great emphasis on protection of vulnerable groups and the affected persons on sexual abuse cases through the constitution provision but the government has not taken enough initiative to salvage the crisis by funding the legal local authorities who are held responsible to cover all the cases under sexual offences. This is shown by many cases that are unresolved by the judiciary at the courts of law in the county levels. Further the resolution of both minor and major sexual abuse cases should have been based at the constituency level so as to help the common citizen who cannot afford to travel to the county headquarters jurisdiction offices seeking same justice. This is coupled with economic hardships which have produced stressful situation due to shortage of funds which

might surge the likelihoods of advocates whirling to crime so as to deliver for specific or family wants over bribes from criminals

### **5.2.2 Social factors influence implementation of sexual offences Act**

The number of corruption cases on sexual offences is too high and therefore justice is interfered. This means that corruption is not limited to sexual offences which hinder implementation of sexual offences Act. The sexual crimes committed by individuals can fail to get justice due to the corruption cases that are on the rise in the society. Corruption is one of the key cultures that interfere justice administration to all people by the rule of law. The favoring of direct evidence above indirect proof has habitually been realized as one of the means to defense against thinkable breakdown of justice in the suit of corruption circumstances.

### **5.2.3 Legal factors influence implementation of sexual offences Act**

Further the level of bureaucracy at jurisdiction offices lie in the hands of the officers in judge. Most cases on sex crimes that are committed by government figures or statesmen normally fail to get ultimate justice because of the bureaucracy powers that normally limits common citizen rights and justice without apparent reason. Also the study revealed that the duration of litigation process against sexual assault covers a wide scope of time that needs patience and drain resources. Too long process and procedures has made common citizen vulnerable to give up because of the limited resources and time needed. Further the unapproachable and separating air of the courtroom is the most usually recognized barricade to effective involvement in the legal system for individuals with an intelligent disability. People with a mental impairment are testified to find giving signal stressful and trying, predominantly when challenged with tactics used to challenge their sign. Persons may turn out to be nervous for the duration of cross-

examination, and the cross-examiner's questioning practice may put emphasis on the person's incapacity.

#### **5.2.4 Political factors influence implementation of sexual offences Act**

The political context to the implementation of the Sexual Offences Act are involved in the molding the proposals for reform. Effectively execution of the sexual offences act, the members of parliament are key bill initiators therefore if they take an initiative to develop sexual offence act and implement it then justice on sexual crimes can be resolved with ease. Also politicizing rallies enables high percentage of citizens to understand the constitutionalized act. Further most of the laws are wary if not rallied upon for the citizens to learn them and adopt it for the benefit of all the citizens who seek justice. Politics play key role in law enforcement since most politicized issues are well understood by citizens and therefor seeking justice becomes easier.

Finally political context to the implementation of the Sexual Offences Act are involved in the molding the proposals for reform. Implementation effectively of the sexual offences act, the members of parliament are key bill initiators therefore if they take an initiative to develop sexual offence act and implement it then justice on sexual crimes can be resolved with ease. Also politicizing rallies enables high percentage of citizens to understand the constitutionalized act. Further most of the laws are wary if not rallied upon for the citizens to learn them and adopt it for the benefit of all the citizens who seek justice. Politics play key role in law enforcement since most politicized issues are well understood by citizens and therefor seeking justice becomes easier.

### **5.3 Recommendations**

The study did make the following recommendations based on the findings;

The government should lower the rates of taxes on general income of workers as well as increase remuneration so as to curb the problem of temptation on bribing.

The judicial body together with the legislation body should educate Kenyan citizens at all levels the existence of the act and its role in the society since most of the Kenyans in particular victims are not well informed about the existence of the sexual offence Act.

The Kenyan government through treasury should subsidize and even take the responsibility on all the costs intricate with occupation expert observers, like psychologists and doctors for providing psychological trauma and medical evidences so as to enable all the affected person's access the services.

The study recommends to the governments and partners to increase access of services at the local set up by building more legal structures of jurisdiction at the constituency level.

### **5.4 Suggested areas for further Research**

The study did suggest further that future studies be conducted on level of access to justice by sexual abuse victims.

Secondly the study suggests further research to be done on the evaluation of social challenges influencing performance of judicial offices on implementation of sexual offences Act.

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## APPENDIX I: QUESTIONNAIRE

*Declaration: The information given will be treated with confidentiality and used for academic purpose only.*

Questionnaire Code

Research Assistant

Name \_\_\_\_\_ Date \_\_\_\_\_

### A. Personal Details

1. Gender

A. Male

B. Female

2. What is your age?

A. 20-30 years

B. 31-40years

C. 41-50 years

D. 51 years and above

3. Highest level of education attained.

A. Certificate

B. Diploma

C. Degree

D. Post Graduate

4. What is your occupation?

A. Medical practitioners

B. Magistrates

C. Prosecutors

D. Police

E. Children officer

F. Probation officer

G. Other, Specify \_\_\_\_\_

5. Work experience

0 to 5 years [ ]

6 to 10 years [ ]

11 to 15 years [ ]

Above 15 years [ ]

**Specific Objectives**

***Please Tick the Response That Best Matches Your Perception:***

**Economic factors that influence implementation of sexual offences Act**

Please rate the following to the best of your knowledge, on how the economic factors influence implementation of sexual offences Act in Ainabkoi Sub-county. Please tick. Using the following

Key:-

1=SD-Strongly Disagree, 2= D-Disagree, 3=Neutral, 4= A –Agree and 5=SA-Strongly Agree

<b>Statements</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
There is inadequate funding for creation of mechanism to oversee implementation and report back to Parliament regularly as well as ensure the collection of statistical data.					
There is poor legal funding support for protection and assistance to government implementing agencies.					
Economic hardships have produced stressful situation of shortage which in turn, may increase the chances of people turning to crime to provide for individual or family needs.					
Government has provided enough staff that can work to support implementation of the sexual offence Act.					
The greater the extent of economic exploitation, the more likely that the working class will experience discontent and that the state policies will be violently challenged.					
Government has created special facilities for the purpose of providing social and legal assistance, medical treatment, counseling and rehabilitation of the survivors and victors.					

### **Social factors that influence implementation of Sexual Offences Act**

Please rate the following to the best of your knowledge, on how Social factors influence implementation of Sexual Offences Act in Ainabkoi Sub-county;

Please tick. Using the following Key:

1=SD-Strongly Disagree, 2= D-Disagree, 3=Neutral, 4= A –Agree and 5=SA-Strongly Agree

<b>Statements</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
Most of the Kenyans in particular victims are no well informed about the existence of the sexual offence Act.					
The sexual assault is widespread due to the hostile culture toward women.					
The number of corruption cases on sexual offences are too high and therefore justice is interfered.					
Some sexual offences are not well addressed by the authorities due to interference by some corrupt individuals who bribe the system.					
The nature of relationship with individuals also interferes with normal procedures of implementing sexual offence Act.					
The prevailing attitudes about sex and cultural norms foster rape-prone environments.					

### **Legal factors that influence implementation of sexual offences Act**

Please rate the following to the best of your knowledge, on how legal factors influence implementation of sexual offences Act in Ainabkoi sub-county; Please tick.

Using the following Key:-

1=SD-Strongly Disagree, 2= D-Disagree, 3=Neutral, 4= A –Agree and 5=SA-Strongly Agree

<b>Statements</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
The duration of litigation process against sexual assault covers a wide scope of time that needs patience and drain resources.					
The court of law experiences a challenge of back log of cases therefore failing to solve many bending cases.					
Costs involved with calling expert witnesses, like psychologists for example, proving psychological trauma.					
Public safety is diminished as criminal DNA is not tested and entered into CODIS					
The level of bureaucracy at jurisdiction offices lie in the hands of the officers in judge					

### **Political factors that influence implementation of sexual offences Act**

Please rate the following to the best of your knowledge on how political factors influence implementation of sexual offences Act in Ainabkoi Sub-county; Please tick.

Using the following Key:-

1=SD-Strongly Disagree, 2= D-Disagree, 3=Neutral, 4= A –Agree and 5=SA-Strongly Agree

<b>Statements</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
The number of popularity of cases and crisis affecting the country is given priority by the parliament to be implemented hence marginalizing sexual offences implementation act.					
The rule of law does not have clear procedure to widely curb sexual offence implementation.					
Implementation of the sexual offence act is greatly dependent on the politicians who unfold to the public about the presence of the law.					
The move toward mandatory sentencing strongly points towards the politicized nature of sentencing, and of responding to perceived demands for harsher punishment from the public.					
Political context to the implementation of the sexual offences Act are involved in the molding the projects for reform.					



### **Implementation of the Sexual Offences Act**

Please rate the following to the best of your knowledge on how the factors influence implementation of the Sexual Offences Act in Ainabkoi Sub-County: Please tick.

Using the following Key:-

1=SD-Strongly Disagree, 2= D-Disagree, 3=Neutral, 4= A –Agree and 5=SA-Strongly Agree

<b>Statements</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
The judicial services on the implementation of sexual offences act are very satisfactory.					
The judicial services on the implementation of sexual offences act are partly satisfying.					
The effectiveness of implementation of sexual offences act in UasinGishu County is exceptional.					
The level of implementation of sexual offences act is at the exploration level.					
The level of implementation of sexual offences act is at the Initial Implementation level.					
The effectiveness of implementation of sexual offences act in UasinGishu County is unsatisfactory rarely achieves expected performance.					

**APPENDIX II: INTERVIEW SCHEDULE FOR HEADS OF DEPARTMENTS AND SECTIONS**

1. What is your position in the organization?

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2. For how long have you worked in your current position? \_\_\_\_\_

3. Have you attended any seminar / workshop on SOA in the recent past and was it appropriate? \_\_\_\_\_

4. How has the implementation of Sexual Offences Act influenced the sexual offenders?

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5. What are the positive and negative effects of the SOA in the prevention of sexual offences?

a) \_\_\_\_\_

b) \_\_\_\_\_

c) \_\_\_\_\_

d) \_\_\_\_\_

e) \_\_\_\_\_

f) \_\_\_\_\_

6. What are your views on the capacities of implementers of the SOA now compared to the period before the introduction of the Act?

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7. What are your views on the adequacy of the resources allocated to your institution by the government for implementation of the SOA?

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8. What do you think can be done to enhance effective implementation of the Act?

a) \_\_\_\_\_

b) \_\_\_\_\_

c) \_\_\_\_\_

d) \_\_\_\_\_

e) \_\_\_\_\_

9. What are the key barriers towards full implementation of the SOA?

a) \_\_\_\_\_

- b) \_\_\_\_\_
- c) \_\_\_\_\_
- d) \_\_\_\_\_
- e) \_\_\_\_\_
- f) \_\_\_\_\_

10. How supportive are the other stakeholders towards effective implementation of the Act?

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