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CHILD SEXUAL ABUSE IN TOURISM AND THE LEGAL SYSTEM: LESSONS FOR CHILD PROTECTION PROFESSIONALS

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ABSTRACT

Almost everywhere around the globe children are subjected to maltreatment. Serious actions are required at all levels to end it with urgency. All children are entitled to full protection from all forms of abuse. This is reaffirmed by the United Nations Convention on the Rights of the Child (UNCRC) in which all nations are obligated to protect children from all forms of abuse and promote the physical and psychological recovery and social reintegration of sexual abuse survivors. The objective of the review was to examine the gaps in child abuse prevention legal systems in order to share knowledge to better protect the children.

Thus, a systematic review of the literatures using data from different sources was actuated. Different search engines were used to search for these articles. Only peer-reviewed scholarly publications published after 2000 were selected except extracts perceived to be critical. The review demonstrates that the protection of children against abuse through the existing legal systems is constrained by inadequacy of legislations, poor enforcement mechanisms, poverty and corruption, lack of rehabilitation programmes, negative attitudes, ineffective judiciary system, lack of training, inadequate multidisciplinary collaboration, lack of child friendly courts, threatening defense lawyers, lengthy and intimidating court procedures, inconsistent age of consent, lack of mandatory reporting of abuse, non-recognition of institutional crime,

wee statute of limitation, insufficient funding, discriminatory laws, lack of cooperation and support, lack of birth registration; and lack of national sex offenders register. To conclude if the safety of the children is to be ensured, the challenges highlighted in the legal system must be addressed with urgency.

Key words: Child Abuse, Legislations, Child Friendly, Courts, System.

INTRODUCTION

Seemingly, around the world children are increasingly abused. In almost every part of the globe with the exception of the Antarctica, there is child abuse including child sex tourism (Carolin, 2015) and (Brooks & Heaslip, n.d.). In view of this and other research findings, the world must stand up at local, regional; and international levels to end this nauseating phenomenon. All children regardless of what, are entitled to full protection from all forms of abuse as enshrined in the United Nations Convention on the Right of the Child (UNCRC). The Convention states incontrovertibly, all nations are obliged to protect children from all forms of abuse and promote the physical and psychological recovery and social reintegration of child abuse survivors. Further asserted in it, the best interest of the children shall be a primary consideration in all actions pertaining to them, and their rights are to be enjoyed to the fullest without limitations of any sort. In all matters affecting them, their views shall be given maximum consideration, in accordance with their age and maturity. In view of this declaration, any type of maltreatment is criminal (UNICEF, 2019), since it is a gross violation of their fundamental human rights (Estenban Ortiz-Ospina, 2019). The sexual exploitation of children in the travel and hospital industry for example, is a gross violation of their rights since it entails sexual abuse by adults and remuneration in cash or kind to the child or a third person or persons. Herein, the child is treated as a sexual object and as well a commercial commodity. This type of sexual abuse constitutes a kind of coercion and violence against them, and result into forced labor and contemporary slavery (UNICEF, 2008).

The impacts of child exploitation both on the children and their communities are dehumanizing. In the worst cases, it can lead to disappearance, death, permanent disabilities or both. In such exploitative and abusive conditions, children suffer all kind of maltreatments and in addition contracting numerous diseases including sexually transmitted ones (ILO, 2002). In the case of girls, they are impregnated and forced to undergo unsaved abortion risking their lives and future ability to bear children (Bimbi et al., 2003). Thus, eliminating child abuse demands multifaceted approaches including the laws bearing in mind both the causes, impacts; and processes associated with it (Christiansen, 2015).

In view of these inhuman treatments amongst others, these researches was conducted with the ultimate objective of highlighting some of the limitations of the existing legal systems for actions in order to effectively and efficiently safeguard our future generations. Because the problem is huge in scope, multi-faceted and sensitive, both culturally and politically, the application of the law is indispensable (UN, 2013).

METHODOLOGY

A systematic review of the literatures using information collected from different sources was actuated. Google search engine, google scholar, web of science; and scopus database were used to search for these articles. During the search numeration combinations of words and phrases were used to ensure articles reflect the most recent knowledge and scholarly works. The systematic searches beget varied and voluminous articles which had to be sieved not only

to meet the inclusion and exclusion criteria but to ensure the fundamental objectives of the study are wrangled.

Therefore, only peer-reviewed scholarly publications published after 2000 were selected except extracts perceived to be of basal mileage to the study. However, articles published by staunch international organizations known to have been working in child rights and child protection for years and has produced indefatigable knowledge in the promotion of children rights were stealthily appraised.

Inclusion and Exclusion Procedures

The underneath procedures were followed in articles inclusion. That is, only:

1. Peer-reviewed scholarly articles on the legal system to promote and protect the rights of children.
2. Peer-reviewed scholarly articles published from 2000 to 2021.
3. Articles on international or regional perspectives on the legal system to promote and protect the rights of children.
4. Articles on the legal system to promote and protect the rights of children published by international organizations with years of meritorious experiences in child rights and child protection.

To exclude some articles from the review, the below captioned criteria were applied. That is:

1. None peer reviewed articles.
2. Articles published before 2000 unless critical and impactful.
3. Media generated articles including newspapers.
4. Articles not published in English language.

In spite of the fact that 237 (two hundred and thirty seven) articles both qualitative and quantitative were trawled, only 59 (fifty nine) articles were qualified for the review which is largely due to a dearth of data. In essence, only peer-reviewed articles and publications by international organizations considered being trustworthy because they occasioned standard, ethical; and robust studies were reviewed.

Discussions

The literature review has revealed a wide range of problems in the legal system meant to protect children from abuse in general. To discuss these limitations, they are classified into: inadequacy of legislations, poor enforcement mechanisms, poverty and corruption, lack of rehabilitation programmes, negative attitudes, ineffective judiciary system, lack of training, inadequate multidisciplinary collaboration, lack of child friendly courts, threatening defense lawyers, lengthy and intimidating court procedures, inconsistent age of consent, mandatory reporting of abuse, non-recognition of institutional crime, wee statute of limitation, insufficient funding, discriminatory laws, lack of cooperation and support, lack of birth registration; and lack of national sex offenders registers.

DISCUSSIONS

Inadequacy of Legislations

The legislations are very critical instruments in the survival of the human race as it doesn't only regulate behaviors but determine how financial, material; and human resources are engage and even allocated for collective interest(Law, 2019). To coexist as communities, behaviors must be regulated otherwise, the disadvantaged group will not only continue to be disadvantaged through limitless exploitation especially in this materialist and supremacy seeking globe, but could even be exterminated at worst especially during conflict(Children,

2018). Therefore, it is fundamental that adequate and tough laws are promulgated and regularly reviewed and amended to catch up with current societal needs including protection as anything short of that can jeopardize the life and living conditions of people especially the vulnerable ones as substantiated: with the Indian Penal Codes not specifically criminalizing child sexual abuse, prosecutors find it extremely difficult to prosecute alleged abusers because they are forced to bank on other laws that are inadequate, generic in nature; and seemingly focusing more on peno-vaginal penetration under the arm pit of rape excluding all other forms of child sexual abuse(Nautiyal & Mal, 2010). In some jurisdictions in the USA, the law enforcement agencies are confronted with series of problems which include inadequate laws, judges sometimes not trusting children stories, court setting too high standard before a case is heard; and lack of adequate support from other professionals(Block & Williams, 2019). Similarly, because children appearing in court can be very traumatic and testimonies recorded on video receives lower status than those heard live in the court based on the principle of evidence immediacy, it is fundamental that the laws are reformed in some jurisdictions to adequately respond to the needs of children seeking justice(Back, 2012). In certain jurisdictions, the seriousness of an offence is a normative decision by the court which is usually based on the degree of its rejection by the current norms and values of society(Beech, Elliott, Birgden, & Findlater, 2008). To effectively protect children especially the girls, early marriage must be criminalized and the age of marriage should be raised to 18 years without any exception, in addition to statutory rape which lacks in most national laws(Hanmer & Elefante, 2016).

Additionally, in some jurisdictions, the national laws and institutions offer different types of protection for women and children, however, it is only rape that is criminalized, the rest are only regarded immoral and against the modesty and dignity of women(Nainar, 2012). In Pakistan, the full protection of the children against sexual abuse is not fully guaranteed either because in most cases, the laws are insufficient and worse of all, vague in nature(Gillani, 2009). To protect children from sexual abuse, the Zimbabwean government, in addition to ratifying and domesticating UNCRC, has enacted five different laws but still child sexual abuse is a very serious social problem because legal service providers including the social workers, psychologists, lawyers, magistrates, police, prosecutors, court interpreters, etc. cannot progress simply because of the inefficacy of the instruments(Muridzo, Chikadzi, & Kaseke, 2018).

Poor Enforcement Mechanisms

For laws to attain their fundamental objective such as to regulate behaviors, secure life, properties, etc. it is critical that they are well thought as crimes and criminal activities are becoming more sophisticated. However, laws can only have their intended effects particularly in crime prevention and prosecution of alleged perpetrators if they are adequately implemented by the different and relevant law enforcement agencies; otherwise, they become a mere political wish(Schnelle, Geller, & Davis, 1987). Worst of all, leaving the general populace especially the vulnerable communities at the mercy of criminals and exploiters which concurs with: in Hungary, though child sexual abuse exist in the penal code, it is not well enforced putting children more at risk of abuse and trauma especially, those survivors who do not seem to have the support of well-coordinated multidisciplinary team to holistically address their concerns while pursuing justice(Enyedy, Tsikouras, & Csorba, 2018). In some

jurisdictions, child protection legislations are already enacted however, they are late to be enforced for instant, in Egypt and the UK it took almost 5 and 28 years respectively after the promulgation of the laws to prosecute their first case and worse of all, the conviction rate is extremely low(World vision, 2016). Similarly, series of laws and policies have been promulgated in the past years to protect children against sexual abuse but to no avail because of poor enforcement mechanisms, poverty, corruption, lack of rehabilitation of perpetrators, parents' negative attitudes; and ineffective judiciary system(Olusegun OO, 2016). In protecting children from sexual abuse different types of international legal standards have been adopted but because of lack of enforcement and the fact that abuse of children is on the increase some communities are privately acting on their own to protect their children as enshrined in the instruments (Silk & Makonnen, 2003).

Poverty and Corruption

Apparently, it seems the world is inundated with multiple problems that are multifaceted in nature and causations. Poverty, though can't be blamed for being the principal cause, it plays a very significant role. With poverty, in this materialistic world, some people are ready to be involved in types of activities both legal and illegal to escape from it, knowingly or unknowingly, placing their life and that of others at multiple risks. Corruption, although not entire caused by poverty, significantly affected the delivery of services both at the level of public and private sector including the delivery of justice. With poverty and rampant corruption, justice is nearly beyond the reach of the advantaged including the children(Sepulveda Carmona & Donald, 2014) as articulated: in Nigeria, regardless of all the international and national laws meant to safeguard the interest of children, they are still abused in many ways due to many factors namely, poor enforcement of the existing laws and policies, lack of public awareness, poverty, non-adoption of the Children Rights Act of 2003, inefficient judiciary system, corruption, negative attitudes of parents and caregivers, lack of effective rehabilitation programs for perpetrators, lack of legislations and policies that are sensitive to the cultural practices of ordinary Nigerians, lack of political commitment; and the persisted domestic violate against women and girls(Olusegun OO, 2016).

Lack of Rehabilitation Services

It seems, problems of all types including the socio-psychological ones are part and parcel of life. The impacts, like the causes, vary in nature and degree of severity. However, for life to continue, both causes and effects must be well documented to both address and deter them from occurring in the future. Thus, to live a productive life, it is essential that society search for a remedy to these problems some of which are caused by human exploitative behavior by meting abuse and violence on others particularly, the weak ones. To address these problems multifaceted approaches including rehabilitation is fundamental as excessive punishment alone may not suffice in the case of perpetrators of violence and abuse(Berenji, Chou, & D'orsogna, n.d.), concurring with: to better protect the interest of children, the India children's Act and related laws must criminalized publishing the names and identities of sexually abused children, decriminalized sex between children, grooming; and furthermore, offer them some counselling services however, this does not necessarily mean encouraging the behavior among children(Nautiyal & Mal, 2010). To encourage reporting of abuse by the public, it is critical that sexual abuse involving children, instead of only sentencing perpetrators, they are further supported through rehabilitation services to desist from such misbehaviors(Mutangi, 2017).

Though the overall rationale for prosecuting perpetrators is to punish them which will subsequently deter others from abusing children, most children don't want their perpetrators to be punished especially, if they happen to be parents or caregivers and as such they may not even want to disclose any abuse(Bakketeig & Skilbrei, 2019).

Negative Attitudes

The way society perceived things including social problems is very critical because it is their perceptions that determine whether an issue is acceptable or unacceptable. If unacceptable for example, what actions and corresponding resources need to be allocated to address it, is all influenced by public perceptions. In the same vein, if the attitudes are positive, society will with urgency, mobilize the required resources including the financial one to eliminate it, if not, try to minimize its impacts(Shibata, Hanyu, Asakawa, & Shimada, 2017). However, if the attitudes are negatives, the tendency of not prioritizing it, at worst, not even paying attention to it especially if it affects more the voiceless is glaring as substantiated: unless the unnecessary lazy and unwarranted behavior of the legislature and law enforcement is changed by the creation of specialized institutions; and the child protection Act is amended to insert sections that specifically criminalized child sexual abuse, Indian children with virtually remain unsecured years to come(Nautiyal & Mal, 2010). International laws against women and children abuse are not yielding the desire outcomes because some are yet to be domesticated to bring changes in societal norms and values that sometimes put children at the risk of abuse(Klugman, 2017). Because in some jurisdictions, legal professionals hardly work with others like psychologists and social workers, children continues to suffer as they try to pursuit justice resulting in not only developing negative attitude toward the whole system but their hating it more and more(Quas & Goodman, 2012).

Similarly, because of the level of frustrations and maltreatments meted on children during court proceedings, most children and their parents have developed negative attitude toward the whole process and feel there is no need to report cases of sexual abuse to the law enforcement agencies(Eastwood, 2003). In some communities, because of the myth that women and children are not to be trusted when it comes to sexual abuse, children enjoying the full support of the law enforcement agencies and prosecution, is still a dream(Eastwood, 2003).

Ineffective Judiciary System

The judiciary is a very important arm of governments as it is charged with the administration of justice in addition to its check and balance roles. The executive is always powerful, thus, there is always the need of an arm like the judiciary to regulate its behaviors including its temptation to abuse office, violate human rights, neglect the promulgation of laws; and allocation of the required resources. Notwithstanding, the executive and the legislature can enact and assent to laws but if the judiciary is not effectively delivering justice by interpreting the laws, the life and living conditions of the powerless in particular, will be more at risk since they can't be spared any abuse and violation by perpetrators knowing they wouldn't be punished for it, exponentially increasing crimes and public insecurity(Adler, 2015) concurring with: in seeking justice for their abuse children, parents have realized the following unpleasant issues within the legal system vis-à-vis the welfare of their loved children: losing control of everything, lot of inconsistencies, children treated like adults, dissatisfaction with courts' outcomes; and instead of getting some therapeutic benefits children are systematically

re-abuse(Alaggia, Lambert, & Regehr, 2009). In view of the degree and complexity of child sexual abuse, for the law to have positive impacts, it is critical that transformative justice is given a chance where applicable(GenerationFive, 2017). In the India, the children's Act 2005, very well articulates most of the child protection issues, however, its enforcement can only pay dividend if the correspondence rules of evidence and procedures is significantly reviewed and relaxed(Nautiyal & Mal, 2010). In some jurisdictions because the supreme court has assigned low credibility and reliability to verbal testimonies and the prosecutors can only get children's stories without other supporting evidence, the laws governing the courts in hearing children cases, must be changed to ensure proper justice for children(Back, 2012).

Similarly, for the courts to effectively hear and understand children's testimonies, it will be very unfair that the reliability of their testimonies is measured based on the way experienced adults communicate in courts(Back, 2012). For legislations to be felt by perpetrators and would-be ones, conviction rates must be maximized, prosecutors permitted to apply different techniques in investigating sexual abuse cases including the use of DNA, etc. while exonerating children from the crime(Mutangi, 2017). In many countries, while reporting child sexual abuse is widely promoted, there are few sanctions if any against police officers who failed to act promptly in protecting children against violence(HM Government, 2018).

Additionally, in the pursue of justice for victims of child sexual abuse there is a very low finding of guilty in spite of the number of years it takes for cases to test the legal waters(Palusci et al., 1999). Some child victims are highly dissatisfied with the court proceedings and outcomes due to many factors namely, that officials hardly recognized and acknowledged the harm they suffered, not being allowed to relate the stories in their own terms and voices; and the power loss they suffer through the justice processes(Daly, 2011).

Lack of Training

For service providers in the public or private sector to deliver effectively, there is a need for regular trainings especially when they must directly deal with new and complex issues. With training, the knowledge and skills of the personnels are upgraded by acquiring in-depth knowledge of the matter plus applicable strategies to address it while stimulating the morale of the staff because their efforts are now yielding some dividends(Mpofu & Hlatywayo, 2015). This is more gratifying when it comes to saving lives and properties. However, without training, assignments are not only poorly performed but harms are equally meted on those supposed to be protected, concurring with: one of the greatest limitations in the judiciary system in terms of protecting children is the lack of training for judges, interpreters and other critical staff in how to support children, interpret the law, interrogate children, forcing judges to do things as they feel(Roque, Ferriani, Gomes, da Silva, & Carlos, 2014). The police who are supposed to enforce the laws are not fully trained and sensitized and in addition, lacks the knowledge and skills in both prosecuting perpetrators and protecting children(Gillani, 2009).

Lack of Multidisciplinary Collaboration

Today, it seems social problems are not only on the increase but they are sophisticated in nature and the ways they are committed more especially, the criminal ones. Thus, undoubtedly, the ramifications will be huge and complex. To eliminate them, if not to address them and their consequences in the society, it requires a holistic approach involving all relevant stakeholders(Ferrara et al., 2019). Therefore, anything short of that, the problems will remain unresolved and victims keep languishing in endless pain as corroborated: the

inadequacy of multidisciplinary work, lack of clear guidelines for law enforcement agencies and prosecutors are some of the strong barriers to the effectiveness of child protection legislations(Block & Williams, 2019). Because of lack of serious thought about the consequences of children going through the court procedures while they are not adequately prepared through multi-disciplinary approaches, it appears that the judiciary in some jurisdictions don't prioritize the needs of child victims(Roque et al., 2014). In some jurisdictions, because the legal systems for protecting children from sexual abuse is not multifaceted in approach, most victims and parents would not like to report abuse because punishing perpetrators alone would not prevent them from abusing again since they are not socially and psychologically rehabilitated(Bakketeig & Skilbrei, 2019).

Lack of Child Friendly Courts

For peace and stability to exist, there must be well-functioning and independent judiciary system to deliver justice without delay and/or discrimination. For the public including the disadvantaged communities to access justice, the courts must be accessible and affordable otherwise, they will remain to be only for wealth of minority creating more dissatisfaction and hate in the society. For this disadvantaged to access the courts, particularly the children, the justice system must incorporate child friendly courts in the overall justice delivery system, otherwise, the system will cause more harm than good(FRA, 2017), as highlighted, to protect children from abuse and also increase rate of convictions without doing any harm to child survivors, the court system must be child friendly since from the start to the end of proceedings children are constantly in fear due to the fear of facing highly experienced legal defendants, fear of being harmed by defendants' techniques of interrogations, embarrassment because of not answering questions well; and the trauma of having to testify repeatedly sometimes in open court(Pantell et al., 2017). For the legislations to be effective, certain practices as practiced in India, for example, must be criminalized such as inserting two fingers in women to determine habituation to sexual intercourse, male police officers instead of female interrogating sexually abused girls since it doesn't only affect the dignity of victims but it means being subjected to another abuse(Sharma, Unnikrishnan, & Sharma, 2015). In pursuing justice most children especially in Brazil experience secondary abuse because they have to listen to the version of the perpetrators to be able to make a strong defense(Roque et al., 2014). In some instances, judges when interviewing child victims, they apply techniques based on general practice, life experiences, common sense; and instincts, abandoning the legally and some structured methods(Roque et al., 2014).

Similarly, children participation in court can be very difficult for number of reasons which include testifying in open court, the trauma of facing their perpetrators directly, complicated legal terms and language, harsh cross-examination, having to narrate their bad experiences in series of interviews, limited access to advocates; and being separated from witnesses to avert their testimonies being influenced(Miller & Boisvert, 2010). In addition to the legislative and procedural reforms needed to safeguard the rights of children, there is a need to transform the manner children are treated in the courts, to further avoid the injustice, inhumanity, disrespect; and continuous frustration they encounter(Eastwood, 2003). In spite of the series of reforms in laws and procedures for children to have easy access to justice, in most cases, they are traumatized in addition to the abuse meted on them while going through the courts and related proceedings(Eastwood, 2003).

Threatening Defense Lawyers

For equal rights and equal opportunities to prevail in society, the laws alone are not enough but equally important, is a vibrant private legal sector which is accessible and affordable. However, in contesting matters in the courts, particularly, in cases involving people with special needs and children, the courts need to be regulated to accommodate the needs of these groups otherwise, they are converted into torture and humiliation rooms denying them access to justice(Berrick, Dickens, Pösö, & Skivenes, 2018). Thus, the structure, the languages; and the general atmosphere must be child sensitive in the case of the children, if the purpose of seeking justice is not to be defeated as calibrated. Because the court system is not child sensitive, most defense lawyers use those opportunities to discredit children's stories, in addition to the intimidation by applying the adversarial court system in open sessions in spite of being contradictory to the UNCRC provisions on child witness(Eastwood, 2003).

Lengthy and Intimidating Court Procedures

To ensure equal treatment and access to services with comfort, it is critical that well-structured and user friendly procedures exist. Though the ultimate objective of these procedures include ensuring equal rights and equal opportunities, sometimes, treating all in the same manner can result into discrimination especially if special consideration is not accorded to the needs and aspirations of the disadvantaged communities. Essentially lengthy court proceedings discourage children and parents to seek justice, and justice delayed is justice denied(Rass-Masson & Rouas, 2017). Thus, it is critical that in the process of ensuring justice is delivered, the special needs of the disadvantaged including children is seriously pondered otherwise it becomes re-abusive sessions in addition to justice denied concurring with: in many instances, parents pursuing justice for their sexually abused children reported that the judicial reforms in some jurisdictions don't yield the desired results since some of the children have complained been traumatized and re-abuse for the second time by the harsh court proceedings(Alaggia et al., 2009). To ensure children enjoy the right to access justice, the current legal systems of some jurisdictions must be changed so that they will be able to offer fair, supportive; and secured child sensitive proceedings(Back, 2012). Because of the negative impacts associated with children going through the legal processes in seeking justice, most of them tend to dislike participating in any legal process in adulthood(Quas & Goodman, 2012). Parents are reluctant to report child sexual abuse to the police and courts because, the police lack the skills and knowledge to support children and above all, most of the time, the judiciary processes are very stressful and harmful to the children and their parents(Gillani, 2009).

Similarly, in the judiciary system, there are lot of delays in ensuring child victims access justice and as such, most children and parents do not want to report any child sexual abuse in the community(Gillani, 2009). The complexity and sophistication of the prosecution procedures have not only traumatized child victims but it has made child sexual abuse to remain being perpetrated despite all efforts to eliminate it(Salter, 2018). In addition to the trauma and further abuse child victims suffer as they seek justice, in some jurisdictions, they wait up to 36 months before their cases can test the legal waters(Eastwood, 2003).

Inconsistent Age of Consent

The intellectual and physical maturing of any partner is very critical in joint activities even to merely hang as friends. This is fundamental because, it lays down the foundation for

accepting or rejecting any proposal based on thorough examination of its pros and cons. Thus, with full intellectual and physical maturing, it can be presumed that any engagement is a well-thought one. However, the age of maturity has always been a heated debate particularly when it comes to children matters (Enroos, Korpinen, & Pösö, 2021). To protect the best interest of the children, internationally as per the UNCRC, the age of maturity and by extension age of consent is pegged at 18 years and any person above that age is no longer a child but an adult. Thus, any age of consent below that, causes huge problems in protecting children from any form of abuse and exploitation concurring with: to adequately protect children in India, the laws deserve some serious review and amendment in terms of consent and when a child can be held responsible for a crime rather than basing it on maturity and the child's ability to recognize s/he has committed an offence (Nautiyal & Mal, 2010). To ensure children are well protected from sexual abuse the age of consent must be raised to 18 years as in the UNCRC instead of 12 years as it is in some jurisdictions including Zimbabwe (Mutangi, 2017). Similarly, in many countries, including India, the age of consent is problematic as the law is not clear on the sexual relationship between two minors of different age categories and as such to determine whether any sexual intercourse between them is consensual or abuse solely depends on the judge interpreting the law (Belur & Singh, 2015). To hold a person responsible for child sexual abuse, the age of the victim must be determined, however, in some jurisdictions "the how" is not clearly articulated in the laws leaving judges' hands tied (Belur & Singh, 2015).

Lack of Mandatory Reporting of Abuse

Globally, child abuse particularly sexual abuse is on the increase despite all the national and international efforts both in terms of legislations and programming. Because children are not only the future and the biggest gift to humanity from God, they are human and the last hope of every society regardless of its socio-economic and political advancement. In light of these peculiarities of children, they deserve protection from all types of abuse and exploitation with the full participation of all through multifaceted approaches. Other stakeholders, because of their relationship with children and the fact that they are first point of call, if abuse happens to a child, it is critical that it is made obligatory on them to report the case to the relevant authorities (Ranapurwala, Berg, & Casteel, 2016). This is critical in terms of prevention, revictimization; and to avert further societal failures as substantiated: for the laws to have some impacts in protecting children, it must be compulsory that professionals such as health workers, social workers, teachers, etc. report cases of abuse to the appropriate authorities or be charged a criminal offence as it lacks in some jurisdictions including Zimbabwe (Mutangi, 2017). Mandatory reporting of child sexual abuse particularly by parents and professionals, though good has some limitations like the breaking of confidentiality between professionals and their clients, harming the trust between professional and their clients; and some confusions since in some jurisdictions the methods and mechanisms of reporting are not well articulated in the relevant legislations (Belur & Singh, 2015).

Non-recognition of Institutional Crime

Institutions though critical in the socio-economic and political development of societies, they must be strictly regulated as a legal entity because they can be used to commit crimes scot-free especially in developing nations. Over the years, employees and associates of big cooperation have inflicted harm on communities, particularly, the disadvantaged ones, in the

name of bringing developments. In most cases, such crimes are hugely devastating thus, for both preventive and remedial measures; institutions must be legally held accountable for the criminal activities of their employees and associates (DBL, 2014). In the absence of this, crimes including child sexual abuse will be tough to eradicate concurring with: because in some jurisdictions emphasis is put more on the individuals rather than institutional failures to protect children against sexual abuse, the reporting of offences, may not yield the required dividend (Crofts, 2017).

Wee Statute of Limitation

In life, it is obvious that everything has a start and end point, so too it is even with our daily activities otherwise development can barely be registered. Thus, implicitly, there is deadline for the commencement and termination of every engagement as nothing can go on forever. With such critical insertions in our respective contracts between ourselves as a community and government; entitlement can be forfeited if it is not claimed on time. However, there must be some exceptions if not, the extension of these rights particularly in seeking justice for crimes inflicted on people when they were in difficult circumstances or children, otherwise, the statute of limitation will tantamount to a re-abuse concurring with: in some jurisdictions, the statute of limitation is posing a great challenge for adults to access justice after realizing that they were sexually abused when they were young and it is now that they can effectively pursue their cases (Miller & Boisvert, 2010).

Lack of Funding

Today, for any institution in including the family to execute its functions, the availability of fund is a must, so too it is with governments and their development partners. Fighting crimes in the communities as a development agenda is expensive as implementing agencies and partners must be funded to purchase equipment and hire highly trained and experienced staff boosting outcomes (Tengpongsthorn, 2017). Thus, any lack of funding may not only exacerbate the situation but can also revise gains even in protecting children against abuse and exploitation as substantiated: in some jurisdictions because of cost to engage a private practitioner, time, cumbersome of the legal systems; and the trauma associated with criminal prosecution, most victims particularly of sexual abuse, are never eager to seek justice via the courts (Nainar, 2012). To protect children from abuse, the laws need to be enforced together with support from other rehabilitative programmes but because of lack of funding most laws and their implementing agencies are lying idle (Silk & Makonnen, 2003).

Discriminatory Laws

Equal rights and equal opportunities is a strong prerequisite in maintaining peace and stability in communities and the globe as without such, some groups will feel discriminated cultivating the seed of hate and disharmony. Laws as one of the primary mechanisms for ushering peace and stability, through the offering of protection to all, cannot be discriminatory otherwise, some unscrupulous persons can levy on those gaps to inflict harms especially on the disadvantaged communities (UNAIDS, 2011), as encapsulated: in India, in addition to the lack of specific laws that deal with child sexual abuse, those general laws that prosecutors seem to rely on have prescribed only two years imprisonment for guilty perpetrators who have abused girls and for the boys there is no law that protect them (Nautiyal & Mal, 2010). In some jurisdictions in addition to the lack of enforcement of relevant legislations to protect children against sexual abuse, the laws are weak, narrow in scope; and worse of all, discriminatory

since women perpetrators receive less punishment compare to their male counterpart(ECPAT International, 2017). In some regions, the laws are discriminatory, for example, in Myanmar, child prostitution is only illegal when it involves a girl child and in the Solomon Islands, the law only applies to children below 15 years(World vision, 2016).

Lack of Cooperation and Support

For any society to develop there must be some cooperation and support being internal or external in nature. Eradicating crimes and criminal activities in the society is critical as anything short of that, demotivate people in taking any meaningful initiative including investment. In a civilized society, it is strongly perceived, investment in protecting children should be one of the topmost priorities of governments. However, since government cannot do everything alone, protecting children against abuse and exploitation requires the support and cooperation of all stakeholders including private companies(Wurtele, 1999). Thus, in the absence of the required support from other stakeholders, the security of the children cannot be guaranteed without unnecessary obstacles which is congruous with: in ending or minimizing child sexual abuse through convictions, the law enforcement agencies must work and enjoy the support of other critical institutions including the families since there are some cases that involve some family members, very close friends or even relatives(Block & Williams, 2019). The effective and efficient enforcement of the respective laws of child protection has not been realized in many jurisdictions because the agencies are not getting the required cooperation from the big IT and social media companies that are capable of providing critical information about abusers particularly the online ones(Quayle, 2020).

Lack of Birth Registration

Recognition and acceptance is fundamental in psychosocial development of a human being particularly the disadvantaged one. To be recognized requires among other things to be felt, regarded, documented, etc. With documentation, one is recognized as a member of a particular family, society or nations according one all rights of memberships. Thus, when documented, one is counted and when counted one is protected. Thus, documentation is critical as it renders us nationality which all human beings are entitled to. In most societies, documentation commence with the acquiring of a birth certificate. With documentations local authorities, governments and partners are alert to the existence of a child for their duty bearers' responsibilities including protection(Ball, Butt, & Beazley, 2017). Therefore, any denial of a birth registration to a child is a gross violation of his or her right to nationality and protection against maltreatment including sexual abuse as it is fundamental in accessing services in some instances as corroborated: in some nations, the laws relevant to the birth registration of children are inadequate, cumbersome and sometimes discriminatory especially toward children born to unmarried couple, since they are only registered with their mothers names on the birth certificate without their fathers' name, particularly if the parents failed to marry non-customarily and register their marriages in a competent court(Hanmer & Elefante, 2016).

Lack of National Sex Offenders Register

It is apparent that with globalization, the world is now reduced to a small hamlet though coming with some disadvantages, in spite of all the opportunities. One of the critical advantages of globalization is the free movement of people, goods; and services. Therefore, with such, it is not only enough to punish criminals by jailing them and putting them under

constant surveillance particularly perpetrators of sexual abuse against children and women but also to publish their identities including names to ensure the safety of other children in other nations particularly underdeveloped ones (Letourneau, Levenson, Bandyopadhyay, Sinha, & Armstrong, 2010). In the absence of such pivotal preventive strategy, they can easily victimized other children as encapsulated: the establishment and regular updating of national sex offenders register enforced by the law plus the criminalization of convicts working in any institution where they can easily have access to children must be a priority on national child protection agendas (Mutangi, 2017).

SUMMARY AND CONCLUSION

In summary, the legal limitations in preventing child abuse in communities consist of inadequacy of legislations, poor enforcement mechanisms, poverty and corruption, lack of rehabilitation programmes, negative attitudes, ineffective judiciary system, lack of training, inadequate multidisciplinary collaboration, lack of child friendly courts, threatening defense lawyers, lengthy and intimidating court procedures, inconsistent age of consent, lack of mandatory reporting of abuse, non-recognition of institutional crime, wee statute of limitation, insufficient funding, discriminatory laws, lack of cooperation and support, lack of birth registration; and lack of national sex offenders register.

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I declare that there is no conflict of interest with respect to the study, authorship and/or publication of the article.

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Ethics Approval

Ethics approval was not necessary for a study of this nature and scope.

References

- Adler, J. S. (2015). Less crime, more punishment: Violence, race, and criminal justice in early twentieth-century America. *Journal of American History*, 102(1), 34–46. <https://doi.org/10.1093/jahist/jav173>
- Alaggia, R., Lambert, E., & Regehr, C. (2009). Where is the justice? parental experiences of the canadian justice system in cases of child sexual abuse. *Family Court Review*, 47(4), 634–649. <https://doi.org/10.1111/j.1744-1617.2009.01278.x>
- Back, C. (2012). *The legal process in child sexual abuse. Difficulties in confirming evidence and providing support.* (1338), 50. Retrieved from <https://www.diva-portal.org/smash/get/diva2:571569/FULLTEXT01.pdf>
- Bakketeig, E., & Skilbrei, M.-L. (2019). Child sexual abuse. In *Children's Rights in Norway*.

<https://doi.org/10.18261/9788215031415-2019-05>

- Ball, J., Butt, L., & Beazley, H. (2017). Birth registration and protection for children of transnational labor migrants in Indonesia. *Journal of Immigrant and Refugee Studies*, 15(3), 305–325. <https://doi.org/10.1080/15562948.2017.1316533>
- Beech, A. R., Elliott, I. A., Birgden, A., & Findlater, D. (2008). The internet and child sexual offending: a criminological review. *Aggression and Violent Behavior*, 13(3), 216–228. <https://doi.org/10.1016/j.avb.2008.03.007>
- Belur, J., & Singh, B. B. (2015). Child sexual abuse and the law in India: A commentary. *Crime Science*, 4(1), 2–7. <https://doi.org/10.1186/s40163-015-0037-2>
- Berenji, B., Chou, T., & D'orsogna, M. R. (n.d.). *Recidivism and rehabilitation of criminal offenders: a carrot and stick evolutionary game*. <https://doi.org/10.1371/journal.pone.0085531>
- Berrick, J. D., Dickens, J., Pösö, T., & Skivenes, M. (2018). International perspectives on child-responsive courts. *International Journal of Children's Rights*, 26(2), 251–277. <https://doi.org/10.1163/15718182-02602011>
- Bimbi, F., Bindel, J., Regan London, L., Watts, C., Adams, B., & Nelson, E. (2003). *Health risks and consequences of trafficking in women and adolescents*. Retrieved from www.lshtm.ac.uk
- Block, S. D., & Williams, L. M. (2019). *The prosecution of child sexual abuse: a partnership to improve outcomes*. 1–30. Retrieved from <https://www.ncjrs.gov/pdffiles1/nij/grants/252768.pdf>
- Brooks, A., & Heaslip, V. (n.d.). *Sex trafficking and sex tourism in a globalised world*.
- Carolin. (2015). Sex Trafficking in the Tourism Industry. *Journal of Tourism & Hospitality*, 04(04). <https://doi.org/10.4172/2167-0269.1000166>
- Children, S. (2018). *The war on children asldasøødl*.
- Christiansen, L. V. (2015). *An exploratory case study on child sex tourism in a pacific country: Samoa*.
- Crofts, P. (2017). Criminalising institutional failures to prevent, identify or react to child sexual abuse. *International Journal for Crime, Justice and Social Democracy*, 6(3), 104–122. <https://doi.org/10.5204/ijcjsd.v6i3.421>
- Daly, K. (2011). *Conventional and innovative justice responses to sexual violence*. Retrieved from www.aifs.gov.au/acssa
- DBL. (2014). Corporate Criminal liability for the acts of employees | DBL Law. Retrieved August 4, 2021, from <https://www.dblaw.com/corporate-criminal-liability-for-the-acts-of-employees/>
- Eastwood, C. (2003). Child sexual abuse and the criminal justice system. *Australian and New Zealand Journal of Law and Education*, 8(2), 111–125. Retrieved from https://www.researchgate.net/publication/27477770_Child_sexual_abuse_and_the_criminal_justice_system_What_educators_need_to_know
- ECPAT International. (2017). Online child sexual exploitation: an analysis of emerging and selected issues. *ECPAT International Journal 2017*, (12). Retrieved from http://www.ecpat.org/wp-content/uploads/2017/04/Journal_No12-ebook.pdf
- Enroos, R., Korpinen, J., & Pösö, T. (2021). 'Informed consent' in consensual child welfare: some reflections on its controversial nature. *European Journal of Social Work*. <https://doi.org/10.1080/13691457.2021.1901658>
- Enyedy, A., Tsikouras, P., & Csorba, R. (2018). Medical and legal aspects of child sexual

- abuse: A population-based study in a Hungarian County. *International Journal of Environmental Research and Public Health*, 15(4), 1–9. <https://doi.org/10.3390/ijerph15040701>
- Estenban Ortiz-Ospina, M. R. (2019). *Violence against children and children's rights - our world in data*. Retrieved from <https://ourworldindata.org/violence-against-rights-for-children>
- Ferrara, M., Sessa, F., Rendine, M., Spagnolo, L., De Simone, S., Riezzo, I. & Maglietta, F. (2019). A multidisciplinary approach is mandatory to solve complex crimes: A case report. *Egyptian Journal of Forensic Sciences*, 9(1). <https://doi.org/10.1186/s41935-019-0116-8>
- FRA. (2017). *Child-friendly justice – perspectives and experiences of children involved in judicial proceedings as victims, witnesses or parties in nine EU Member States*. <https://doi.org/10.2811/516162>
- GenerationFive. (2017). Framework of Transformative justice handbook. Retrieved August 1, 2021, from www.moz-extension://625161f8-398d-4b7f-9361-9af8c4d26e96/enhanced-reader.html?openApp&pdf=http%3A%2F%2Fwww.generationfive.org%2Fwp-content%2Fuploads%2F2017%2F06%2FTransformative-Justice-Handbook.pdf
- Gillani, U. (2009). Child sexual abuse in Pakistan: the need for an indigenous scientific knowledge base, effective policy making and prevention. *Pakistan Journal of Criminology*, 1(3), 81–96. Retrieved from <http://www.pakistansocietyofcriminology.com>
- Hanmer, L., & Elefante, M. (2016). *The Role of Identification in Ending Child Marriage (ID4D)*. 2019.
- HM Government. (2018). Reporting and Acting on Child Abuse and Neglect. *The National Archives*, (October), 1–37. Retrieved from file:///C:/Users/naomi/Documents/MS/Books/Reporting_and_acting_on_child_abuse_and_neglect_-_consultation_document__print_.pdf
- ILO. (2002). *Child Trafficking and Action to Eliminate It*. Retrieved from [moz-extension://625161f8-398d-4b7f-9361-9af8c4d26e96/enhanced-reader.html?openApp&pdf=https%3A%2F%2Fwww.un.org%2Fruoleoflaw%2Ffiles%2Fchildtrafficking.pdf](http://www.moz-extension://625161f8-398d-4b7f-9361-9af8c4d26e96/enhanced-reader.html?openApp&pdf=https%3A%2F%2Fwww.un.org%2Fruoleoflaw%2Ffiles%2Fchildtrafficking.pdf)
- Klugman, J. (2017). Gender based violence and the law. *World Development Report*, 46. Retrieved from <http://pubdocs.worldbank.org/en/232551485539744935/WDR17-BP-Gender-based-violence-and-the-law.pdf>
- Law, C. (2019). What Is the purpose of law & its functions within society? Retrieved August 4, 2021, from <https://cronuslaw.com/the-purpose-of-law-and-its-functions-in-society/>
- Letourneau, E. J., Levenson, J. S., Bandyopadhyay, D., Sinha, D., & Armstrong, K. S. (2010). *Evaluating the effectiveness of sex offender registration and notification policies for reducing sexual violence against women author*.
- Miller, C., & Boisvert, J. (2010). *Critical issues in child abuse*. Retrieved from www.wilderresearch.org
- Mpofu, M., & Hlatywayo, C. K. (2015). Training and development as a tool for improving basic service delivery; the case of a selected municipality. *Journal of Economics, Finance and Administrative Science*, 20(39), 133–136. <https://doi.org/10.1016/j.jefas.2015.10.004>

- Muridzo, N., Chikadzi, V., & Kaseke, E. (2018). Challenges faced by professionals working in child sexual abuse multi-sectorial forums: A case of the victim-friendly system in Zimbabwe. *Social Work (South Africa)*, 54(4), 452–468. <https://doi.org/10.15270/54-4-672>
- Mutangi. (2017). The Zimbabwe Electronic Law Journal Vol II (2017)(1) [All Volume Articles Combined] | Zimbabwe Legal Information Institute. Retrieved July 31, 2021, from http://zimlii.org/zw/journal/%5Bnode%3Afield_jpubdate%3Acustom%3AY/zimbabwe-electronic-law-journal-vol-ii-20171-all-volume
- Nainar, V. (2012). Litigation Strategies for Sexual Violence in Africa. *SSRN Electronic Journal*, (September). <https://doi.org/10.2139/ssrn.2141617>
- Nautiyal, P., & Mal, A. (2010). Towards Protection of Children Against Sexual Abuse: No Child's Play. *Nujs Law Review*, 77(3), 78–92.
- Olusegun OO, I. A. (2016). Child abuse in Nigeria : dimension , reasons for its persistence and probable. *Child and Fam Law Journal*, 4(1), 2–25.
- Palusci, V. J., Cox, E. O., Cyrus, T. A., Heartwell, S. W., Vandervort, F. E., & Pott, E. S. (1999). Medical assessment and legal outcome in child sexual abuse. *Archives of Pediatrics and Adolescent Medicine*, 153(4), 388–392. <https://doi.org/10.1001/archpedi.153.4.388>
- Pantell, R. H., Yogman, M., Siegel, B. S., Gambon, T., Lavin, A., Mattson, G., ... Wissow, L. S. (2017). The child witness in the courtroom. *Pediatrics*, 139(3). <https://doi.org/10.1542/peds.2016-4008>
- Quas, J. A., & Goodman, G. S. (2012). Consequences of criminal court involvement for child victims. *Psychology, Public Policy, and Law*, 18(3), 392–414. <https://doi.org/10.1037/a0026146>
- Quayle, E. (2020). Prevention, disruption and deterrence of online child sexual exploitation and abuse. *ERA Forum*, 21(3), 429–447. <https://doi.org/10.1007/s12027-020-00625-7>
- Ranapurwala, S. I., Berg, M. T., & Casteel, C. (2016). Reporting crime victimizations to the police and the incidence of future victimizations: A longitudinal study. *PLoS ONE*, 11(7). <https://doi.org/10.1371/journal.pone.0160072>
- Rass-Masson, N., & Rouas, V. (2017). *Directorate general for internal policies policy department c: citizens' rights and constitutional affairs effective access to justice study*. Retrieved from <http://www.europarl.europa.eu/supporting-analyses>
- Roque, E. M. de S. T., Ferriani, M. das G. C., Gomes, R., da Silva, L. M. P., & Carlos, D. M. (2014). Sistemas de justiça e a vitimização secundária de crianças e ou adolescentes acometidas de violência sexual intrafamiliar. *Saude e Sociedade*, 23(3), 67–78. <https://doi.org/10.1590/S0104-12902014000300006>
- Salter, M. (2018). Child sexual abuse: ethics and evidence. *Child Abuse Review*, 27(3), 165–170. <https://doi.org/10.1002/car.2516>
- Schnelle, J. F., Geller, E. S., & Davis, M. A. (1987). Law enforcement and crime prevention. In *Behavioral Approaches to Crime and Delinquency* (pp. 225–249). https://doi.org/10.1007/978-1-4613-0903-1_8
- Sepulved, C. M., & Donald, K. (2014). Access to Justice for Persons Living in Poverty: A Human Rights Approach. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.2437808>
- Sharma, P., Unnikrishnan, M. K., & Sharma, A. (2015). Sexual violence in India: Addressing

- gaps between policy and implementation. *Health Policy and Planning*, 30(5), 656–659. <https://doi.org/10.1093/heapol/czu015>
- Shibata, S., Hanyu, K., Asakawa, T., & Shimada, T. (2017). People's crime perception, and attitude toward community crime prevention activities in Japan. *Journal of ASIAN Behavioural Studies*, 2(2), 57. <https://doi.org/10.21834/jabs.v2i2.181>
- Silk, J. J., & Makonnen, M. (2003). Ending child labor: a role for international human rights law? *Saint Louis University Public Law Review*, 22(2), 359–370.
- Tengpongsthorn, W. (2017). Factors affecting the effectiveness of police performance in metropolitan police bureau. *Kasetsart Journal of Social Sciences*, 38(1), 39–44. <https://doi.org/10.1016/j.kjss.2016.07.001>
- UN. (2013). *Report of special rapporteur on the sale of children, child prostitution and child pornography*.
- UNAIDS. (2011). *Act to change laws that discriminate*.
- UNICEF. (2008). *Commercial sexual exploitation of children and child sexual abuse in the Pacific: A Regional Report 2008 I*. Retrieved from <http://www.unicef.org/pacificislands>
- UNICEF. (2019). Four principles of the convention on the rights of the child | UNICEF Armenia. Retrieved March 10, 2021, from <https://www.unicef.org/armenia/en/stories/four-principles-convention-rights-child>
- World vision. (2016). 10 years on: Global progress and delay in ending violence against children- the rhetoric & the reality | publication | World Vision International. Retrieved July 31, 2021, from <https://www.wvi.org/protecting-children/publication/10-years-global-progress-and-delay-ending-violence-against-children>
- Wurtele, S.K. (1999). Comprehensiveness and collaboration: key ingredients of an effective public health approach to preventing child sexual abuse. Retrieved August 5, 2021, from https://www.researchgate.net/publication/12703064_Comprehensiveness_and_Collaboration_Key_Ingredients_of_an_Effective_Public_Health_Approach_to_Preventing_Child_Sexual_Abuse