

Disrupting Harm

Evidence from 14 countries on the context, threats, and children's perspectives of online child sexual exploitation and abuse.

Detailed Analysis of Access to Justice and Legal Remedies in Kenya
Interviews with Children and Caregivers

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This report is a summary of preliminary data collected for this research project. The perspectives contained herein represent the individuals interviewed and surveyed. Support from the Fund to End Violence Against Children does not constitute endorsement.

Introduction

Disrupting Harm: evidence to understand online child sexual exploitation and abuse (OCSEA), is a unique and collaborative research partnership between ECPAT International, INTERPOL, and UNICEF Office of Research – Innocenti. Leveraging their specific expertise, each partner sheds light on separate but interconnected areas: context, threats and children’s perspectives on online child sexual exploitation.

- Context by ECPAT International through portraying laws & policies in action;
- Threat by INTERPOL through the collection of crime and other data;
- Children’s voices by UNICEF Office of Research - Innocenti through surveys with children and their caregivers.

The countries of focus in Southern and Eastern Africa region are: Ethiopia, Kenya, Mozambique, Namibia, South Africa, Tanzania, and Uganda. The countries of focus in the Southeast Asian region are: Cambodia, Indonesia, Malaysia, Philippines, Thailand, and Vietnam.

Research took place between 2019 and 2021. Up to nine separate research activities were undertaken in each country by the three project partners. Preliminary analysis for each activity was first conducted before the results across all the nine activities were consolidated into each national country report.

In Kenya, data was collected from 10 children who had been subjected to OCSEA. Despite deliberate efforts to identify male victims, the study could not secure the participation of male children. The ages of the interviewed children ranged from 15 years to 18 years. Six out of the ten interviewed child victims had young children of their own born out of the abuse, while another was pregnant at the time of the interviews, the pregnancy was because of OCSEA. In addition to the child victims, the primary caregivers (parents and/or caregivers) of the children were also interviewed. Only one child was interviewed in the presence of her caregiver.

The interview participants came from seven of the 47 counties in Kenya, namely Migori, Nairobi, Eldoret, Meru, Makueni, Nakuru and Mombasa. Only two out of the ten girls were living in a rural setting, with the rest of the children coming from urban areas. All the interviewed children and caregivers appeared to be from underprivileged backgrounds.

All ten girls signed the assent forms and appeared to be comfortable to interact with the research team. Their body language largely suggested they were familiar and comfortable with the officials from the Department of Children Service (social workers) that they had interacted with from the Probation and After Care Services. The child victims of OCSEA interacted with these officials during their stay at the juvenile remand homes that were referred to as remand homes by interview participants.

The remand homes are government run and their functions include re-integrating and re-settling offenders in the community as well as providing services for victim protection and promotion of rights. Limited availability of places of safety lead to child victims being housed in these remand homes, interacting with offenders who also reside there. This is a common practice, although it is not

necessarily what the law foresees. Children are also placed in remand homes if they are not safe residing with their caregivers. Victims of OCSEA can also be placed in a remand home if the perpetrator is still a threat. In Kenya, all cases are investigated and tried in the jurisdiction where the offense took place, therefore some OCSEA victims may not be residents of the county where the legal proceedings are managed, and such children will be placed in a remand home in the relevant county until the conclusion of the case.

Discussing their experiences was evidently a very emotional process for the girls. Most of the girls managed to contain their emotions and share their experiences. One child, RA4-KY-08-A – Child, was an exception as she struggled to contain her emotions. The research team had to pause the interview to allow the child to calm down. After a few minutes, the child was fine to continue with the interview.

Knowledge of OCSEA by parents and caregivers

Six out of the ten caregivers reported that they knew about online sexual exploitation and abuse of children. The other four caregivers only became aware of the phenomena after children under their care were abused. Despite stating that they now know what OCSEA is, most of the caregivers did not provide clear explanations of OCSEA: *“It is an exploitation that happens online for children on the Internet they are exposed to for the purpose of exploitation or abuse”* (RA4-KY-10B Parent). The same caregiver however confessed that they previously did not know that a child could be abused online. Two caregivers simply described it, as *“it is where children are abused online”* (RA4-KY-06B Parent and RA4-KY-09B Parent). Another caregiver described it as: *“things that happen to children when they are exposed to things online and when there’s no limitations or supervision by their caregivers”* (RA4-KY-05B Parent).

It is evident from the discussions that the concept of OCSEA remains one that is new to a significant number of caregivers, while a few who have heard of it do not have a clear conceptualisation of what it is. This suggests that caregivers are poorly equipped to play a positive role in efforts to prevent OCSEA, support child victims and to hold perpetrators accountable.

Access to the justice system and reporting the crime

The decision to go to the police was reached differently by the victims of OCSEA interviewed. The majority of the children, eight of the ten child victims, were helped by others to reach the decision to engage the police. Three of those eight children went to the police following the intervention of a family member: an uncle, a sister and, in the third case, a collective family decision. The other five children went to the police following the intervention of “good Samaritans” (in two cases), “a neighbour”, “someone” and “a friend”. A minority of the children (two of the ten participants) made the decision on their own to go to the police.

The majority of the child victims felt they had been consulted before a decision was reached to go to the police to report the OCSEA. Only two of the children reported that their friend in the first case and their family in the second case did not consult with them before the decision to go to the police was reached.

Six of the ten children felt comfortable going to the police. Among the four who were uncomfortable going to the police, two did not disclose why they felt this way (RA4-KY-08-A-Child and RA4-KY-07-A-Child). The other two children disclosed that they were uncomfortable because *“I was forced to go by my family, it pained me”* (RA4-KY-09-A-Child) and *“I was uncomfortable telling them in front of everyone”* (RA4-KY-03-A-Child). One of the children said she became comfortable with the idea of going to the police as she got lost on the way to the police: *“I felt it was a must, because if I didn’t go I wouldn’t find my way back”* (RA4-KY-05-A-Child).

Half of the caregivers appeared to be more optimistic than the children about engaging the police: *“I was very happy to get the police involved because I want justice for my child”* (RA4-KY-01-B Parent; RA4-KY-02-B Parent; RA4-KY-04-B Parent and RA4-KY-07-B Parent). The parents were largely looking for *“help with the case and the arrest of the perpetrator”* (RA4-KY-05-B Parent) and *“when I found out the police would help, I was very grateful that I would see my child again”* (RA4-KY-06-B Parent). Some caregivers were unable to interact with the children as the OCSEA victims had been placed in probation homes after the abuse. One parent had more mixed feelings about engaging the police: *“I just felt it was okay”* (RA4-KY-03-B Parent).

Three of the ten caregivers had negative feelings about the involvement of the police: *“I felt really bad, I was shocked that my child was in the custody of the police”* (RA4-KY-08-B Parent); *“I felt bad because the police are the ones who are supposed to protect the children but in this scenario it was the same police that defiled her”* (RA4-KY-09-B Parent). One of the parents with negative emotions stated they were *“scared of the police station, I was scared of facing the police, I did not think the police could help, I was afraid of being arrested as a caregiver”* (RA4-KY-10-B Parent).

OCSEA victims reported different experiences with the police. The experience with the police was generally positive for the majority of the children. *“I felt good, they tried to help me write the statement so they could help me further”* (RA4-KY-01-A-Child); *“I was really free, because they did not harass me, they talked to me like anybody else”* (RA4-KY-10-A-Child). In some instances, the children also encountered empathetic and supportive officers: *“she told me, don’t worry these things happen*

and don't just take it like you're the first, you are not the first and you're not going to be the last" (RA4-KY-10-A-Child).

An area in which the children generally reported bad experiences was when it came to the police explaining the process. Only three OCSEA victims reported getting this information and thus reported satisfaction with the support from the police. In the case of one child, the police explained the process and read the child her rights: *"they said I should not be engaged in child labour"* and then offered to link her to other service providers *"they told me that they are going to take me to a place where I can be taken care of"* (RA4-KY-10-A-Child). Another child, said, *"I was sent to a hospital for a medical examination before being interviewed by the police"* (RA4-KY-04-A-Child), while another commented *"They told me they would help me and asked for my mother's number and if not, they would take me to court themselves"*(RA4-KY-05-A-Child).

Differing numbers of officers, ranging from one to as many as five, interviewed the OCSEA victims. One child victim did not remember how many officers interviewed her. One child stated that she *"felt good"* about telling the police about her experience (RA4-KY-04-A-Child). Another child felt *"very uncomfortable because I am not used to being asked so many questions"* (RA4-KY-02-A-Child).

A couple of the children could not remember some of the details of their encounter with the police, such as some of the things discussed (RA4-KY-01-A-Child; RA4-KY-02-A-Child), particularly the things discussed at the start of the interview. Despite this, the children largely reported understanding the things they were told. About half of the OCSEA victims were provided with an opportunity to select who would be in the room as they reported their experience. Given an opportunity to select a police officer, the children largely selected female officers. Only two felt that *"it was not important to select an officer"* (RA4-KY-08-A-Child) and *"although I got an opportunity to select who interviewed me, any officer would have been fine"* (RA4-KY-09-A-Child). However, the rest of the children mentioned the inability to select an officer as a point of discomfort: *"it felt awkward"* (RA4-KY-04-A-Child) commented one of the children.

The children who interacted with female officers reported feeling more comfortable to share the details of their stories. One of the children shared her pleasant experience: *"the officer was very friendly and when she asked me the questions, I answered her"* (RA4-KY-02-A-Child). In addition, the children *"did not want men to know"* what happened to them (RA4-KY-03-A-Child) and said *"there is no way I could tell a man how I was feeling"* (RA4-KY-07-A-Child). All the children reported *"feeling good"* when they were given the opportunity to select whom to share their experiences with.

The interviews with the child victims underscored the need to be very sensitive when interacting with children, as some comments made the children very uncomfortable. *"The first thing police officer told me was that I was too young to be pregnant"* (RA4-KY-09-A-Child). Another child reported negative feelings: *"I felt bad because I did not have my child with me at the station"* (RA4-KY-07-A-Child).

Caregivers were also in contact with the police. The majority of them, six of the ten, felt the police did not do a good job explaining their rights and the process: *"no one told me anything, they looked at me like a stranger"* (RA4-KY-08-B Parent); *"I wasn't told anything, they just sent me back and forth. Someone told me my rights but they were not around to guide me through the process. I was very sad"*

and the process was tiring. I was hurt as a parent. In the end, I got help from some organisation” (RA4-KY-04-B Parent).

One parent was not advised of their rights but received a basic explanation of the process: *“No one told me about her rights, I was just informed that my daughter had been found. The police reassured me that they were in control” (RA4-KY-06-B Parent).* Another parent was informed of the process and rights much later on: *“I didn’t know my rights. I was confused about the law, how the case would go. I didn’t have a headway, so I had to wait until the police explained to me what I should do next, they didn’t tell me my rights as a caregiver of the child” (RA4-KY-10-B Parent).*

Other parents were satisfied with the explanations from the police on the process and their rights: *“Someone explained the process to me at the station, I was told of my right to testify and I felt good about knowing my rights. I got full information on how I could find justice for my child and as a result, I was able to support my child” (RA4-KY-01-B Parent).* Three caregivers (RA4-KY-02-B Parent; RA4-KY-06-B Parent and RA4-KY-07-B Parent) were satisfied with the explanations from the police, while another (RA4-KY-03-B Parent), reported that they knew their rights before the police explained them.

The experiences recounted confirm that it remains hard for victims to seek and access justice due to factors such as stigma, shame, fear and victim blaming. It is evident that child victims require external support to reach a decision to report OCSEA. After the encouragement, the majority of children became comfortable to report to the police. This suggests the attitudes of caregivers and community can be a catalyst or impediment to efforts to tackle OCSEA. Lack of confidence in the police also appeared to influence the reluctant engagement with the justice system. Caregivers and child victims of OCSEA had mixed experiences, suggesting a weak adherence to set systems for dealing with OCSEA victims. The interviews confirmed that the situation is compounded by the difficulty for professionals to talk about OCSEA in an age-appropriate and child-sensitive way, knowing how to handle OCSEA cases and knowing how to investigate and prosecute them.

Caregivers’ support at the police

Some of the interviewed caregivers felt that they were able to support their children during the process with the police: *“I went with her to the station to write a statement and after we went to the hospital for tests” (RA4-KY-01-B Parent; RA4-KY-02-B Parent); “I helped her, I was able to support her with the little money I had, to go to the police station, and even the hospital bills and I was left with nothing” (RA4-KY-04-B Parent); “I supported her by encouraging her” (RA4-KY-10-B Parent).* The same caregiver also stated that: *“because I did not know my rights I was confused”.*

Another caregiver was unable to support the child: *“my daughter had been lost during the process at the police station, and they are the ones who were able to trace her down and offered her a counselling session. When they found her, she was afraid of me because she was afraid that I would reprimand her. She only spoke to the police and I was told to give her space” (RA4-KY-06-B Parent).* Similarly, another caregiver was unable to support the child and told that: *“the whole process was private and I was just updated afterwards” (RA4-KY-07-B Parent),* while yet another reported that: *“I did not support my child, I was not even allowed the chance to speak to her” (RA4-KY-08-B Parent).*

Despite having a good experience, one parent still had some doubts *“it was very hard to get justice because sometimes the police can be bribed and bought to dismiss the case by the perpetrator. We had the right to justice but you can’t be sure if they will be bought”* (RA4-KY-01-B Parent). Another caregiver felt that the process with the police was too long and tiresome and that *“I felt like they were not serious about the case, and I felt like I was helpless and that’s why they didn’t care about the case”* (RA4-KY-04-B Parent). Despite these negative feelings, she was assured that the perpetrator would be arrested. Due to the negative experiences, this caregiver had initially refused to be interviewed for this research project, as she had assumed the researcher was with the police. The caregiver also felt that her child *“had lost all hope because of the run around they made her go through. She didn’t get the help from the police and she lost all faith in them and would refuse to go back”* (RA4-KY-04-B Parent). These feelings were exacerbated by the fact that the perpetrator in the end was not arrested.

Three caregivers (RA4-KY-01-B Parent; RA4-KY-02-B; RA4-KY-03-B Parent) thought police did a good job. One of them felt the help from the police was good because: *“they were able to arrest the perpetrator, and they assured me that we had a strong case that would go straight to court”* (RA4-KY-01-B Parent). Another caregiver stated that *“although they investigated well, they were too slow”* (RA4-KY-05-B Parent), while another observed that *“it’s not easy, but once they understand your case, it starts moving faster”* (RA4-KY-06-B Parent). Lastly, one caregiver described the police as cooperative, but confessed that she was unable to understand the police’s views towards the case: *“it was very uncomfortable at first because of the questions that they asked”* (RA4-KY-10-B Parent).

One caregiver reported that the police did not provide support of any kind: *“I did not have a lawyer. I struggled on my own”* (RA4-KY-08-B Parent). The same caregiver also reported encountering abusive officers threatening to arrest her since her child was engaged in child labour – despite the caregiver reporting that she was not aware of this fact. Moreover, no officials attended to this caregiver, even though they went to court, and no opportunity to ask questions was provided: *“They kept telling me to wait, but they didn’t tell me anything important”* (RA4-KY-08-B Parent). The caregiver also reported that she was not allowed into the courtroom, yet the wife of the perpetrator was allowed to follow proceedings inside the court (RA4-KY-08-B Parent).

The interviews with caregivers showed that there is still considerable confusion and insecurity among parents and legal caregivers on what to expect from the police. To most of them, it was not clear what rights they and their children had, and there was a general feeling that the outcome of the police report depends to a large degree on the officers they meet. If they are lucky, they will receive appropriate information on the process. If they are unlucky, they receive no information whatsoever and feel helpless. This further underscores the need for a more systematic approach towards reporting OCSEA cases.

Participation in the justice system

Two of the children who had made reports to the police did not see their cases proceed to court (RA4-KY-03-A-Child and RA4-KY-04-A-Child).

Most of the OCSEA victims appear to not have had access to lawyers to support them with their cases. Only three of the eight children who went to court said that they had access to a lawyer. Of the children who had access to lawyers, only one reported having been provided with an opportunity to select their lawyer. They picking a female lawyer because *“females are more understanding”* (RA4-KY-10-A-Child). Similar to the sentiments regarding police officers, the children felt more confident with female lawyers: *“it made me feel free to talk to her because we are of the same gender”* (RA4-KY-10-A-Child); *“I had a male lawyer and felt bad that I was not given an opportunity to choose one”* (RA4-KY-07-A-Child).

Generally, the children who had a lawyer reported that it made them feel good. The children did not state any discomfort when re-telling their experiences to their lawyers and had confidence that the lawyer understood their case, with one child reporting that she *“received an explanation of the process and her rights”*, (RA4-KY-06-A-Child). The three children did however admit that they forgot some of the details provided by their lawyers and it was not always the case that lawyers would explain all the procedures to the children. One child, although happy to have the services of a lawyer and receiving some explanations, reported that despite all this guidance she remained unclear about the process.

It was also not guaranteed that having a lawyer would be enough to remove all the negative feelings: *“I felt good about having a lawyer, but I still felt uncomfortable at the start”* (RA4-KY-07-A-Child).

Those who did not have a lawyer were not aware of the reasons behind this. One OCSEA victim (RA4-KY-09-A-Child) wished she had been provided with the services of a male lawyer. Her motivation was that a male lawyer could have helped her to ensure her perpetrator was not jailed. This could perhaps be because the child victim was pregnant at the time of interacting with the judicial system. The same child victim (RA4-KY-09-A-Child) was, however, supported by a social worker who acted on her behalf in court.

One child victim (RA4-KY-02-A-Child) reported a unique experience with those in the judicial system and the police who linked her to other service providers such as schools while her case was being processed:

“I told them about my case, they took me to the court and later transferred me to the children’s home and the manager at the home was the one who took care of my case, and since I was pregnant, they paid for my course to go back to school, until COVID-19 shut everything down” (RA4-KY-02-A-Child).

With regard to the caregivers, most of them felt that they and their children had been supported in the justice process. One caregiver felt supported because their child received *“medical services and support for reunification back at home”* (RA4-KY-02-B Parent). Another mentioned the availability of psychosocial support as an element which helped the child to cope (RA4-KY-05-B Parent), even though the child could not fully understand the language used. One caregiver felt they supported the child through their interaction with the prosecutor. The same caregiver, however, felt they only began to

collaborate with the police and court officials once the child had been found (RA4-KY-07-B Parent). Yet another felt that the child managed to cope due to significant support from those in the family, community and in the justice system, including the lawyer: *“the lawyer was supportive and she assured us that she wanted the full information to ensure that the case was prosecuted”* (RA4-KY-10-B Parent).

Another caregiver reported that she and the child *“were also supported with the means to be to attend the court proceedings”* and *“they followed up with the case and updated me on every part of my child’s case and the support was good”* (RA4-KY-02-B Parent).

The interviews showed that getting justice for OCSEA victims is difficult. Of the ten cases, two did not make it to court; it was unclear why these cases did not go further. Even for those cases that made it to court, it was difficult to get appropriate legal assistance, with the state providing a lawyer in only two of the eight cases. Access to a lawyer seemed to improve the experience, particularly for the one child who got to select her own lawyer, however, children and caregivers still struggled to understand some parts of the process even with lawyers. This suggests that a more victim-friendly approach and age-appropriate language is needed. In very few cases victims were linked to other key services.

Children’s feelings about the interactions with lawyers and judges

The unavailability of lawyers clearly created negative feelings among the child victims: *“No one explained that I could need a lawyer...I felt it was important for me to have a lawyer, I was unhappy about it [not having one]”* (RA4-KY-05-A-Child); *“I went to court alone and did not understand the proceedings”* (RA4-KY-08-A-Child). Another child recalled being under a lot of stress and as a result could not ask many questions about her case. In addition to the stress, some children reported having to deal with fear: *“I was afraid but I had to speak, I had no other choice”* (RA4-KY-08-A-Child).

The OCSEA victims had mixed feelings about the judges, with some finding the interaction rather neutral or indifferent while others found it positive. One child reported that she did not have the opportunity to share her experience or to ask any questions in court. Despite these limitations, the child reported being happy about how the judge managed her case in court (RA4-KY-05-A-Child).

One child stated: *“it was okay to meet the judge”* (RA4-KY-02-A-Child), while another stated: *“I felt like I did not really interact with the judge [...] I wasn’t allowed to enter the court room”* (RA4-KY-08-A-Child). In contrast, two children felt their experience was positive: *“I felt the judge listened to me and I felt like I was free to ask questions”* (RA4-KY-07-A-Child).

One OCSEA victim reported that she *“had a bad experience”* but no explanation was provided for the negative experience (RA4-KY-06-A-Child). Lastly, one child reported: *“I was afraid but I felt I had to speak out because I had no other choice”* (RA4-KY-09-A-Child).

One caregiver noted that some of the questions asked by the judge made the child uncomfortable, referring to these questions as *“elephant in the room questions”* (RA4-KY-10-B- Parent). Unfortunately, the caregiver did not provide an example of the questions they felt made the child uncomfortable.

Generally, from the interviews, it appears the majority of children had negative experiences with judges, feeling either excluded or having to deal with the trauma of explaining their ordeal.

Caregivers experiences with lawyers and judges

The majority of the caregivers interviewed confirmed the response given by the children that they did not get any lawyers to support them in court. The caregivers who did not have a lawyer generally reported a more negative experience, with limited guidance on the processes as well as their rights.

The few caregivers who had access to a lawyer reported feeling better equipped to navigate the judicial system, with one caregiver stating: *“I hired my own lawyer, who encouraged me. I was very sad because I had to pay for the services of a lawyer and I did not have any money”* (RA4-KY-06-B Parent). Despite the financial burden, the caregiver reported a very positive experience: *“the lawyer was very friendly to my daughter and she was very comfortable with her and she updated and engaged me with the processes of the case”* (RA4-KY-06-B Parent). The participant further explained that having a lawyer that specialised in children’s cases contributed to the child being comfortable and opening up. The caregiver was impressed with the support from the lawyer and the courts. Although the availability of a lawyer made it easier, caregivers still reported feeling uncomfortable with the questions being asked and *“dealing with the lies from the perpetrator”* (RA4-KY-06-B Parent). This parent largely felt justice was delivered, showing that having a lawyer may contribute to providing a sense of justice for OCSEA victims and their families.

There were some exceptions, with two caregivers who did not have access to a lawyer still feeling they received enough support: *“I was able to meet the social workers who were present during the case process”* (RA4-KY-02-B Parent and RA4-KY-09-B Parent). This suggests that in instances where the services of a lawyer cannot be secured, an effort could be made to ensure some support for the victims of OCSEA and caregivers. This support could be from social workers or service providers with a similar mandate.

Caregivers’ support for children in court

During the court appearances, some caregivers felt that they were able to support their children: *“I took her to court”*, said three of them (RA4-KY-03-B Parent; RA4-KY-05-B Parent; RA4-KY-10-B Parent). Some caregivers also stated: *“I informed her of the court process and dates and helped her to prepare for it”* (RA4-KY-02-B Parent); *“I was the one helping her with the things that she didn’t understand, I was the one translating for her and explaining how to go about it”* (RA4-KY-03-B Parent). One caregiver stated *“I encouraged her and gave her moral support”* (RA4-KY-10-B Parent).

One caregiver felt unable to support the child during the court process, stating that: *“only the police had taken the accused to court, I didn’t go, I am just waiting for the report from the police officer”* (RA4-KY-01-B Parent). The same parent was less satisfied with the support at court: *“I really needed a lawyer, but I was not supported...when the court resumes I will use my own transport to get to the court to testify”* (RA4-KY-01-B Parent). This parent felt the justice system was only concerned with the child and that basic support such as transport money was not available.

One caregiver (RA4-KY-09-B Parent) never had the opportunity to go to court with her child but did not provide reasons for her inability to attend.

Hardest part of talking with criminal justice actors for children

One of the most cited sources of hardship by almost all the children was the fact that they had to repeatedly report their ordeal to different people, starting with the person that helped them make the decision to go to the police, numerous officers, lawyers and finally reliving the experience in court.

Three child victims faced hardship due to language. The first was unable to follow the court proceedings as they were in English and no translation was provided. The second struggled to follow the discussions at the police station because the officers predominantly spoke in Kiswahili, which she could not understand: *“At that time, I didn’t know Kiswahili very well and they used to use Kiswahili which I could only understand a bit”* (RA4-KY-05-A-Child). The third child struggled to keep up with the mixed use of English and Kiswahili stating that *“as a result I was not confident to ask questions”* (RA4-KY-09-A-Child).

Other OCSEA victims complained of criminal justice actors expressing harsh opinions and judging them: *“They blamed me for my situation saying that I asked for it, so they were asking why I was reporting it”* (RA4-KY-04-A-Child). Another child also felt that she was being shamed: *“they kept referring to the fact that I was pregnant at a very young age”* (RA4-KY-09-A-Child). In one of the cases, the interviewed child also alleged the police were corrupt: *“the police did not do anything to make my experience easier. They would insult me and call my abuser’s mother to report to her and she would pay them”* (RA4-KY-04-A-Child). The child alleged that the mother of the perpetrator would send police officers money through mobile money transfers in an effort to stop the arrest of the perpetrator.

Other things that the children saw as the hardest part of talking with criminal justice actors included the need to *“talk in open court, it felt like there was no privacy”* (RA4-KY-04-A-Child) and having to talk to strangers.

Because of these and other factors, an overwhelming majority of the children stated that they would not be comfortable to make any reports to the police or to interact with criminal justice actors in the future: *“I am afraid of going to the police”* (RA4-KY-09-A-Child). In some cases, the children insisted they would avoid the legal system even in the face of serious abuse. It appears that their experience and interaction with the criminal justice system has not improved their confidence. Most of the children expressed fear and generally believed they would not want to relive the trauma. This shows how far the practical implementation of the criminal justice system is from what is foreseen in the law and how a significant risk remains that OCSEA victims will suffer secondary victimisation through the justice process.

One child victim also highlighted that pursuing the case presented her with a huge financial burden and that she would therefore be less inclined to report something else in the future.

There was one outlier, with one of the children stating that the hardest part of her interaction with criminal justice actors was that *“they did not listen to what I wanted, they refused to release my perpetrator”* (RA4-KY-09-A-Child). The child victim who was pregnant from the abuse still intended to pursue an intimate relationship with the perpetrator.

Similar to the accounts by the interviewed children, some caregivers (RA4-KY-01-B Parent and RA4-KY-03-B Parent) felt that the hardest part was telling their story and having to re-tell the ordeal many times.

One parent observed that the hardest part for the child when interacting with judicial actors was the feelings it brought: *“My child felt deceived by the perpetrator and also did not understand what was going on”* (RA4-KY-06-B Parent).

Three caregivers also referred to the issue of police officers accepting bribes (RA4-KY-01-B Parent; RA4-KY-04-B Parent and RA4-KY-05-B Parent). They felt that dealing with police officers who would take bribes was the hardest part of getting justice for the children:

“I’m sorry to say but the police like bribes and I think that was the influence that derailed our case because the perpetrator’s mother would send them money and I didn’t and that made them take her side and the case was dropped” (RA4-KY-04-B Parent).

“It was very hard getting justice because sometimes the police can be bribed and bought to dismiss the case by the perpetrator. We had the right to justice, but you can’t be sure if they will be bought” (RA4-KY-01-B Parent).

One caregiver felt that the hardest part of the process was the feeling of justice not being delivered and the perpetrator not facing any consequences: *“the perpetrator was never arrested”* (RA4-KY-05-B Parent).

One caregiver shared that the most difficult part for the child was dealing with different emotions in the aftermath of the abuse, while another observed that the child struggled with the case because she did not want the perpetrator to be jailed. In addition, the child struggled to:

“Digest the whole defilement ordeal. It was very traumatising at first because she was blaming herself and because she was questioning herself and what other people might say, she was questioning her integrity and she didn’t know what the future would look like. She was afraid that people would laugh at her, so she was I don’t know if I can say apprehensive, she was confused in the beginning because of her morality now that she had been defiled. So that was a very difficult period for her, but she was counselled, and she has been able to overcome those issues” (RA4-KY-10-B Parent).

However, it has also been difficult for the parent, who stated that *“I was scared of the police”*. The hardest part for this parent was making initial contact with the police and the courts as they were *“unfamiliar and scary”* (RA4-KY-10-B Parent).

Another caregiver also described the interactions with the police as the hardest part of their efforts to get justice for OCSEA victims:

“The hardest part was that I tried to plead that my child shouldn’t go to the court, but they said that she had to because she had a case, I was very afraid for her. I felt that the hardest part for her was that she was not assisted. They didn’t attend to me whenever I asked a question. They gave me a go around and only attended to the perpetrator who was a white man and his wife, because they had money...the hardest part about getting justice for the child was with the police, she was very stressed at the police station because we felt like the police were frustrating us and the case and they weren’t willing to assist, so she just wanted the case to be over and done with” (RA4-KY-07-B Parent).

This parent had a particularly difficult experience. She reported that the child was taken away and she could not see her to make sure her child was well: *“They hid her and I got reports that she was sick, I felt really bad and it wasn’t right, something like that, they should allow the parents to see their child and support them”* (RA4-KY-07-B Parent). The same parent felt that the hardest part for the child was to go through the police and court processes while she was pregnant.

On what could be done to make their experience easier, one caregiver hoped to get the services of a lawyer, stating: *“I would recommend that they should be able to offer immediate counselling at the station”* (RA4-KY-01-B Parent). One parent (RA4-KY-02-B Parent) felt the hardest part were the delays with investigations, which made people lose hope. Another caregiver also shared that the hardest part was putting themselves in the shoes of their child who had been abused (RA4-KY-03-B Parent).

As the quotes from the interviews show, the interviewed caregivers indicated a broad range of issues that they saw as particularly hard for them and their children. Firstly, there appears to be a general fear and reluctance for caregivers and children alike to interact with criminal justice actors in the future. Caregivers also reported concerns over corruption in the justice system. Secondly, language barriers played a key role in excluding OCSEA victims from the processes. The use of English, Kiswahili or mixing different languages made it hard for caregivers and child victims to follow proceedings. This was made worse by the suggestion that officials did not use age-appropriate language. Child victims largely struggled with the need to re-tell their ordeal, especially in open court, while the stigma and judgement from judicial actors also contributed to their discomfort. It is evident that many factors stand in the way for the provision of a victim-friendly process. The end result is that most of the children report an unwillingness to interact with the judicial system in the future – a significant deterrent for victims to seek justice.

Children’s feelings on what was done by different criminal justice to make the process easier for them and to help them participate in the process

At least four of the interviewed child victims failed to identify one thing done by criminal justice professionals that made it easier for them to participate in the process.

Other OCSEA victims acknowledged different acts from different criminal justice professionals that made it easier for them to participate in the process. One child appreciated the efforts to move her case quickly, as well as the arrangements made to place her at a shelter and for her to return to school. She also appreciated that *“they used words of encouragement”* and reassured her that *“it will be over soon”* (RA4-KY-01-A-Child). Two other children also appreciated the pace at which their cases moved through the judicial system (RA4-KY-07-A-Child and RA4-KY-05-A-Child).

Without providing any details, one of the children acknowledged that the police did some things to make her comfortable (RA4-KY-03-A-Child), while another felt that the professionals cared and paid attention: *“I felt like the judges and lawyers really listened to me”* (RA4-KY-06-A-Child). Another child appreciated a female judge that encouraged her: *“she said I would move to a better place and I would deliver my child safely”* (RA4-KY-09-A-Child). Yet another child felt it made it easier for her to participate in the process because: *“I appreciated being asked if I would like to regain custody of my child”* (RA4-KY-07-A-Child).

Asked to single out the most helpful professionals encountered, one caregiver mentioned a female police officer and a male community paralegal: *“He was the one who urged me to go to the police and report the case”* (RA4-KY-01-B Parent). Another caregiver felt her child coped well since she received counselling and psychosocial support (RA4-KY-02-B Parent), and yet another said the child coped as *“she was treated well at the court and she was comfortable, and when we got to Nairobi, we were offered free transportation to the court which took two days”* (RA4-KY-06-B Parent).

Compensation

Only one OCSEA victim was aware of her right to compensation before she interacted with the judicial system. Despite this knowledge, the child did not seek compensation. The reason she provided was limited access: *“while I am here at the village I can’t really follow up with whatever is going on”* (RA4-KY-01-A-Child).

The rest of the children did not know about compensation. None of the interviewed children had been informed of their right to receive compensation. When informed of this during the interviews, only four of the ten children reported being open to pursuing compensation. The rest of the children, even with the information about their rights, were not keen to pursue compensation. As a result of this, there were no experiences with the compensation system that could be discussed during the interviews.

None of the ten interviewed caregivers was aware of their right to seek compensation for their children. The caregivers largely reported that they were not informed of this right and were not sure how to proceed. Only four caregivers, having been informed of compensation during the interviews for this study, expressed some interest to consider following up on it (RA4-KY-07-B Parent; RA4-KY-08-B Parent; RA4-KY-09-B Parent and RA4-KY-10-B Parent). Nevertheless, the interest to pursue compensation can largely be described as reluctant: *“I did not know but in the future I could consider following up on compensation”* (RA4-KY-09-B Parent); *“I could consider following up on it but it is not a priority as it could take many years in court to pursue compensation”* (RA4-KY-01-B Parent). Another parent indicated they would have only followed up if they had known during their interactions with the police and the court, but not anymore (RA4-KY-08-B Parent). Although unaware of the right to compensation, another caregiver said: *“my child was well taken care of at the remand home, they bought her all the necessities she needed from shoes to the suitcase and clothes and she was also fed well, so I didn’t follow up on compensation”* (RA4-KY-06-B Parent). Yet another caregiver said that even if they had known about compensation, it was unlikely they would have pursued it *“because for the young girl, since the beginning of the case, she didn’t want the young man to be arrested, so I don’t think that she will cooperate with the process of seeking compensation”* (RA4-KY-08-B-Parent).

The rest of the caregivers were not aware that they could receive compensation and were not keen to pursue it: *“No one provided us with that information, I had no idea that I could get paid because personally all I wanted was to get justice for my child”* (RA4-KY-01-B Parent).

Most caregivers agreed it would have been useful to have this information upfront: *“Even if they compensated me, they destroyed a life and it can’t be refunded, so you just let some things go”* (RA4-KY-03-B Parent).

One parent expressed pursuing compensation from the perpetrator, but it appeared the compensation would be outside the judicial system. The parent asked, *“the white perpetrator promised my child that he would give her some money if she kept quiet, so I don’t understand how to go about it?”*. She went on to state: *“the perpetrator later refused to give us the money stating that we had gotten him arrested, therefore breaking the agreement that if we did not report the case to the police he would give us money. Now how can you help me follow up with the perpetrator?”* (RA4-KY-03-B Parent).

Main changes suggested by children to make it easier for children to seek compensation

The questions on how to make it easier for OCSEA victims to seek compensation were only addressed by two of the interviewed children. They recommended the appointment of dedicated people to support with the follow up for compensation: *“I am in the village and I am also a child, it will be hard for me to follow it up myself”* (RA4-KY-01-A-Child). The second child proposed that the police should be responsible for following up on compensation *“because they can actually find out where the perpetrator is”* (RA4-KY-10-A-Child). She also felt that asking the perpetrator to pay compensation is another form of holding them to account.

One caregiver recommended that the compensation must be part of the judgment: *“If the perpetrator is able, they should also be forced to compensate that child, maybe it should be part of the judgment”* (RA4-KY-10-A-Child).

It is evident from the interviews with the OCSEA victims and their caregivers that the lack of information about the existence of a compensation mechanism and about the possibility to seek compensation is the most significant barrier. In addition, there appears to be very limited support systems for the victims who may elect to seek compensation. Generally, it appears that if victims were provided information at the start of the process, they would have sought compensation, but they were less inclined to do so after the trials. This suggests a keenness to avoid reliving their trauma, particularly as some of the victims did not have positive experiences with the judicial system the first time around. There are also concerns of slow processes that could be costly. Lastly, one interview suggests that in some cases there are agreements outside the judicial systems for compensation – which introduce a different set of risks.

Successes

It is difficult to identify cases where things were done well and where a child victim of OCSEA got sufficient access to justice. However, across the ten cases some promising practices can be highlighted. Some of the children were consulted by caregivers and were part of the decision to report their case to the police. At the police station, some good practices can also be identified, such as the use of language that is understood by the child, or ensuring the child sits in a comfortable and private space and allowing the child to speak to an officer they are comfortable with. Some officers also explained the rights of the child, laid out the next steps and provided some emotional support.

At the next stage, other good practice that was reported by a few of the interviewed children and caregivers was that lawyers were made available to support the child and to explain the procedures. One case stood out where a child officer spoke on behalf of the child thus protecting her from the need to re-tell her ordeal in court. The child still felt included and heard even though someone spoke on her behalf. Lastly, a few of the interviewed children appreciated the issue of providing a speedy resolution of their cases. The linking of children to other service providers such as shelters and schools was also appreciated, although rare. One child appreciated the opportunity to be at a remand home while her case was being processed.

Recommendations

There appears to be a need to improve knowledge of OCSEA by caregivers, children and the community in general. The advocacy and information dissemination could strengthen the ability to identify, prevent and, in the event of OCSEA, improve the likelihood of communities, caregivers and children seeking to hold perpetrators accountable: *“More awareness needs to be created on the online sexual exploitation for children, caregivers and legal officers because it is real and people are afraid to report the cases”* (RA4-KY-05-B Parent). More importantly, these efforts should focus on removing stigma, fear and victim blaming that often accompanies sexual crimes. Lastly, it is evident that child victims require external support to reach a decision to report OCSEA. It is key to raise awareness on the need for caregivers to encourage children until they are comfortable enough to report the crime.

It is evident that in Kenya, there is a need to strengthen the systems in place to ensure access to justice for OCSEA victims. More importantly, there is a need to strengthen the capacity of key actors from the police, social workers, lawyers and judges. This could lead to a standardised application of procedures relating to treatment of OCSEA victims.

Child victims appear to have mixed experiences at probation homes, with some reporting good care and support while others have unpleasant experiences where they felt they were sharing spaces with criminals and the rooms were not ideal. The broad range of clients and services offered at these homes in some cases appeared to create a negative experience. It could be useful to consider specific spaces and treatment for child victims: *“The remand home should go through some changes because it was very hard staying there, the sleeping areas had bedbugs”* (RA4-KY-09-A-Child).

The interviews also highlighted the pressing need of ensuring each police station has dedicated police officers who are provided with necessary training to deliver victim friendly support: *“The police should be friendlier”* (RA4-KY-03-B Parent; RA4-KY-05-B Parent and RA4-KY-09-B); *“The police should adjust their attitude and attend to people better [...] so that even the children get courage to come out and speak the truth”* (RA4-KY-08-B Parent). It is evident that girl victims prefer dealing with female officers, thus such officers must be available and children must be provided with an opportunity to select the officer to assist them. The reviews could also ensure standardising the number of officers who interact with children and ensure the provision of child-friendly waiting and interview spaces: *“...they should create child-friendly spaces at the police stations and courts”* (RA4-KY-05-B Parent). Corruption also appears to be a hurdle. Access to justice for OCSEA victims could be improved by increasing efforts to tackle corruption particularly at local police stations: *“They should have a heart instead of taking bribes and destroying other children’s lives by selling poor people like us to the rich”* (RA4-KY-08-A-Child). Lastly, the police must have a standard information package for all victims to ensure all the relevant procedures are explained and caregivers and child victims can make informed decisions.

Access to legal representatives should be expanded to ensure more child victims go through the justice system with a lawyer: *“I would recommend that they provide lawyers to help the family and get legal justice for the family”* (RA4-KY-01-B Parent and RA4-KY-05-B Parent). As a practice, caregivers and child victims should be consulted before the allocation of a lawyer. There appears to be a preference to have female lawyers (at least for female OCSEA victims), thus relevant departments must ensure the availability of female lawyers to support OCSEA victims.

Lawyers, judges and police officers need to be trained to ensure the language they use can be clearly understood by the child victims and caregivers and translation services must be provided where necessary. More importantly, an effort must be made to use child-friendly language and to avoid passing judgement or use language that worsen feelings of shame and guilt: *“the police should adjust their attitude and attend to people better, they should attend to everyone, rich or poor”* (RA4-KY-08-B Parent).

The biggest impediment to families seeking compensation is the lack of information about it. The information gathered from the interviews suggest that OCSEA victims and caregivers should be provided with information on compensation at the start of the process to increase the likelihood of them pursuing compensation. In addition, child victims and caregivers recommended that the process of compensation must be integrated and managed simultaneously with the criminal case. When the courts make a decision, they should also consider that aspect without the families needing to take additional action.

During the interviews, the children suggested some changes to make it easier for OCSEA victims to participate in criminal cases against their abusers. The children recommended that cases should be handled carefully and in a consistent manner, ensuring that cases are prosecuted and that children and parents are briefed on the outcome at the end of the case.

One child also recommended that professionals who interact with children must contribute to the reintegration of children back to their homes and their families at the end of the cases: *“Stakeholders should follow up and help all children”* (RA4-KY-06-A-Child).

The children also recommended that, in the future, OCSEA cases must be processed quickly to allow the child victims an opportunity to quickly move on. This would also hopefully reduce the costs families face as they seek justice for OCSEA victims.

The interviews confirmed the complexities around OCSEA, which is still a concept that is not well understood by families as well as those in the justice system. There is still a lot of fear, shame and stigma around the abuse with some sentiment of blaming the victim. It is also very evident that the access to criminal justice for OCSEA victims is severely compromised. There is a need to improve the system and ensure a greater compliance with procedures to ensure speedy, sensitive and child-friendly services.