

# NATIONAL CRIME RESEARCH CENTRE

*Fighting Crime through Research*



## **PROTECTING THE FAMILY IN THE TIME OF COVID-19 PANDEMIC: ADDRESSING THE ESCALATING CASES OF GENDER-BASED VIOLENCE, GIRL CHILD DISEMPOWERMENT AND VIOLATION OF CHILDREN RIGHTS IN KENYA**

### **SUMMARY OF FINDINGS AND RECOMMENDATIONS**



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**Nairobi; Printed in Kenya**

**ISBN 978-9966-7493-1-4**

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## FOREWORD

The fundamental importance of the family and its right to be protected has consistently received international, regional and national recognition. Article 16 of the Universal Declaration of Human Rights provides that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State. This principle has been promulgated in both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. It is also embodied in one form or another in a range of other international and regional human rights instruments. Article 45 of the Constitution of Kenya recognizes the family as the natural and fundamental unit of the society and the necessary basis of social order and should, therefore, enjoy the recognition and protection of the State.

Domestic and gender-based violence is a violation of fundamental rights with respect to dignity, equality and justice. Despite numerous efforts to counter such violence, it remains an extensive and widely under-reported human rights abuse with young women and children being particularly vulnerable. A dysfunctional social-cultural value system within the family, including increasing cases of gender-based violence, violations of children's rights and disempowerment of girls is a threat to the State. Further, this poses a challenge to the realization of Kenya's development agenda as defined in Vision 2030 and the Medium-Term Plan 2018-2022 which the Government has prioritized in the Big Four Agenda.

This study shows that the curve of escalating cases of gender-based violence, girl child disempowerment and violations of children's rights was getting worse even before reaching a soaring crisis during the time of the COVID-19 pandemic. The escalation is projected to increase with Post COVID-19 uncertainties and predications. Therefore, the Government's response to reverse this trend must be relentless and corresponding to match the magnitude of this challenge.

His Excellency, the President pronounced himself on this matter during the ninth State address on the COVID-19 pandemic, delivered on the 6<sup>th</sup> July, 2020. The President acknowledged the increasing tensions within homes, increased cases of gender-based violence, worsening mental health issues and escalating instances of teenage pregnancy and called for a probe into the apparent escalation in cases of violence against women and girls, the disempowerment of the girl-child and violations of children's rights. The study findings provide ways and means to fortify the protection of the Kenyan family as the foundation of the State. We, therefore, urge our collective responsibility to implement the recommendations of this study report and advisory.



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## ACKNOWLEDGEMENTS

The Centre wishes to acknowledge and thank the research team comprised of Governing Council members from the Research and Development Committee, researchers from the Centre and contracted external resource persons with expertise in the area of study. The Centre is grateful for the overwhelming response from government agencies, politicians, private sector, development partners, faith-based organizations, civil society, community-based organizations and the media who supported and endorsed the research process, providing important data, contacts, and access. Apart from lending credibility to the report, the direct collaboration of these agencies offered interesting opportunities in programmatic areas going forward.



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# SUMMARY OF FINDINGS AND RECOMMENDATIONS

## 1.0 Introduction

Family protection is one of the leading functions of the Public Service. During the ninth State address on the COVID-19 pandemic delivered on 6<sup>th</sup> July, 2020, H.E The President acknowledged the apparent escalation of cases of gender-based violence, violations of children's rights and girl child disempowerment which were affecting the wellbeing of the Kenyan family as the foundation of the State. In order to fortify the protection of the Kenyan family, the President directed and ordered that the National Crime Research Centre probes these aspects and prepares an advisory to security agencies on remedial action within thirty (30) days from 6<sup>th</sup> July, 2020.

Premised on the above background, this study sought to: establish the patterns of gender-based violence, violations of children's rights and girl child disempowerment in Kenya in light of COVID-19 pandemic; examine factors contributing to gender-based violence, violations of children's rights and girl child disempowerment; identify the perpetrators of gender-based violence, violations of children's rights and girl child disempowerment; and present an advisory prioritizing multiple programmatic areas for inter-agency consideration and implementation.

The study took the form of a rapid assessment using a mixed method approach and utilizing consultations with key stakeholders and desk review of data from state and non-state key informant agencies dealing with the subject. The reviews examined data for the period before and during the COVID-19 pandemic in order to generate meaningful recommendations on the remedial action to be taken during and after the pandemic period.

## 1.1 Summary of Key Findings

### 1.1.1 Forms of GBV

This review established that: the number of GBV cases recorded between January and June, 2020 had an **increase of 92.2%** compared with those of between January and December, 2019;<sup>1</sup> the most common forms of GBV, as categorized and handled and/or recorded by different key state and non-state agencies between January and June, 2020 were assault, physical assault, rape/attempted rape, murder, sexual offences, defilement, grievous harm, physical abuse, child marriage, psychological torture and child neglect; the most common forms of GBV handled and/or recorded by different key state and non-state agencies during the 3-months COVID-19 restrictions period of April to June, 2020 were murder, sexual

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<sup>1</sup> Kenya Police Service, (2020) Crime Statistics

offences, defilement, grievous harm, attempted defilement, sexual abuse, physical abuse and child marriage; and the forms of GBV which recorded an increase in the number of cases during the 3-months Covid-19 restrictions period of April to June, 2020 were defilement, attempted rape, rape, subjecting children to torture, attempted defilement, gang rape, gang defilement, threatening to kill, attempted murder, arson, sexual communication with a child, sexual abuse, physical abuse, child abduction/kidnapping, emotional abuse, child marriage, Female Genital Mutilation (FGM), child prostitution, child radicalization and online abuse.

### **1.1.2 Victims and perpetrators of GBV**

The review established that: **71.0%** of the 2,416 cases of GBV (that is, 1,716 cases) reported between January and June, 2020 were female victims, that is, **10 females daily** (State Department for Gender, 2020); the main perpetrators of gender-based violence are the youthful males aged 18-33 years who are in a family and/or intimate partner relationship context. Victims of GBV are majorly girls, women and children.

### **1.1.3 Factors contributing to GBV**

The factors contributing to GBV in Kenya include: alcohol, drug and substance abuse; poverty; family/ domestic disputes; and retrogressive cultural (including religious) beliefs and practices and male dominance (including undermining masculinity); poor parenting/upbringing and moral decadence; identity crisis among the youthful population; and inadequate support system.

### **1.1.4 Forms of violations of children's rights**

Findings have shown that: the total number of cases of violations of children's rights rose from 51,991 in 2017 to 158,933 in 2019 thus representing a **205.6% increase** within a period of three (3) years (**or average of 68.5% increase per year**) with child neglect, child custody and child abandonment being the top three forms of violations between January 2017 and June, 2020;<sup>2</sup> 43,051 children were violated between January and June, 2020 especially through child neglect, that is, an average of **239 children daily**;<sup>3</sup> the most common forms of violations of children's rights, as categorized and handled and/or recorded by different key state and non-state agencies between January and June, 2020 were child neglect, custody, child abandonment, incest, infanticide, defilement, attempted defilement and maintenance and custody; the most common forms of violations of children's rights handled and/or recorded by different key state and non-state agencies during the 3-months Covid-19 restrictions period of April to June, 2020 were child neglect, custody, child abandonment, defilement, attempted defilement and maintenance and custody; during the 3-months Covid-19 restrictions period of April to June, 2020, the forms of violations of children's rights

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<sup>2</sup> Department of Children Services. (2020). Government of Kenya; Kenya Bureau of Statistics, 2020. Economic Survey (2020), Nairobi. Government Printers.

<sup>3</sup> Department of Children Services. (2020). Government of Kenya

which recorded some increase in the number of cases were child abandonment, defilement, attempted defilement, Female Genital Mutilation, internally displaced child, unlawful confinement, grievous harm, killing an unborn child and child labor.

### **1.1.5 Forms of girl child disempowerment**

With regard to girl child disempowerment: the total number of cases of girl child disempowerment rose from **26,182** in 2017 to **79,949** in 2019 thus representing a **305.4%** increase within a period of three (3) years (compared with the overall increase of child violations of **205.6%**) with child neglect, child custody and child abandonment being the top three forms of violations between January 2017 and June, 2020;<sup>4</sup> 19,884 girls were disempowered between January and June, 2020 especially through neglect, custody, abandonment and defilement, that is, an average of **111 girls daily**;<sup>5</sup> the most common forms of girl child disempowerment, as categorized and handled and/or recorded by different key state and non-state agencies between January and June, 2020 were found to be child neglect, defilement, child abandonment, attempted defilement, killing an unborn child, child marriage, teenage pregnancy, Female Genital Mutilation and custody; the most common forms of girl child disempowerment handled and/or recorded by different key state and non-state agencies during the 3-months Covid-19 restrictions period of April to June, 2020 were defilement, attempted defilement, child marriage, teenage pregnancy, Female Genital Mutilation, procuring abortion, child neglect and custody; and that during the 3-months Covid-19 restrictions period of April to June, 2020, the forms of girl child disempowerment which recorded some increase in the number of cases were; defilement, attempted defilement, child marriage, teenage pregnancy, Female Genital Mutilation, procuring abortion, cruelty to a child, rape, drug related offences, abduction, incest, internally displaced child and unlawful confinement.

### **1.1.6 Perpetrators of violations of children rights and girl child disempowerment**

The main perpetrators of violations of children rights and girl child disempowerment are immediate family members and extended family members followed by outsiders such as schoolmates, neighbours, boy/girlfriends, Female Genital Mutilation practitioners, person in authority (e.g. some chiefs, some police officers), some teachers, some doctors and nurses, other children, house help/caregivers, sections of boda boda operators, some matatu touts and operators and estate caretakers.

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<sup>4</sup> Department of Children Services. (2020). Government of Kenya: Kenya Bureau of Statistics, 2020. Economic Survey (2020), Nairobi. Government Printers

<sup>5</sup> Department of Children Services. (2020). Government of Kenya

### **1.1.7 Root causes of violations of children rights and girl child disempowerment**

The root causes of violations of children rights and girl child disempowerment include: death of parent or orphan hood; lack of parental care; abandonment; poverty; broken family relationship; lack of family commitment to care for the child; imprisonment of a parent; child abuse including labour; truant behavior of the child; illness of the parent and/or the child; child's need for education; absentee parent; conflicts in the family; violence and mistreatment within the family; sexual abuse; alcohol and drug abuse by parents; retrogressive cultural practices; early marriage; early pregnancy; food insecurity; sexual risk-taking behaviours; and technology influence.

## **1.2 Conclusions**

Based on the findings, the conclusions drawn are:

1. There is a likelihood of increase in family-based crimes, offences and violations partly due to the circumstances of the Covid-19 pandemic.
2. There is a sustained prevalence and escalating trend of physical violence within the family set up orchestrated majorly by the male figure.
3. There is a confirmed escalating trend of violations of children's rights including girl child disempowerment.
4. There is a likelihood of increased teenage pregnancy, school drop-out and juvenile delinquency.
5. There is a link between dysfunctional socio-cultural value system within the family and the increasing cases of gender-based violence, violations of children's rights and girl child disempowerment.
6. There is observable variations/inconsistency in data categorization, capture and reporting among different agencies addressing issues of GBV and violations of children's rights in Kenya. This causes disparity in reported (known to police) and unreported cases largely captured by other state departments, hence negating the spirit of integration and multi-agency/sector approach in addressing public safety and security in Kenya.
7. There is a likelihood of post-COVID-19 period confounding the forms of family-based crimes and violations in the country because of the uncertainties and unpredictability of the pandemic.

## **1.3 Key Policy Recommendations**

### **Lead Agency - The Presidency**

- i) Inspire a national agenda and campaign to '*reclaim the Kenyan family*' organized in a structured and systematic manner with elected, appointed and ordained leaders



against socialization and normalization of violence in the family and violence against women and children with special focus being on persistent retrogressive/harmful cultural and traditional practices such as female genital mutilation (FGM), early/forced child marriages, wife battery and wife inheritance which demean and disempower girls and women in Kenya.

- ii) Strengthening the role of the Department of Children Services and the National Council for Children Services (especially the Area Advisory Councils) especially through enhanced human resourcing and mainstreaming of child protection in functional operations of both public and private institutions.
- iii) Declaration and prioritization of management of GBV and children services as essential and critical services.

**Lead Agency - Council of Governors**

- i) The Council of Governors needs to make it a standing agenda the strengthening of community livelihoods improvement programme targeting the youth as a national dividend by way of economic zones (for example, Export Processing Zones (EPZ)), enhanced employment opportunities, skills development and business start-ups.
- ii) There is need for the establishment of One-Stop Centres for survivors of GBV across the 47 Counties.
- iii) Governors need to prioritize: advocacy against secret relationships/sponsors”; integration of services in reporting, referral, tracking, intervention and placement of victims and survivors in safe shelters; and social services related to smooth access to health services (such as Linda Mama programme) by teen/child mothers.

**Lead Agency - National Government Administration officials (NGAO) and County government devolved level units.**

- i) Hold regular exchange of ideas and set up local parenting and fatherhood clusters to fight against family-based crimes and violations.
- ii) There is need to escalate the current efforts of strictly regulating gambling and especially online betting.
- iii) There is need for strict regulation of the sale of second generation alcoholic beverages and drinks.

**Lead Agency - Ministry of Interior and Coordination of National Government**

There is need to institutionalize and empower Nyumba Kumi (which has about 387,000 clusters in the country) as a community-based structure for alternative dispute resolution and first line responder (in terms of reporting, surveillance and monitoring) to crimes and

violations happening in the local community and private spaces or ‘behind-closed-door’ settings of the family.

**Lead Agency - Ministry of Education**

- i) There is need for education sector agencies to deepen the existing structures of guidance and counselling with a special focus on online guidance and counselling targeting educational, vocational and personal/social life of learners (at all levels of education service) who are currently at home due to the COVID-19 pandemic.
- ii) Strengthen the curriculum and school syllabus that address child rights, reproductive health and sex education in schools to empower children to speak out against violations of their rights and other abuses.
- iii) School-based child friendly mechanisms for reporting violations (such as confidential reporting boxes/booths) need to be prioritized.

**Lead Agency - Department of Children Services**

- i) There is need to formulate, plan and implement out-of-school programs for children across the country to keep them occupied.
- ii) Work/life balance programs for parents aimed at improving care and support of their children are necessary.

**Lead Agency - Directorate of National Values and Cohesion and Department of Culture**

- i) There is need for a Summit to dialogue on Kenya’s value system and its role in the protection of the Kenyan family.
- ii) There is need for institutionalization of national ethos and values and the bill of rights at family level through socio-cultural approaches and religious institutions.
- iii) There is need for revival of some traditional institutions and systems that nurture family and community with a special focus on eldership system, customary law and traditional dispute resolution mechanism to the front of family and community wellbeing.

**Lead agency -Ministry of Labour and Social Protection and non-state actors**

- i) There is need to build community and family resilience against gender-based violence, violation of children rights and girl child disempowerment through effective parenting and family well-being therapy extension services at Ward level managed by well-trained Social Development Officers and Lay Volunteer Counselors.

- ii) There is need to establish safe houses for survivors of GBV and violated children with a special focus on adults and children living with disabilities.
- iii) The Department of Social Development to undertake revitalization of community social welfare and self-help groups through incentivized registration and socio-cultural activities (especially through grants) aimed at providing social and economic support to members.

**Lead agency -Ministry of Information, Communications and Technology**

Lead in coordinated, sustained and prioritized family wellbeing thematic media engagements through print, national TV and radio station akin to the Covid-19 pandemic situation in Kenya.

**Lead agency - Ministry of Health**

Prioritize national mental health and psycho-social support system in Kenya that addresses the risk factors associated with gender-based violence, violation of children rights and girl child disempowerment.

**Lead agency- National Crime Research Centre and National Data Centre**

- i) The National Crime Research Centre and the National Data Centre need to spearhead a **standardized National Register of family-based offences and violations** with clear definitions, reporting tool and framework for GBV and violations of children’s rights.
- ii) The National Crime Research Centre develops a **Centralized National Crime Data Repository and System**

For policy coherence, conducting and collating data and research should have a vibrant engagement by a government body and academia. It is important that a family research agenda be developed, implemented and shared. Specific areas of focus might include an analysis of family violence dynamics (reporting and referral tracing, investigating and apprehending). It is further recommended that other than academic research, the approach should be participatory where relevant actors come together around different issues and engage in a participatory action research on family issues.

**Criminal Justice Agencies**

- i) Establishment of a multi-agency team focused on, among others, a seamless strategic approach for the identification, profiling, investigation, prosecution and rehabilitation of perpetrators of GBV and violators of children’s rights is recommended.

- ii) There is need to establish a National register of profiled convicted offenders of the serious forms of gender-based violence, violation of children rights and girl child disempowerment accessible to the public.
- iii) There is need to undertake expeditious disposal of justice in the best interest of the child through improved reporting, investigations, evidence handling and witness management.
- iv) There is need to establish and/or strengthen GBV and child victim protection units across the agencies in the criminal justice system.





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ISBN 978-9966-7493-1-4



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