

Activating Accountability in Protecting Children's Rights in Botswana: Conversations with *Dikgosi* about Child Sexual Abuse and Exploitation at the Community Level

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Stepping Stones International (SSI) is a non-governmental, non-profit organization that unlocks the potential of orphaned and vulnerable adolescents (aged 12-25+) to a world of opportunities. Stepping Stones International is the first program of its kind in Botswana, focused exclusively on adolescent development. We use a holistic approach by nurturing the mental, physical, and social well-being of our youth to create realizable opportunities for them to become self-sufficient. Through our leadership program, youth gain life skills, leadership, entrepreneurship and community mobilization competencies to assist them in the attainment of post-secondary education or full-time employment. Our team possesses knowledge and expertise in the fields of adolescent care and support services. Visit www.steppingstonesintl.org.

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ACRONYMS

ACRWC	African Charter on the Rights and welfare of the Child
AIDS	Acquired Immunodeficiency Syndrome
BCC	Botswana Council of Churches
BONELA	Botswana Network of Ethics, Law and HIV/AIDS
CBSS	Community-based Support Scheme
COREQ	Consolidated Criteria for Reporting of Qualitative Research
CSA	Child Sexual Abuse
CSAE	Child Sexual Abuse and Exploitation
CRC	Convention on the Rights of the Child
DSP	Department of Social Protection
EIDHR	European Instrument for Democracy and Human Rights
EU	European Union
FGDs	Focus Group Discussions
GAD	Gender Affairs Department
HIV	Human Immunodeficiency Virus
IPV	Intimate Partner Violence
JAC	Joint Advisory Committee (of the <i>Ntlo ya Dikgosi</i> and Botswana Council of Churches)
OAU	Organization of African Unity
OVC	Orphaned and Vulnerable Children
MoBE	Ministry of Basic Education
MLGRD	Ministry of Local Government and Rural Development
MoHw	Ministry of Health and Wellness
OVC	Orphans and Vulnerable Children
PAR	Participatory Action Research
PPCT	Process, Personal, Content and Time (Ecological Model)

PTSD	Post-Traumatic Stress Disorder
S&CD	Social and Community Development
SSI	Stepping Stones International
TAWLA	The African Women Learning Academy
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UNUDHR	United Nations Universal Declaration of Human Rights
UN	United Nations
UNICEF	United Nations Children's Fund
USAID	United States Agency for International Development
VCPC	Village Child Protection Committee
WHO	World Health Organisation

GLOSSARY

<i>Bogosi</i>	An institution of traditional leadership or the position of <i>Kgosi</i>
Community	A specific group of people, often lives in a defined geographical area, who shares a common culture, values and norms.
Customary Law	A law of any tribe or tribal community, the general law or custom of such tribe or community except in so far as such law or custom is repugnant to morality, humanity or natural justice, or injurious to the welfare of members thereof or repugnant to the Constitution or another enactment.
Headman of Arbitration	Kgosana appointed by a <i>Kgosi</i> of a tribal area in consultation with the tribe and confirmed by the Minister of Local Government to oversee a village or ward.
Headman of Records	Kgosana appointed by a <i>Kgosi</i> of a tribal area in consultation with the tribe and confirmed by the Minister of Local Government as a member of the customary court
KBJ	“Ke Boikarabelo Jwarona” Setswana for “It’s Our Responsibility”; the title of the EU-funded human rights and child protection project at Stepping Stones International. This research is conducted under the KBJ Project.
<i>Kgosikgolo</i>	Paramount Chief, i.e., the most senior chief of the Supreme Chief or the highest Paramount Chief

<i>Kgosi</i>	<i>Dikgosi</i> (Plural). A person so designated by the tribe and recognized as such by the Minister under section 4 of the <i>Bogosi</i> Act
<i>Kgosana</i>	<i>Dikgosana</i> (Plural). A person recognized as such in terms of section 22 (1) of the <i>Bogosi</i> Act
<i>Kgotla</i>	‘Dikgotlana (Plural). The customary meeting place (village assembly or parliament) of a tribe or tribal community for the discussion, in terms of customary law of matters of tribe.
<i>Ntlo ya Dikgosi</i>	House of Chiefs established under the Constitution of Botswana ss 7785 and Chapter V of the Parliament ss 5794
Tribe	Any tribal community in existence and recognized as a tribe immediately before the commencement of this Act and includes such other tribal communities.

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PREFACE

Sexual violence and exploitation against children cuts across geographical boundaries, religious affiliations, social classes, and cultures. It occurs at home, in schools, in places of work, and places of entertainment by people who are expected to protect them. The perpetrators include parents, family members, teachers, neighbors, law enforcement officers, and other children. Some children are particularly vulnerable because of their gender, economic and social status, disability, and age. The consequences of violence can be devastating, and children who survive must cope with lifelong emotional scars. Violence affects children's health status, their ability to learn and grow into responsible adults who are expected to create healthy families of their own and communities.

“Activating Accountability in Protecting Children's Rights in Botswana: Conversation with *Dikgosi*” is an innovative social research project that used true but modified cases to explore ‘lived’ experience in how *Dikgosi* would handle such cases at the community level. The research also presents *Dikgosi* perspectives about the state of the Children's Act's implementation at the community level. The views presented in this study offer a rich spectrum of traditional thought systems that are critical for developing data-driven and evidence-based interventions to improve child protection services delivery within the grassroots in Botswana. The findings of study contribute valuable information to the academic literature and practical pool of programmatic data to enhanced child welfare service delivery in our communities. It is our responsibility to aspire for the better today for our children and the better tomorrow for our future generations.

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EXECUTIVE SUMMARY

INTRODUCTION

Child sexual abuse and exploitation remain global legal, health, social, and developmental challenges. Estimates suggest that 40 million children are subject to abuse and neglect each year in the world. Child sexual abuse and exploitation and violence against children, in general, are a result of several factors including weak legal and service delivery infrastructures, socio-cultural, economic, and political circumstances in which violence against children takes place. In efforts to protect children from abuse and exploitation and safeguard their well-being, international, regional organizations as well as nations developed human rights conventions and laws. The Universal Declaration of Human Rights affirms that every child has the right to his or her physical and personal integrity and protection from all forms of violence. Children, as human beings, are entitled to enjoy all the rights guaranteed by the various international human rights treaties. The Convention on the Rights of the Child, is one of the treaties widely applied to uphold rights of children and was ratified in 192 countries around the world. At the regional level, the African Union (the Organization of African Union) adopted the African Charter on the Rights and Welfare of the Child. The African Charter on the Rights and Welfare of the Child calls on nations to take legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment including physical, mental injury or abuse, neglect or maltreatment including sexual abuse.

The Botswana government ratified both the Convention on the Rights of the Child (CRC) in March 1995 and the African Charter on the Rights and Welfare of the Child (ACRWC) in July 2001 and domesticated these instrument through the Children's Act. The Botswana Government has made consented efforts to address the problem of child sexual abuse and exploitation and ensure that justice is accomplished for children through the enactment of the 2009 Children's Act. The Act incorporated the provisions of the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child. The Children's Act includes the Bill of

Children's Rights and provides the preponderant legal framework for guiding the implementation of interventions that protect children from harm and neglect.

However, the literature suggests that the implementation of the Children's Act at various levels of service delivery (the community and district levels) are weak. Studies suggest most Dikgosi are compounded by the lack the sound understanding of the Act and their legal role and responsibilities stipulated in the Act to support its implementation. There is a consensus view among legal experts and researchers that the jurisdiction of the customary courts makes it difficult to support the implementation of the Act because their legal interpretation of cases is informed by their tribal norms and customs. Abuse and exploitation cases are therefore bound to be handled differently. Thus, victims of sexual abuse and exploitation in need of legal services across tribal communities are unlikely to receive equal legal services.

The purpose of this study was to obtain scientific value from the collective view of traditional leaders in selected districts aimed at improving delivery of child protection services consistent with the statutory provisions of the Children's Act at the grassroots level. The research assessed the implementation of the Children's Act of 2009 and explored the 'lived' experiences about procedural steps for handling child abuse and exploitation cases using Dikgosi's 'lens.'

METHODS AND PROCEDURES

The research is a phenomenological qualitative social research that collected data from purposively selected Dikgosi from 94 villages/wards in Bobonong sub-District, Goodhope sub-District, Kanye, and Selibe-Phikwe. Senior chiefs in each study district participated in the selection of participants to ensure fair and equal representation of communities. The selection of Dikgosi accounted for chieftainship hierarchy, sex, age, and geographical location. The research team informed several meetings with community leadership and discussed the social value of the study to Dikgosi as well as the community in general. Before data collection, the participants were informed of the purpose, methods, benefits and risks of the research.

Participants who took part in the study understood the societal value of the research and provided their consent. In respect to the privacy of personal information obtained in this study, the study employed pseudo-codes to mask participant identification. All electronic files have not been shared with a third party and are stored in a password protected computer. The design of the study required the research team to take the transcripts to the participants before final analysis. The opinions presented in this report reflect both the contributions of the participants and analytical views of the research team. The research analyzed and presented in-depth interviews and focus group discussion separately; and triangulated the two strands to present underlying cross-cutting contextual issues emerging from the study. The collection, management, analysis, and reporting of data observed the consolidated criteria for reporting qualitative research to ensure rigor and quality of the entire study.

RESULTS

The results section summarizes the demographic profile of the respondents, provides a summary of the Children's Act implementation analysis, and a brief finding of the case-study group discussions. In addition, the section provides a triangulated (mixed results) from Children's Act implementation and group discussions analysis.

Demographic Profile of the Study Participants

The study participants included 107 *Dikgosi*, of whom five responded to face-to-face in-depth interviews and 102 took part in eight participatory focus group discussions. The in-depth interviews and group discussions were conducted in *DiKgotla* of selected districts or sub-districts. Of the 107 *Dikgosi*, 95 were males and 13 were females. The age of the study participants ranged from 35 years to 81 years old. The hierarchy of the study participants included senior chief representatives, chief representatives, customary court presidents and staff, headmen of records, and headmen of arbitration.

Children's Act Implementation Analysis

The study used the social policy implementation analysis questionnaire, which assessed the Children's Act implementation on seven critical dimensions. The critical dimension assessed included: a). the contextual relevance of the Act, its formulation and dissemination; b). the social, political, and economic context of the Act; c). the leadership of the Act's implementation; d). stakeholder involvement during implementation; e). involvement during planning and resource mobilization for implementation; f). involvement in the organization of operations and service delivery of the Act at the community level; and g). framework for feedback the Act's implementation progress and results. Each dimension was sub-divided in specific technical areas of policy implementation.

Dikgosi rated implementation of the Act, identified positive outcomes since its enactment, and barriers that hinder its effective implementation at community levels based on their experiences and understanding of the Act. They also proposed policy actions needed to overcome perceived or identified barriers hindering effective implementation of the Act in their communities. The questionnaire included closed (yes/no or 4-level Likert questions and open-ended questions which allowed participants to expound or elaborate their views on each given question.

The Act: Its contextual Relevance, Formulation, and Dissemination

Dikgosi stated that while the Act is contextually relevant in addressing 'some' of the elements critical for protecting children from sexual abuse, exploitation, neglect, and maltreatment; it does not cover all relevant child protection elements. For example, some *Dikgosi* urged that the Act does not account for some of the Tswana traditional values¹ which propagate child neglect.

¹ For example, *Dikgosi* urged that the Act does not hold men accountable to care for children they have with mistresses; thru children born out of wedlock are not protected against neglect.

Dikgosi urged the limitation of the current Act emanates from the lack of consultation, the Tswana process of policy formulation. Results further suggest that the dissemination of the Act was ceremonial limited to few selected Chiefs but was never fully disseminated to through traditional *kgotla* fora. Thus, the Act's content and provisions remains poorly understood by most traditional leaders and the public particularly in rural areas of the country.

“The Act was disseminated, but there were no *kgotla* meetings to inform the public about the policy. Only one workshop was held in our district which invited few *Dikgosi*. Many *Dikgosi* and *Dikgosana* were not involved,” Kgosi # 1, Female, Customary Court President.

The Social, Political, and Socio-economic context of the Act

The success of policy implementation depends on the social, cultural, political, economic circumstances of the people in which the policy is being implemented. The Children's Act implementation analysis examined the effects of these factors from *Dikgosi*'s perspectives. The collective view from the analysis suggest that the Act does not deliberately discriminate Batswana children from accessing the legal service based on their cultural, socioeconomic status, and political affiliations. However, *Dikgosi* urged that most children from single-headed households, where primary caregivers are unemployed, and impoverished, and illiterate are vulnerable to sexual abuse, neglect, and maltreatment. Often, these children do not have equal access to legal service compared with other children in equal need. Thus, implementation of the Act in communities where poverty and illiteracy is high is daunting because most parents opt for financial compensation because they do not know the available legal provisions when a child report an incident of sexual abuse.

“Poverty makes women vulnerable to abuse and exploitation and has had negative influence that undermines the implementation of the Children's Act in our communities. Women hide abuse to ensure continued financial support... Some low-income families in my community neglect the law because they do not understand it...,” *Dikgosi* # 5, Male, Chief Representative.

The results also highlighted the conflict between the cultural norms and the Act provisions, which made the implementation of the Act difficult. *Dikgosi* stated that while the Act advocates for children's right, it conflicted with the Tswana tradition form of discipline (such as the administration of corporal punishment) and child rearing (such involving children in family decision-making).

“In our culture, children are not involved in family decision-making. However, the Act is saying children have the right to be involved. The conflict between our culture and the law can cause misunderstanding that may hinder the implementation of the Act in many communities,” Kgosi #3, Male, Headman of Records.

Commenting on the political influence on the implementation of the Act, *Dikgosi's* narrative suggest the political environment has had positive influence in ensuring that children are protected from harm regardless of their social, economic, political, religious status. However, *Dikgosi* pointed out the political decision to strip *Dikgosi's* judicial powers and authority over child sexual abuse and exploitation cases, severely limit the implementation of the Act at the grassroot level. *Dikgosi* accused some politician of playing double standards for political gains. *Dikgosi* alleged that some politicians oppose the regulation of traditional alcohol brewing because they fear losing elections. *Dikgosi* blame excessive use of traditional alcohol and other illegal substances as the primary cause of social ills including child sexual abuse, gender based violence, and delinquent behaviors in their communities.

The Children Act Implementation Leadership

Policy implementation leadership matters. Weak leadership is one the major problems affecting public policies implementation. Acknowledging the dynamic, fragile and pretentious nature of policy implementation assumes the greater significance of public leadership. Effective leaders communicate policy goals, content, and rationale. Effective leaders become policy

implementation champions by ensuring that policy provisions are carried out as mandated. They mobilize needed resources and translate statutory provisions into implementable actions. Collective views from *Dikgosi* show that they lack supportive implementation leadership from government institutions to implement the Act at the community levels. Most *Dikgosi* told the research team that they do not understand the statutory provisions of the Act and their roles and responsibilities since their authority to adjudicate child sexual abuse and exploitation was stripped. *Dikgosi* urged that magistrates and other service providers do not provide the educational support they need to support their people at the community level.

Stakeholder Involvement in the Act's Implementation

Stakeholder analysis reflects an increasing recognition of how the characteristics of stakeholders; individuals, groups and organizations influence knowledge generation. Stakeholder analysis can be used to generate knowledge about the relevant actors to understand their behavior, intentions, interrelations, agendas, interests, and the influence or resources they can bring to policy implementation. This information can then be used to develop strategies to facilitate the implementation of policy provisions and to understand the policy context. Narratives from *Dikgosi* suggest that they are not officially actively involved in the handling of child sexual abuse and exploitation in their community. Most *Dikgosi* acknowledged some conflicts between cultural norms and the provisions of the Act and noted that these conflicts will remain unresolved because they do not understand the Act and feel alienated because of lack of involvement.

“Most (Government) service providers such as the judicial system, police, health, social protection know the Act themselves and respond to issues pertaining to it. However, they are not teaching or educating the about the Act.” Kgosi # 3, Male, Headman of Records.

When the study asked *Dikgosi* about the level of involvement by government sectors, the results suggested limited involvement.

“Dikgosana do not understand the Act because they are not trained. When I was in ‘Lerula’ (a village in one of the survey districts), I asked the headman of arbitration about the Act after discussing marriage and child custody issues. He did not know the provision of the Act,” Kgosi #2, Senior sub-Traditional Authority.

Implementation Planning and Resource Mobilization

Many policy implementation analysts share the opinion that the success of policy implementation is hinged on effective planning and availability of adequate resources. The planning and resource mobilization literature stresses the need for public participation and community involvement in resource management and planning. The research asked *Dikgosi* whether they were familiar with any implementation strategies, plans and guidelines for implementing the Children’s Act at the community level. The study also asked *Dikgosi* if they received resources to carry out child protection activities stipulated in section 33 of the Children’s Act.

Dikgosi were not aware of any implementation strategies, plans, and guidelines to guide them to carry out Children’s Act activities at the community level. The findings also show that *Dikgosi* do not receive resources (funding) and do not have access to adequate technical personnel to implement the Children’s Act at the grassroots level. The findings also said they lacked legal knowledge to effectively carry out child sexual abuse and exploitation activities and needed legal education and training to enable them carry out the Act statutory provisions in their communities.

Operation and Service Delivery

Implementation of social policies relies on the effective institution operational mechanisms and capacity of implementers to deliver needed services. Operational mechanisms include many factors such as independent and efficient judicial system, resource availability and use, competency of implementers, coordinated interrelationship corporation and linkages among pertinent institutions. Institutional operational mechanisms also entail collaboration and coordination of policy actors. Findings suggest that ‘Bogosi’ (chieftainship) lacks operational

mechanism and capacity to implement the Children’s Act at the grassroot level. *Dikgosi* acknowledge that the customary court judiciary system does not capacity to provide high quality legal services because they lack legal training.

“We lack knowledge about the Act, which can contribute to errors, hence negatively affect handling of cases,” *Dikgosi* # 4, Male, Senior sub-Traditional Authority.

Dikgosi views suggest the lack of collaboration among services in the study districts.

“Coordination among service providers is not effective because some service providers are not informed and lack the knowledge about the Act,” *Dikgosi* # 5, Male, Chief Representative.

The results also suggest that there is limited interrelationship corporation and linkages between government service providers and the chieftainship in child protection services. As a result, traditional leaders do not have the capacity and competencies to effectively implement the Children’s Act provisions in selected districts.

Feedback on Implementation Progress and Results

Feedback on progress and results of policy implementation are important policy management tools that track implementation processes and outcomes. Feed on progress and results gather information and inform the level of service delivery. Findings suggest there are no implementation monitoring and evaluation framework to track Children’s Act implementation and child protection service delivery at the grassroot level.

Group Discussions: Thematic Constructions from Case Studies

This section summarizes perspectives from eight participatory focus group discussions involving 102 *Dikgosi* from the study areas. *Dikgosi* deliberated on four true child abuse case studies or vignettes which were modified to fit the purpose of this study. The research moderators asked the discussants to analyze each case based on their tribal and individual experiences and determine whether a crime had occurred (or not) and how they would handle the case within the customary court system.

Theme 1: Thematic Construction of Criminality in case studies

The collective opinions drawn from the discussants on the four child sexual abuse vignettes highlight two extreme views at the opposite ends of a continuum. On one opposing end, sixty *Dikgosi* (58.8%) characterized the events in each of the vignettes as rape or defilement and therefore criminal acts. About 40 of these 60 *Dikgosi* said they would immediately report these cases to the police and social welfare officers for further investigations. For example, in discussing the second case, in which an eighteen-year-old boy tricked an eight-year-old girl to perform oral sex on him, some *Dikgosi* described the boy as a rapist. They urged that by forcing his ‘thing’ in a mouth of a child for sexual gratification, the boy committed a sexual offense.

“You need to understand that this is rape, a man just cannot take out his ‘thing.’ You need to report to the police,” Kgosi #BB04b, Male, Chief Representative.

The remaining 20 *Dikgosi* said they would first consult family members (uncles, grandparents, parents of the victim, and the perpetrators) to get more information and then decide whether to report to authorities or not. On the other side of the pendulum, 42 (41.2%) of the 102 *Dikgosi* concluded from their analysis that the events in the case studies were not criminal in nature. Deliberating on the case of oral sex, some *Dikgosi* characterized the eight-year old boy as evil and labelled his sexual preference as non-Tswana and ‘disgusting.’ These traditional leaders urged that while the behavior of the boy was unbecoming, they urged that the boy had not committed a criminal offense because there was no virginal penetration in the act.

“The fact is the boy was not sexually abusing the child, I mean, he did not put his manhood in the usual place. I believe the boy did this because he knew that he might get discharged because he did not penetrate...,” Kgosi # GH13b, Male Headman of Records.

Theme 2: Metaphoric Reporting of alleged Child Sexual Abuse

In the first case study, 44 *Dikgosi* discussed whether the metaphoric application of the word ‘used’, a common Setswana word in reporting an incident of alleged sexual abuse of an eight-year-old girl by her uncle. Results suggest metaphoric application in reporting alleged sexual abuse at the community level may result in two opposing views, which may affect the handling of child sexual abuse and exploitation cases. Twenty-nine of the *Dikgosi* who analyzed this case, associated the word ‘used’ to exploitive child sexual abuse; particularly when an alleged *user* is a male and ‘*the used*’ is a girl-child.

“When you hear that a child has been used ‘used’, you cannot think of household chores... When we say, the word ‘used’, keep in mind that the uncle is involved. There is no other explanation that comes to my mind, expect that the child was being sexually abused,” Kgosi #BB06, Female, Headman of Arbitration.

Fifteen of the *Dikgosi* who analyzed the case suggested that the word ‘used’ in this case study was ambiguous and obscured the underlying meaning when applied in Setswana because the word could communicate different forms of abuse or communicate culturally accepted chores an adult family member can ask a girl-child to do.

“I do not know, the word ‘Go dirisiwa’ (to be used), we use it interchangeable. You can use a child as an uncle by not allowing the child to go to school or use her to take care of cattle... In English, it’s easy to understand the meaning, but in Setswana it has many meanings. It could be sexual or work...,” Kgosi # GH01, Male, Headman of Arbitration.

Theme 3: Framing of Women and Children as Property

Case #3, in which a 24-year old woman reported being abused by her step-father since she was ten years old of age, which resulted in three children, *Dikgosi* identified several themes. One of the themes emerging from this discussion view by some men of treating their spouses or partners

and children as their property. *Dikgosi* expressed concern over the notion of treating women and children as property based on outdated cultural beliefs in some major tribes in Botswana where husband (men) treated their wives and children like cattle and goats. The collective view was that such cultural belief was a serious source of abuse and must be uprooted from their communities.

“This scenario indicates to me that there are still some of those people who believe in the tradition that view their wives and children are their properties and can be disposed of as they please. This man started by chasing his wife, went on to sexually abusing his stepdaughter and now his grandchildren,” Kgosi # SP12, Male, Assistant Tribal Secretary.

“I see the father not being responsible to take care or protect his children. ‘*Ke go ija motlhana*’ – ‘he is eating his own flesh.’ I would ask why and where did he see this happening,” Kgosi# GH13, Male, Headman of Arbitration.

Theme 4: Framing of Victims of ‘Willing Prey’

Five of the 44 *Dikgosi* who deliberated vignette #3 characterized a 24-year-old victim of prolonged sexual abuse a ‘willing prey’ suggesting that she consented to having sex with her stepfather. These *Dikgosi* said the victim was guilty for waiting a long time to disclose and report the abuse to the police and *Kgosi*. The discussants wondered whether the victim’s motivation to disclose abuse was due to fear that she will be chased just like her mother because the abuser has a new prey.

“These cases are there. In most times, the child being abused is entertaining it, which has resulted in her mother being chased away from the house by the abuser,” Kgosi # KY10, Male, Headman of Arbitration.

Theme 5: Framing of Intimate Partner Violence and Negligence

Deliberating the same case, four of the 44 *Dikgosi* characterized the mother of the victim as victim herself of intimate partner violence. They suggested that she might have been scared for her life as a result could not have protected her child from the abusive husband. They also

reasoned that the mother became negligent of her responsibility to protect the child because she wanted financial protection from the abuser.

Theme 6: Fear of Witchcraft in Reporting Abuse

Dikgosi confessed that the notion ‘witchcraft’ plays out in many social settings in Botswana.

Dikgosi also agreed that the perception of fear to reporting child sexual abuse and other offenses within communities is real in some communities. However, there was a consensus among most of the *Dikgosi* who took part in this case viewed the police who refuse to investigate sexual abuse crime for fear of being bewitched as irresponsible, unaccountable, and incompetent.

“If the police and public fear witchcraft, it means they have all reached a point of halt. It is worrisome if the police are afraid of witchcraft; but there are senior government officers that may be approached if the contact person doesn’t want to risk being bewitched,” Kgosi # SP11, Male, Court President.

Theme 7: Framing Incestuous Sexual Relationship of siblings as a ‘Taboo’

Forty-Four *Dikgosi* analyzed a vignette (#4) in which a sixteen-year-old girl reported to Kgosi that she has been sexually violated by her older brother. Seventeen of the 44 *Dikgosi* depicted the incestuous sexual relationship between siblings as a ‘taboo’, a deplorable sexual behavior that does not conform to the Tswana sexual norms.

“I see that this is incest, a ‘...*Botlhodi*’ – disgrace. We do not have such in our culture, I believe this boy is doing this with the encouragement of the mother. This is a serious offense; if we can allow this we will destroy our communities...,” Kgosi # GH12, Headman of Arbitration.

Theme 8: Signs of a Dysfunctional Family Environment

The analysis of vignette #4, identified signs of dysfunctional family environment characterized by irresponsible caregivers associated with family poverty, other forms of abuse, excess use of

alcohol, illiteracy, and poor (lack of) parenting skills. *Dikgosi* characterized the brother as a sexual predator and the mother as an irresponsible and greedy parent.

“As Bangwaketse, there are people who were slaves, who used to work as laborers. These people do sleep with their own sisters, children, and even with their mothers. It does happen here in Ngwaketse...,” Khosi # KY03, Male, Headman of Records.

Theme 9: Framing of Victim of Abuse as Untrustworthy

Some of the 44 *Dikgosi* who discussed case study # 4 portrayed the victim of incestuous sexual abuse by a brother lacked credibility and was therefore untrustworthy. They urged the victim colluded with her mother to hide an incestuous sexual relationship to ensure continued financial support and concluded that the relationship between the siblings was therefore no a sexual abuse or a sexual offense. These *Dikgosi* urged that the victim decided to disclose because she had given birth to a child with a disability. They further reasoned that the stress of caring for a child with special needs was the primary reason that motivated the victim to disclose abuse.

“There is no crime in this case... The only issue that I am picking is the child with disability. There has not been anything said to this brother, she waited for the child so be born... This brother was providing for the family very well. The mother, the victim, and the perpetrator agreed and allowed the sexual relationship to continue,” Kgosi # BB03, Male, Headman of Arbitration.

The Handling of Child Abuse at Community Level

Results from in-depth interviews and participatory focus group discussions suggested that most of the *Dikgosi* who took part in this study said they did not handle and report and some instances refused to handle any child sexual abuse cases when reported to them. *Dikgosi* reported they only give advice to parents of victims or victims either to the police and/or other government service providers. Other *Dikgosi* said they advised parents of victims and victims to first discuss among family members and decide action to take.

Mixed Results: Underlying Cross-Cutting Issues

The analytical results of triangulated (mixed) data from in-depth interviews and focus group discussions identified several contextual and cross-cutting issues that emerged from the data.

The Weakening of the Bogosi Institution

Collective views from *Dikgosi* who took part in this research consistently raised the notion that the weak implementation of the Children Act and the increasing incidences of child sexual abuse and exploitation in their communities was due to the weakening of the Bogosi institution.

Dikgosi urged that the traditional cultural structures that had protected children from harm, ill-treatment, and neglect for generations are in the state of collapse. *Dikgosi* cited high backlog of child sexual abuse and exploitation cases in the magistrates' courts, high number of victims withdrawing testimonies as a sign of 'collapsing walls of protection' because *Dikgosi* are not involved in adjudication of these cases.

Timing of Disclosure of Sexual Abuse and Exploitation

Triangulated data imply that *Dikgosi* would take instantaneous action for incidences of sexual abuse and exploitation disclosed immediately after occurring. The immediacy of disclosure would either result in immediate reporting to authorities (the police and social welfare services) or consulting family members. Late disclosure on the other hand, would not be treated with urgency. In most instances, some *Dikgosi* portrayed late disclosing victims as untrustworthy and characterized late disclosure as a sign that the victim consented to sex.

Social Relationships, and its impact on Disclosing Abuse

Mixed results suggest that incidences of incestuous sexual relationship that involve family members (uncles, stepfathers or brothers) are underreported because child victims of intrafamilial sexual abuse are manipulated to feel guilty and responsible for the abuse. The victims may also fear not being believed and being blamed by other family members. The notion

of consent among purported in the research accentuated underlying cultural sexual norms which still exist in some major tribes in Botswana.

Organizational Capacity of the Customary Courts

Mixed data imply that the organizational capacity of the customary court to adjudicate child sexual abuse and exploitation cases consistent with the Botswana legal instruments is limited due to weak operational structures and processes. Most *Dikgosi* reported that the village child protection committees in their communities were inactive and social welfare officers who are supposed to provide technical oversight are not available in most of these communities. *Dikgosi* also told the research team that they lack full understanding of the Act, of which they are required to implement. More importantly, triangulated data imply that *Dikgosi* lack the legal competencies to effectively adjudicate child sexual abuse and exploitation cases at the customary court level. In addition, *Dikgosi* reported that they lack procedural guidelines on how to follow the proper legal precedents of handling and reporting child sexual abuse and exploitation cases occurring in their communities.

The Conflict between Traditional Norms and Children's Rights

Narratives highlighted both positive and negative intersect of the Children's Act. On the positive note, some *Dikgosi* said the Act was an important legal instrument because it promotes the rights of children. They commended the long-term prison sentences handed to perpetrators of sexual abuse by magistrate court as deterrent against child abuse in their communities. However, some *Dikgosi* also identified the conflict between traditional norms and children's rights (Children's Act). *Dikgosi* said the demand from the rights movement to involve children in family decision-making challenged the Tswana norms of parenting, where children are expected to be subservient to parents and elders. *Dikgosi* also complained that the restriction and prescriptive application of corporal punishment at family and customary court undermined the proper way of disciplining delinquent children and youth.

CONCLUSION

Activating accountability in protecting children's rights in Botswana is one of the few phenomenological qualitative social studies that examined the implementation of the Children's Act and explored the 'lived' experiences of how child abuse and exploitation would be handled from traditional leadership lens. The narratives provide a broad range of the strengths as well as bottlenecks regarding the current state of child protection service delivery within communities. The findings strongly suggest that the 'traditional walls of child welfare within communities are in the state of collapse' because Dikgosi are passive and non-committal in enforcing the Children's Act. The fall of child protection walls is a direct result of the weakening of the Bogosi institution and the weak critical dimensions of policy implementation to facilitate enforcement of the Act within communities. The collective view from Dikgosi and the review of the literature suggest that the Bogosi institution is the leverage point for enhancing the implementation of the Children's Act and the delivery of child protection services within communities.

However, the current institution and its structures do not have the organizational capacity to translate the Children's Act provisions into child protection services. Consequently, the community structures such as the customary court cannot provide proper and quality legal services to CSAE survivors within communities. Besides, the results imply that programs to address proximal factors that expose children to abuse are not available to some families, particularly in the rural areas. Thus, children living in families and communities with weak supportive structures because of negligent parents/caregivers, parental illiteracy, lack of information on the Act, unemployment, and poverty are prone to sexual abuse and exploitation. The results identified programmatic areas that could advance service delivery. The results also provide policymakers, donors, and non-governmental and civil society leaders, valuable information to develop for data-driven child protection programs at the grassroots level.

RECOMMENDATIONS

The design of the research allowed *Dikgosi* to identify bottlenecks that hinder delivery of child protection service and them to propose solutions to address the bottlenecks. Below is a summary of recommendations from *Dikgosi*.

Policy Actions Recommendations

Dikgosi proposed that to improve implementation of the Act within communities, decrease the backlog of cases at the magistrate's courts, and decrease the number of victims and witnesses withdrawing their testimonies, government must authorize the customary courts to adjudicate 'some' of the CSAE cases. To ensure that child sexual abuse and exploitation cases receive professional and quality legal precedence within the confines of the Children's Act, *Dikgosi* suggested that:

- Magistrates provide legal training to customary courts and headmen of arbitration to understand the Children's Act, its provisions, and how they could support its implementation at the community levels. *Dikgosi* emphasized the need for the capacity building trainings to target all levels of the chieftainship hierarchy (Headmen of Arbitration, Headmen of Records, Chief Representatives, Customary Courts, and Paramount Chiefs).
- Magistrate take an active leadership and advisory role in providing oversight on customary court proceedings to ensure that cases handled at the customary courts meet the requirements of the laws.
- Government service providers (Social Workers, the Police, Magistrates, Health Workers, and Guidance Counsellors) conduct country-wide *kgotla* meetings to sensitize and

educate community members about human rights, the Children's Act provisions, the roles and responsibility of parents and discuss cultural issues that hinder children's rights.

Program Implementation Recommendations

- Develop community-level guidelines and service delivery plans to facilitate the implementation of the Act.
- Designate a team of service providers including a police officer, a social worker, a health worker, and a school guidance counselor in *kgotla* settings who will advise *Dikgosi* about professional handling of CSAE cases.
- Develop an information system framework to track policy implementation progress and develop a database to record prevalence of abuse cases and generate an offender register in their communities, and
- Introduce community human rights interventions including effective parenting training (for parents and caregivers) and moral education for children and youth.

1.1. BACKGROUND AND INTRODUCTION

1.1. BACKGROUND

The research was carried out under the “*Ke Boikarabelo Jwarona*’s: It’s Our Responsibility” (KBJ) Project. Stepping Stones International (SSI) in collaboration with the Women’s Leadership Academy (TAWLA) commissioned the research with financial support from the European Union (EU) through the European Instrument for Democracy and Human Rights (EIDHR) Country-based Support Scheme (CBSS). The KBJ Project extends the “Gaining Traction by Action” project, which examined the preparedness of government departments in providing services to survivors of child sexual abuse and exploitation (CSAE).

1.2. INTRODUCTION

The World Health Organization (WHO) estimates that 40 million children are subject to abuse and neglect each year. Adolescents and young adults are the primary victims and perpetrators of interpersonal violence in every region of the world. Studies suggest that rape and domestic violence accounts for five to 16 percent of healthy years of life lost by girls and women of reproductive age (Krug, Dahlberg, and Zwi, 2002). Estimates also suggest that between 10 and 50 percent of the girl-child and women experience physical violence at the hands of an intimate partner during their lifetime (Pavey 2014). The magnitude and effect of violence are influenced by factors such as culture, socio-economic status, and the contexts in which violence occurs. Violence encompasses child abuse and neglect, intimate partner violence, sexual violence, elder abuse, self-harm, and collective violence (Krug et al., 2002).

In efforts to protect children from and safeguard their well-being, international, regional and national bodies have developed human rights conventions and laws. The Universal Declaration of Human Rights (UDHR) affirms that every child has the right to his or her physical and personal integrity and protection from all forms of violence. Children, as human beings, are

entitled to enjoy all the rights guaranteed by the various international human rights treaties developed from the UDHR (UNICEF, 2005). Article 1 of the United Nations Universal Declaration of Human Rights (UNUDHR, 1989) stipulates:

“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood”. Furthermore, Article 3 stipulates that “Everyone has the right to life, liberty, and security of person.”

Over 60 treaties since the declaration of the UDHR was adopted in 1948, emphasize the administration of justice and human rights grounded in non-discrimination, equality, and recognition of the dignity of all, including children (UNICEF, 2006). The Convention on the Rights of the Child (CRC), is one of the treaties widely used to uphold rights of children and has been ratified or acceded in over 192 nations. CRC sets out legally binding standards, which the General Assembly adopted in 1989. Article 19 (1) of the CRC (1989) states that:

“States’ parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse...”.

The treaty stresses that children are holders of human rights and acknowledges their distinct legal personality and evolving capacities and it has legal principles and detailed standards which govern laws, policy, and practice affecting children. These include the prevention of violence and responses to protect all children from all forms of violence. At the regional level, the Organization African Union (OAU) adopted the African Charter on the Rights and Welfare of the Child (ACRWC) at the 26th Ordinary Session of the Assembly of Heads of State and Government in Addis Ababa, Ethiopia in July 1990. Article 16 on the protection against child abuse and torture states that:

“States Parties to the present Charter shall take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or

maltreatment including sexual abuse... Protective measures under this Article shall include effective procedures for the establishment of special monitoring units to provide necessary support for the child and for those who have the care of the child, as well as other forms of prevention and for identification, reporting, referral, investigation, treatment, and follow-up of instances of child abuse and neglect.”

The charter draws the UDHR, CRC, and other instruments adopted by the United Nations to advance children’s rights from African values and traditions. The Botswana Government (GoB) ratified the CRC in March 1995 and ACRWC in July 2001 and domesticated these instruments through the Botswana Children’s Act of 2009. The Botswana Children’s Act incorporated provisions under CRC, ACRW, and other international treaties. The Children ‘s Act of 2009 includes the Bill of Children’s Rights and provides a preponderant legal framework for guiding the implementation of interventions that protect children from harm and neglect. The Act guarantees the fundamental rights of the child and further ensures their protection from all forms of violence from persons entrusted with the care of the child.² The Act takes precedence over other legislation, ‘except where the exercise of the rights set out in this Act has or would have the effect of harming the child’s emotional, physical, psychological or moral well-being.” The Act makes:

“Provision for the promotion of the rights of the child; for the promotion of the physical, emotional, intellectual and social development and gender well-being of children; for the protection and care of children; for the establishment of structures to provide for the care, support, protection, and rehabilitation of children; and for matters connected therewith.” (Children Act, 2009: A.51).

The Act also contains provisions on parental duties and rights, community and government support to parents, children in need of protection, alternative care of children, foster care, and children in conflict with the law (Feranil, Herstad, Jallow, and Mbuya-Brown, 2010). It

² White & Case LLP (2014). Access to justice for children: Botswana. Report produced for educational and informational purposes Paper produced

mandates the creation of structures to support implementation and enforcement of its statutory provisions at national, district and community levels. At the community level, the law mandates the creation of a Village Child Protection Committee (VCPC) to monitor the welfare of children in the community and educate the community members about issues such as neglect, ill-treatment, and abuse of children and monitor the welfare of children in the community. Under the Act, social welfare officers are mandated to support parents and caregivers, advise *Dikgosi* on handling of CSAE cases reported at the *kgotla*, and investigate cases of abuse and neglect (Feranil et al., 2010). The GoB with the support of United Nations Children's Fund (UNICEF) developed a framework to facilitate the implementation of the Act at national and district levels. The framework is expected to guide government ministries and stakeholders to identify their stake and allocate resources to implement activities under their direct mandate (GoB, 2013).

1.3. CHILD ABUSE AND EXPLOITATION

The World Health Organization (WHO) defines child sexual abuse (CSA) as “the involvement of a child in sexual activity that he/she does not fully comprehend and is unable to give informed consent to or for which the child is not developmentally prepared and cannot give consent (WHO, 1999, p.15).” The United Kingdom Department of Education (2017) defined child exploitation as a form of child sexual abuse where an individual or group takes advantage of an imbalance of power to coerce, manipulate or deceive a child or young person under the age of 18 into sexual activity in exchange for something the victim needs or wants and for the financial advantage or increased status of the perpetrator (UK Department of Education, 2017). In child sexual exploitation, victims are exploited in exchange of tangible materials such as money, drugs, alcohol or intangible rewards such as protection and perceived love. Sexual exploitation includes assault by penetration (for example, rape or oral sex) or non-penetrative acts such as masturbation, kissing, rubbing and touching outside clothing. Exploitation also includes production of sexual images, forcing children to look at sexual pictures, watch sexual activities, encouraging children to behave in sexually inappropriate ways, and grooming a child in

preparation for sex (UK Department of Education, 2017). This report defines a child as any person under the age of 18 years (Botswana Children's Act of 2009, p. A.51).

Reports suggest that intra-familial sexual abuse and exploitation (CSAE) is high in sub-Saharan Africa but that it is vastly underreported. The incidences of incest are difficult to ascertain, and there is little in the literature that focuses specifically on this form of CSAE. However, qualitative and quantitative research suggests that CSAE perpetrated by people closely related to the victim provides support for the contention of high rates of incest in sub-Saharan Africa (Lalor, 2004). In a national survey on violence against girls and young women in Swaziland, 33.3 percent of girls aged 13 to 17 years reported that their sexual debut was forced and occurred in their homes. In this study, the most common perpetrators were men or boys (Bernard, 2009). In Uganda, 33 percent of abused children reported that the violation took place in their homes by people who were supposed to protect them. In a UNICEF study in Zambia, researchers concluded that CSAE occurred in a context of silence, which protects social relationships and the hierarchy within the family and community (Barker, 2000; East, Central and Southern Africa Health Community [ECSA-HC], 2010)

Studies also suggest that in sub-Saharan Africa, many of incidences of CSAE occur in school settings, which impact the girl-child more than the boy-child. Research shows that school environments are high-risk locations for CSAE, although homes and marketplaces were found to be riskier. CSAE in school settings involves sexual favors in exchange for good grades as well as transactional sex where the victim is forced into sexual activity in return for educational benefits such as school fees and materials (Chege and Sifuna, 2006). In Togo, for example, the research identified the concept of 'sexual marks' where girls offer sex for good marks in secondary schools (Stavropoulos, 2006). In Ghana, studies suggest that 53.3 percent of the instances of sexual abuse took place in the school environment (UNAIDS, 2010). Studies in Kenya also reported about sexual abuse in schools where male peers raped 70 girls and killed 19 others during a school strike (UNAIDS, 2010). In Botswana, the prevalence of CSAE among children is not well-known. However, results from the second Botswana Youth Risk Behavioral

and Biological Surveillance Survey of 7205 school-going young people aged between 13 and 19 years paints a troubling picture (Ministry of Basic Education [MoBE], October 2016). The survey found that of the 22.3 percent of students were sexually experienced, 22 percent were coerced at the time of their sexual debut. The report also shows that among sexually experienced youth who had sex 12 months before being interviewed, 18.8% were forced to have sex (MoBE, 2016).

Synthesis of available data on CSAE in sub-Saharan Africa suggests that it is an underreported social problem. Many of the CSAE cases are not reported, recorded, referred, and followed-up. Child victims may conceal incidents of abuse because of being ashamed, fear of being blamed, fear of not being believed, and fear of being maltreated (Seloilwe & Thupayagale-Tshweneagae, 2009). In Botswana, Seloilwe & Thupayagale-Tshweneagae (2009) further noted that: “Beneath the surface remains a substantial, although unquantified, component of the problem. Police data are often incomplete and limited; and many cases go unreported for fear of stigmatization or are ‘hidden’ to preserve the family’s social status and integrity.

1.4. IMPACT OF CHILD SEXUAL ABUSE AND EXPLOITATION

Child sexual abuse and exploitation (CSAE) impose a huge burden on social and health services and its adverse outcomes leave the affected children with long-lasting psychological scars that damage the children's sense of self, the ability to build healthy relationships and function at home, work, and school. The effects of abuse on a child can lead to substance abuse to numb the painful feelings, increased vulnerability to mental health problems like anxiety disorder and depression. Victims of child sexual abuse and exploitation may be perpetrators of violence later in life. Studies on the negative impact on CSAE suggest affected children suffer from depression, post-traumatic stress disorder, anxiety, eating disorders, dissociative and anxiety disorders, somatization, neurosis, and chronic pain (Arehart-Treichel, 2005; Widom, DuMont, & Czaja, 2007). Exposure to CSA increases the risk of risky sexual behaviors that increases the transmission of sexually related diseases such as human immunodeficiency virus (HIV), and

other sexually transmitted infections (De Jong, 1985; Arnow, 2004), drug abuse, alcohol dependence, and psychiatric disorders (Levitan, Rector, Sheldon, & Goering, 2003). CSAE results in physical consequences including internal lacerations, bleeding, and damage to internal organs which in some cases lead to death (Anderson, Mangels, & Adam, 2004; National Institutes of Health, 2002).

1.5. STATEMENT OF THE PROBLEM

Few studies have examined child protection service delivery and systems gaps, but no study has ever explored the children's rights service delivery in the communities where the victims of child abuse and exploitation (CSAE) and the perpetrators live, work, and play. Thus, there is no study that examined the implementation of the Children's Act since its enactment from the customary court perspective, and no study has examined how CSAE cases are handled at the community level in Botswana. There is limited knowledge about the roles and responsibilities of *Dikgosi* in child protection despite being the primary custodians of social welfare of the people within their communities.

Legal analysis reports suggest that there are several challenges in the legislative provisions and applications of the Children's Act at the community level. Anecdotal reports suggest inconsistency in the application of the customary laws because many communities under the jurisdiction of the customary courts treat cases differently as informed by their tribes. Thus, abuse and exploitation cases presented at customary courts are presented and handled differently (Coley, 2014). Within the customary court context, *Dikgosi* cited the "Walls of child protection as being in a state of collapse,"³ which inevitably leads to the underreporting of CSAE offences.

³ Personal communication with Kgosi Ludo Masojane, former Court President, Francistown, Botswana, August 2015.

The present study is expected to contribute towards the framing and strengthening of the child protection approaches for customary courts to ensure that the Children's Act 2009 and other applicable laws are effectively implemented at community level.

1.6. RATIONALE OF THE STUDY: WHY *DIKGOSI*?

Historically, *Dikgosi* through the *Bogosi* institution have been the center of the political and social life of Botswana and the heart of governance and development before and during the colonial era through post-independence Botswana (Sharma, Molomo, Lekorwe, 2005; Dipholo, Tshihong, and Mafema, 2012). Through the *kgotla* system, *Dikgosi* brought together communities to debate and generate consensus on development and social matters that affect them (Dipholo et al., 2012). Before the colonial era, *Dikgosi* had executive, judicial, and legislative powers, which they administered through community elders (advisers and *Dikgosana*) even though they were not obliged to take their advice (Somolekae and Lekorwe, 1998). The practice continued during the colonial era notwithstanding mainly complimenting the colonial administration. *Dikgosi* had universal jurisdiction and presided over all types of cases and determined appropriate sentences based on the customary law. In post-independence Botswana, *Dikgosi* continue to administer justice through the customary courts based on the customary law and resolve 80 to 90 percent of criminal and civil disputes within their jurisdiction in about 500 customary courts in Botswana (Sharma et al., 2005), although their jurisdiction over criminal offenses exclude treason, murder, rape, robbery, and bigamy.⁴ The customary courts may apply common law and statute in the determination of disputes before them regarding section 15 of the Customary Courts Act 2006, provided such disputes exist in the written law. In *Bimbo v The*

⁴ Answers (December 2012). Fundamentals level: Skills module, paper F4 (BWA). Corporate and Business Law is any

State (1980) the High Court set aside a conviction against the accused of the offense of adultery because the offense, while known in customary law, was not recognized in written law.⁴

However, scholars urge that customary court judgments are of inferior quality because *Dikgosi* do not have legal training and lack the adequate understanding of the laws of Botswana (Sharma et al., 2005). Some legal scholars suggest that the customary courts regularly adjudicate on criminal matters concerning children outside the ambit of the law since the courts are not designated as children's courts under the law (Macharia-Mokobi, 2013). Customary laws constitute any tribal laws that may not necessary be compatible with written laws but not contrary to morality, humanity or natural justice. As such, customary laws are not homogenous because they are from different tribal communities (Coley, 2014). Given the respect and trust *Dikgosi* still enjoy in their community, some scholars suggest that it is prudent to recognize customary court's jurisdiction to hear and determine matters affecting children. However, such an argument needs the promulgation of a comprehensive set of guidelines to regulate the prosecution of child cases in customary courts (Macharia-Mokobi, 2013).

1.7. PURPOSE AND OBJECTIVES

The present research explores the processes and procedures applied when handling sexual offenses involving children in the context of customary courts. The study examined whether the processes and procedures of handling sexual violence offenses against children in the study areas meet the minimum standards required to protect children in need of care as stipulated in the Botswana Children's Act, 2009 (Part X – Section 42 – h, and I; p.A.63 – A.64).

The objectives of this research are:

- To explore *Dikgosi*'s experiences, practices, processes, and procedures when dealing with sexual offenses involving children in their communities, and
- To examine the implementation of the Botswana Children's Act of 2009 within the customary court system in selected districts.

The findings are expected to identify gaps in implementing the Botswana Children's Act of 2009 at community levels and the handling and reporting of CSAE cases. The findings were intended to inform the development of strategies that would enhance how *Dikgosi* handle, report, refer, and follow-up CSAE offenses as part of protecting children in the communities.

2.0. METHODS AND PROCEDURES

The purpose of this study is to examine whether the implementation of the Children's Act and *Dikgosi*'s manner of handling and reporting CSAE cases within communities meet minimum standards.

2.1. RESEARCH DESIGN

This is a qualitative social research project, aimed at understanding social phenomena in their natural settings. In this study, the design gave emphasis to the linguistic meanings, lived experiences, and views *Dikgosi* hold about the Children's Act implementation and the practical processes of handling CSAE cases (Bergold and Thomas, 2012; Kammis and McTaggart, 2005). The research employed the participatory action research approach, (PAR); a set of principles and practices hinged on reflections of data collection and analysis to influence social change from both research participants and researchers. PAR hinges on developing people's knowledge, skills, and capacities to address important social issues that affect their communities (Powers and Allaman, 2012; Pain, Whitman, Milledge, 2010). In this study, *Dikgosi* discussed case scenarios, identified underlying issues, deliberated and proposed solutions to address issues that undermine the protection of children from abuse and exploitation at the community level.

The study triangulated in-depth interviews and focus group discussions (FGDs). The in-depth interviews used the critical incident data extraction method in which *Dikgosi* were asked to recall their experiences by responding to a face-to-face semi-structured open-ended questionnaire guide (Fitzpatrick and Boulton, 1994). FGDs employed face-to-face group interview techniques in which group participants deliberated on CSAE case scenarios. The group discussions brought together traditional leaders with similar characteristics and cultural backgrounds to reduce the risk of 'missing the mark' and increase the trustworthiness of interpretation of the research findings.

2.2. RESEARCH THEORETICAL PERSPECTIVE

The study design was based on the phenomenological perspective to describe *Dikgosi*'s 'lived' experiences, insights, and knowledge about the Act and the day-to-day handling of CSAE cases. Phenomenological qualitative research employs diverse methods of data collection including unstructured and semi-structured in-depth interviews, key informant interviews, and focus group discussions (Pope, Ziebland, & Mays, 2008). This study used in-depth interviews and FGDs.

2.3. STUDY SETTING AND POPULATION

In-depth interviews and FGDs took place in the *Dikgotla* of the main tribal settings in Bobonong sub-District, Goodhope sub-District, Kanye, and Selebi Phikwe. The study population for the in-depth interviews included paramount chiefs, chief representatives, headmen of records and court presidents. FGDs targeted court presidents (and other customary court staff), chief representatives, headmen of records, and headmen of arbitration.

2.4. SAMPLE SIZE DETERMINATION

The sample size determination in qualitative studies is aimed at reducing the chances of 'discovery failure' and reaching information saturation. Expert opinion recommends a minimum sample of five for phenomenological studies (Creswell, 1998, p.64). In this study, the sample for the in-depth study was set at a maximum of 12 *Dikgosi*. The study planned for eight focus group discussions with a minimum of 10 - 12 *Dikgosi* per group. Thus, for the FGDs, the sample size was set at a minimum of 90 *Dikgosi* (Table 1).

Table 1:				
Determined sample for the in-depth and focus group discussions with <i>Dikgosi</i>				
Determined Sample Size				
Study Districts	Villages/Wards Per District	Determined Sample	Number of Discussion Groups	Determined sample for in-depth interviews
Bobonong	42	24	2	3
Good hope	50	30	3	3
Kanye	59	26	2	3
Selebi-Phikwe	4	10	1	3
	155	90	8	12

To ensure equal representation of the sample, districts with many villages or wards had a larger representation of *Dikgosi* compared to districts with fewer villages/wards. Selebi-Phikwe had a small sample size while Goodhope and Kanye had larger sample sizes.

2.5. SAMPLING METHOD

The study employed a non-probabilistic relevance (purposive) sampling method, which allowed the selection of *Dikgosi* that possess valuable customary knowledge (Krippendorff, 2004). Paramount chiefs or their representatives participated in selecting the study population. The inclusion criteria for the sample selection included geographical location of the villages/wards, sex of *Dikgosi*, gender, and age of the participants.

2.6. DATA COLLECTION AND INSTRUMENTATION

Data for both in-depth interviews and FGDs were collected using a standardized, face-to-face, semi-structured open-ended questionnaire guide. The study modified the health policy implementation analysis questionnaire guide to create the social policy implementation

questionnaire guide to assess the implementation of the Children Act of 2009. The health policy implementation analysis questionnaire guide assesses policy implementation based on the seven critical dimensions derived from the hybrid theoretical perspective of policy implementation analysis ((Bhuyan, Jorgensen and Sharma, 2010, Table 2).

Table 2:		
The Social Policy Initiative Model for judging the success or failure of Children’s Act of 2009 implementation in Botswana		
1	The content, its formulation, and dissemination	Entail the policy content and relevance, the nature of its formulation process, and how the policy was disseminated.
2	Social, political, and economic context	Examines the social, cultural beliefs, political, and economic status that strengthen or hinder implementation.
3	Leadership for policy implementation	Recognizes the leadership and governance as a precondition for promoting policy implementation. It entails commitment, accountability, resource mobilization, and translating policy objectives into service delivery.
4	Stakeholder involvement	It examines coordination and collaboration of several policy actors in different sectors.
5	Planning and resource mobilization	Considers integrated planning, resources mobilization and capacity needed to promote policy implementation.
6	Operations and service delivery	Institutional operational mechanisms and capacity of implementers charged with service delivery.
7	Feedback on progress and results	Gathers and decides implementation progress to stakeholders.
Adapted from Bhuyan et al. (2010, p.6)		

FGDs used case scenarios of real CSAE cases without identifying characteristics (Annex II). The CSAE case scenarios had been reported in the criminal courts. Each scenario had a set of open-ended questionnaire guides. The research team audiotaped and videotaped each discussion and took field group discussion notes. Group discussion notes were captured in a manner that allowed researchers to follow participants' train of thoughts by following each participant's discussion 'footprints.'

In preparation for data collection, the data collection team received training on how to collect PAR data aimed at improving the quality and rigor of the data. The training focused on the techniques of collecting data in PAR designs and conducting preliminary field data analysis. The training also addressed ethical requirements for collecting qualitative data.

The training emphasized the following key points:

- How to collect qualitative data in an ethical manner
- Effective ways of conducting group interviewing
- Probing techniques to gain insights in group discussions
- How to control discussion group sessions
- Effective way of presenting case scenario (Lacey & Luff, 2007).

The research team piloted the in-depth and FGD instruments among *Dikgosi* in Mochudi, Kgatleng District in March 2016. The pilot was aimed at reducing chances of research failure. The pilot study examined the feasibility of the data collection instruments, their clarity, language, and time it took to complete data collection. Prior to data collection, the research team conducted introductions and consultative meetings at the *s* about the research between January and March 2016. During the consultative meetings, the research team presented the aims and objectives. The study carried out the consultative meetings to garner support about the research and ask permission to conduct the study.

2.7. RIGOR AND QUALITY

Reliability and validity are important research concepts in qualitative research given the common criticism that qualitative results are anecdotal. Increasingly, qualitative researchers need to demonstrate that the study design, analysis, and reporting meet a set of standards that demonstrate the reliability and validity of the findings. The design, analysis, and reporting of this study followed the 32-item consolidated criteria (Tong, Sainsbury, and Craig, 2007) for reporting qualitative research (COREQ).

2.7.1: Research Reliability

In qualitative research, researchers need to demonstrate that the methods applied are reproducible and consistent. However, unlike in quantitative studies, external replication is almost impossible. Instead, researchers need to:

- Document the process of generating themes from the data audit trail
- Describe the approach to and procedures for data analysis, and
- Refer to external evidence, including previous qualitative and quantitative studies to test the conclusions from the analysis as appropriate (Lacey and Luff, 2007).

Quality control and management during fieldwork involved documenting field processes in log books which allowed establishing data audits (trails) critical for determining data accuracy. The data collection team carried out preliminary field analysis at the end of each day to plot participation levels and relevance and evidence of collected data. The preliminary analysis allowed the field team to address questionnaire guide ambiguities.

2.7.2: Research Team and Reflexivity

Social scientists (Reinharz, 1992) recommend the need to make clear the perspectives of the research team to demonstrate the credibility of the findings. Because qualitative analysis involves iterative process, researchers' preconceptions, assumptions, and worldview can

influence the results, despite the use of rigorous approaches. Reflexivity demands reflexivity of the research team, to acknowledge and make researchers ‘visible’ in the analysis process (Malterud, 2001).

The research team comprised of ten experienced and novice researchers. *Kgosikgolo* Mosadi Seboko (MS) of the Bamalete and *Kgosi* Ludo Mosojane (LM) former Customary Court President moderated the group discussions. Ms. Kareng Keatlaletse (KK) and Mr. Keoagile Letshabo (KL) coordinated the study from inception to the final research reporting. Dr. Mpho Gilika (MG) and KK interviewed *Dikgosi* in the in-depth arm of the study and co-moderated group moderation, and coded the data. Analyn Rantshabeng (AR) and Tlamelang Basimolodi (TB) collected field notes and tracked discussion time logs. Professor Dionne Coley (DC) prepared the legal scenarios and carried out a legal analysis of the Botswana statutes. Ms. Constance Mogara (CM) viewed the video clips, audiotapes and field notes during transcribing the data. Ms. Lisa Jamu conceived the study and Dr Styn Jamu (SJ) designed the study, reviewed transcribed data, coded, and analysed the data. He trained data collectors, led the piloting of the tools, analysed the data, and compiled the first manuscript.

Social research on sexual violence against children is sensitive and often secretive because in most instances perpetrators include family members, neighbours, and influential community members. Sensitive issues instigate clashes between human rights and patriarchal social gender norm perspectives; which can result in silence or evasive responses, which can increase chances of discovery failure in qualitative research. To reduce chances of discovery failure, the study recruited nationally recognized community leaders to moderate group discussions. Focus group moderators (MS and LM) are well-known among *Dikgosi* in the country. Both women are well-respected public figures and are advocates against gender-based violence and promoters of child protection in Botswana. The rest of the team did not personally know and had no relationship with the *Dikgosi* who took part in the study.

2.7.3: Research Validity

Validity in qualitative research entails the extent to which thematic results represent fair and accurate opinions of the study participants. To ensure the validity of the research findings, research is required to observe the following key points:

- The analysis process must involve more than one researcher (often referred to as inter-rater reliability), and
- The need to present original data using direct quotations in the presentation of the results to convince readers that the interpretation relates to the data gathered (Lacey and Luff, 2007).

One of the approaches to ensure the validity of qualitative research findings is to conduct respondent validation, which involves taking the transcripts or quotations to a representative group of respondents to check the accuracy or consistency of the summarized information. Respondents either comment on or clarify the views to provide a better interpretation. Feedback to respondents is critical in social science because it addresses concerns about researchers' sole power of analysis. Respondent validation of qualitative research is the mark of quality and evidence of respondent validation. However, the decision to involve respondents in feedback or validation varies from study to study. Respondent feedback generates significant issues that clarify social issues and highlight underlying factors critical for addressing the problems under investigation (Lacey and Luff, 2007).

The research team presented the transcribed discussion to 27 representative sample of *Dikgosi* in each district who took part in the discussions. The presentation allowed *Dikgosi* to confirm summarized views and verify whether transcribed opinions were the true reflection of their views. The validation process was critical for this design of social inquiry to allow *Dikgosi* and the researchers to reflect, clarify ambiguous responses, seek clarity on key research issues, and draw conclusion on gaps requiring strengthening. The validation process promoted ownership of the research findings.

2.7.4: Evidence Analysis

The design of this research required the data collection team to plot the level of evidence in a quadrant graph (Figure I). The study measured the level of evidence based on two dimensions: respondent's responses to the discussion and the level of consensus. The horizontal line [0 – 10] assessed whether respondents avoided the question or provided sketchy and unrelated responses [the lowest score was 0] or provided sound and sufficient information relevant to address the question [the highest measure was a score of 10]. The vertical line measured the level of agreement on the topic under discussion [high-level of agreement was 10 and high level of disagreement was 0]. Results suggest that most of the *Dikgosi* (99) out of 103 provided sound and sufficient information relevant to the question posed during the discussions. However, seven of the 102 *Dikgosi* skated away from some questions indicating that they had already responded to the question. The participants agreed that violence, maltreatment, negligence, and exploitation of children highlighted in the case scenarios were prevalent in their communities and needed their involvement to address these social ills (Figure 1). The *Dikgosi* provided views they believed were critical to mitigate social ills children experience in their communities. The results presented in this study are the accurate views of traditional leaders in selected districts and villages/wards.

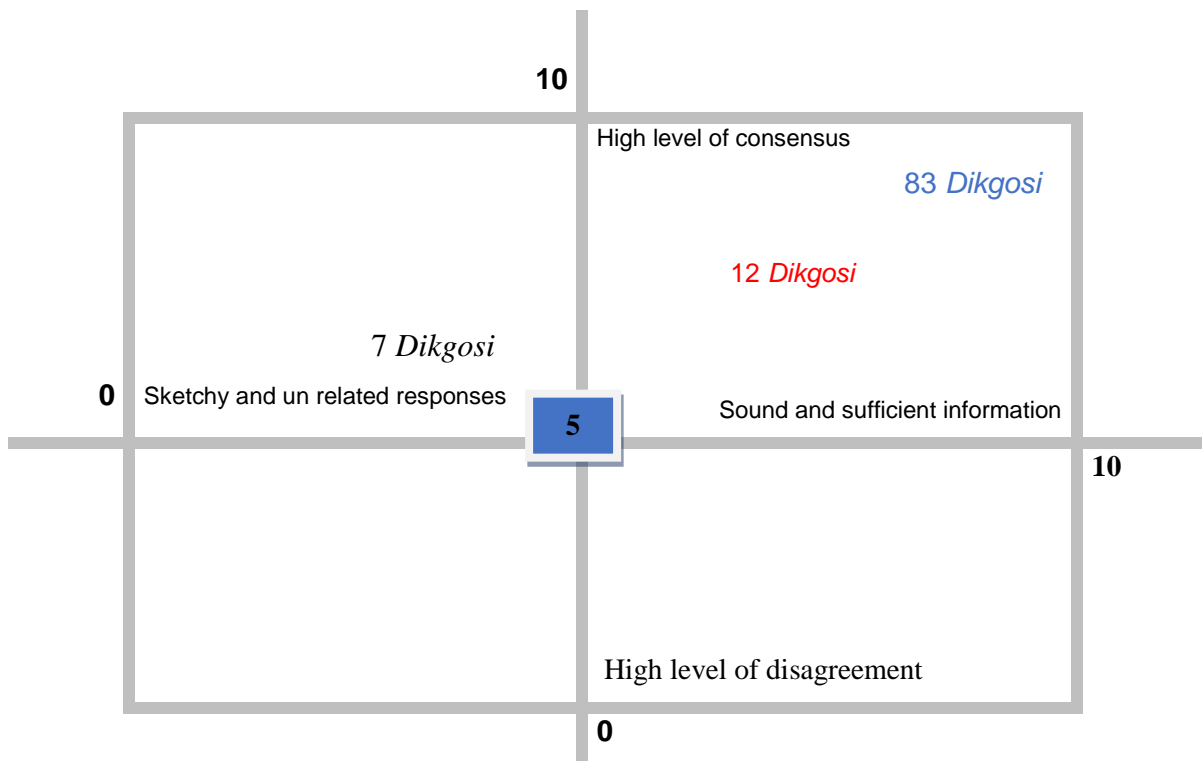
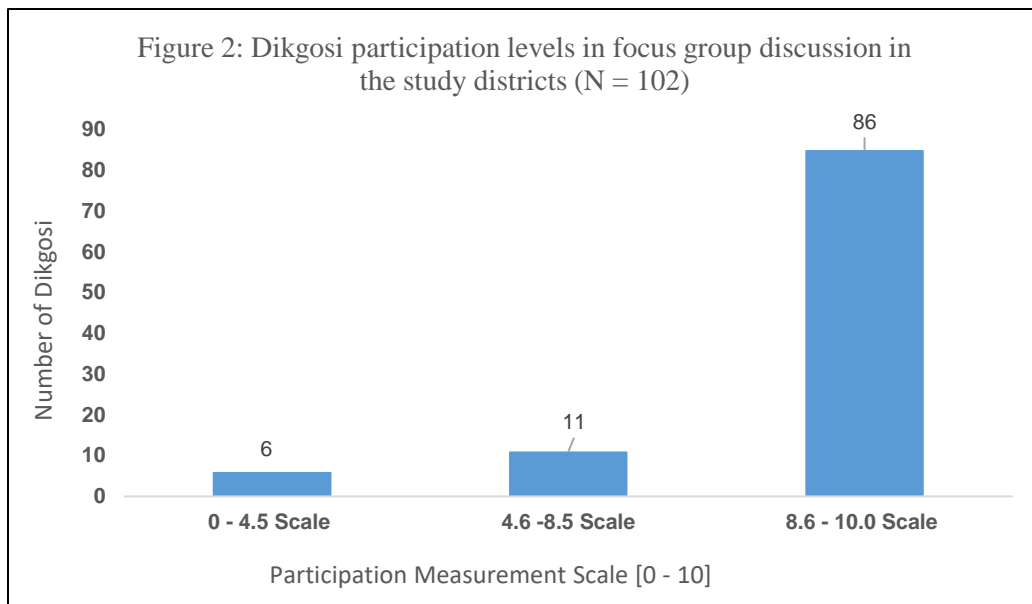


Figure 1: Group discussion evidence analysis

2.7.5: Level of Participation

At the end of each scenario discussion, the research team analyzed the *Dikgosi*'s participation levels measured on a 0 – 10 scale. Figure 1 summarizes *Dikgosi*'s level of participation in focus group discussions in the study areas. Results show that each *Dikgosi* offered their views during the discussions. Of the 102 *Dikgosi* who took part in the research discussion across the four research areas, 85 (80.0 percent) *Dikgosi* had above 8.6 participation score on a 0 – 10 measurement score and six were largely silent unless asked to participate on issues under discussion (Figure II).



2.7.6: Triangulation

Collecting qualitative data using different methods of qualitative research inquiries on the same subject of interest is a mark of rigour in qualitative research. Triangulation means collecting and analysing data from more than one source to gain a fuller perspective on the situation under investigation (Lacey and Luff, 2007). In this study, researchers employed in-depth interviews based on face-to-face interviews and focus group discussions to gain insights on the implementation of the Children's Act and how *Dikgosi* handle (could handle) child sexual abuse and exploitation cases at the community level (customary court level). Triangulation of research inquiries from different dimensions on the same subject allowed researchers to identify similar and contradicting views within the study.

2.8. DATA MANAGEMENT, PROCESSING, AND ANALYSIS

Data management were aimed at generating accurate and credible data. The research followed a set of procedures for capturing and managing the two streams of data prior to data collection to generate accurate and credible data for both in-depth and focus group discussions. KK and KL transported the research data from the field to Stepping Stones International's office for safe-keeping, processing, and analysis immediately after data collection in each district. Field notes were locked in secured cupboards while audio and visual data were kept in password controlled computers. The data were not shared with a third party.

2.8.1: Indepth Interviews

The study asked and recorded responses from senior traditional leaders in the selected main *Dikgotla* to respond to a questionnaire guide, which examined the implementation of the Children's Act, 2009 (Bhuyan et al., 2010). The field team transported completed open-ended questionnaire guides to the Stepping Stones International office in marked and sealed plastic envelopes. At the SSI office, SJ captured the data from in-depth interviews in a policy implementation analytical tool in Microsoft Excel. The analytical tool is a spreadsheet corresponding to the policy implementation analysis interview guide. The spreadsheet had a workbook containing multiple worksheets, with each tab corresponding to the different dimensions of the questionnaire guide.

The column headings in each tab captured the questions in the interview guides and the rows captured responses of each participating *Dikgosi*. Each *Kgosi* had an assigned specific participation number, which corresponded with demographic and personal characteristics. In the subsequent eight worksheets, individual answers matched with the assigned participation number and demographic and personal characteristics. Responses from each question were either captured as a text or coded as a numeric variable. For the open-ended questions, the research team captured each *Dikgosi*'s responses in designated text boxes. The question-by-question set

up of the Excel files identified key themes, as well as nuances in the perspectives of different respondents. SJ grouped common responses, patterns, trends, and relationships to map out summative themes. The numeric responses from Likert- measurement scales (1–4) and the dichotomous (yes and no) questions facilitated the side-by-side comparisons of the perspectives on key dimensions. The study coded an “8” to indicate “don’t know and a “9” to indicate missing information or did not answer. The analytical tool had pre-designed formula to calculated numeric responses into frequencies.

2.8.2: Focus Group Discussions

The research conducted focused and interactive discussion sessions with a group of between 10 and 15 traditional leaders. The field research team audio and videotaped all focus group discussions with permission from the discussants. Besides, the research team collected discussion field notes. A moderator/facilitator led each discussion group and was assisted by an assistant moderator, two note-takers, and a time-keeper. The team met daily to discuss, review field logbooks (field notes) and plot the level of respondent’s participation in the discussion, the level of relevance and usefulness of responses participants provided in the discussion. The field team transported field notes, audio-taped and video-taped data to the Stepping Stones International office where CM transcribed the discussion data (from Setswana to English) by comparing and linking field notes, video and audio-taped data to the discussion guide. Two field researchers (KK and KL) transcribed the data independently. SJ compared transcribed notes from CM, KK and KL for similarities, differences, and sense of views through individual answers. The three transcribers met with SJ to discuss discrepancies and reach consensus on summary transcripts. The transcribed data were presented to a selection of *Dikgosi* to verify whether the summarized data represent the views of the discussion.

2.8.3: DATA ANALYSIS APPROACH

Data analysis involved a range of processes and procedures that explained and interpreted views into coherent blocks of ideas. The study analysed data using the framework method, a hierarchical thematic approach based on case-matrices. Framework analysis classifies and organizes data into blocks of ideas based on five interconnected steps including familiarization, theme framing, indexing (topic and analytical coding), charting (summarizing), and mapping and the interpretation of the views (Gale, Heath, Cameron, Rashid and Redwood, 2013).

During familiarization (SJ, KK, and KL read and re-read transcripts and field notes, watched video tapes and listened to audio tapes to get a deep understanding and connect threads of ideas from *Dikgosi*. At the theme framing stage, SJ, KK, KL and MG teamed up and reviewed transcripts and individual memos developed during familiarization to identify themes (main phrases/words in respondents' narratives) based on prior set themes in each case scenario. SJ, KK, KL and MG indexed by paraphrasing ideas and labeling recurrent words into topic codes. At the charting stage, SJ, KK and KL summarized topic themes into coherent blocks of ideas that combined topic codes and broader descriptive frames each with topic theme reflecting verbatim text. Mapping and interpretation created typologies, identified associations between topic themes; and identified contextual and cross-cutting issues from topic themes.

2.9. ETHICAL AND LEGAL CONSIDERATION

The Health Research Development Committee Institutional Review Board in the Ministry of Health and Wellness reviewed and approved the research (Ref#. HPDME 13/18/1 x (331).

3.0. RESULTS

This section presents research findings from in-depth interviews and focus group discussions. The section is divided in five sub-sections including 1) the demographic profile of the study population, 2) Children's Act implementation analysis, 3) topic thematic constructions from the case studies, 4) 'lived experiences' for handling and reporting of CSAE cases at community levels, and 5) the interpretative thematic analysis of section identifies cross-cutting and contextual factors from triangulated data.

3.1. DEMOGRAPHIC PROFILE OF THE STUDY POPULATION

Data were collected from two sub-Districts (Bobonong in Central District and Goodhope in Southern), Kanye (headquarters of Southern District) and Selebi-Phikwe Town Council (Table 3). One hundred and seven *Dikgosi* from 94 villages and wards participated in the in-depth interviews and focus group discussions. Five *Dikgosi* responded to a face-to-face open-ended semi-structured policy implementation analysis questionnaire guide and 102 *Dikgosi* took part in the eight FGDs (Table 3).

Table 3: Final sample for the in-depth interviews and focus group discussions in selected districts			
Selected Sample			
Study Districts	Villages/Wards in the Study	Sample of Dikgosi	Sample for In-depth Interviews
Bobonong	22	22	1
Good hope	30	30	2
Kanye	38	39	1
Selebi-Phikwe	4	12	1
	94	103	5

The study comprised of paramount chiefs, chief representatives, customary court presidents (customary court staff), headmen of records, and headmen of arbitration. There were 95 male and 13 female *Dikgosi*. The age of participating *Dikgosi* ranged from 35 to 81 years old with most *Dikgosi* in the 35-44 year age group. The study included senior chief representatives, chief representatives, customary court presidents an customary court staff, headmen of records and arbitration. The study included *Dikgosi* who are chiefs by inheritance and those appointed by the government.

Table 4

Descriptive profile of Dikgosi who took part in focus group discussions and in-depth interviews (N = 108)

Descriptive variables	Number of Dikgosi
Sex	
Male	95
Female	13
Age Groups	
35 – 44	86
45 – 54	8
55 – 64	5
65+	9
Hierarchy of Dikgosi	
Senior Chief Representatives	4
Chief Representative	5
Court Presidents	5
Tribal Secretaries	2
Court Clerks	6
Headmen of Records	21
Headmen of Arbitration	65

The composition of the study population was homogenous in that they were all traditional leaders but heterogenous because they included both men and women of different age groups. The *Dikgosi* were drawn from all the hierarchy of the chiefainship including the customary court system (Table 4).

3.2. CHILDREN'S ACT IMPLEMENTATION ANALYSIS

The results in this section are organized in seven critical dimensions of policy implementation analysis. Each critical dimension asked *Dikgosi* to rate the implementation of the Children's Act on a four-level measurement scale and then asked them to justify their ratings in text.

3.2.1: The Act, its Formulation, and Dissemination

a). The Contextual Relevance of the Act

Dikgosi were asked to rate the contextual relevance of the Children's Act and whether the Act provide provisions that protect children from harm in Botswana. The *Dikgosi* rated the contextual relevance of the Act on a measurement scale calibrated between 1 and 4, where 1 meant *the Act does not address important contextual issues*, 2 stood for *the Act addresses some but many contextual issues are missing*, 3 meant *the Act addresses most of the key contextual issues that harm children, but some issues are missing*, and 4 meant *the Act addresses all key contextual and relevant issues*.

Three of the five *Dikgosi* rated the Act's extent to protect children from harm and its relevance at '2' on the measurement scale. The rating suggests that the Act addressed some contextual children related issues but that many issues were missing. Three of the *Dikgosi* rated the relevance of the Act at '3' on the measurement scale. When asked to justify their ratings, *Dikgosi* who rated the contextual relevance at '2' said the Act does not incorporate traditional Tswana customs including critical issues on effective parenting. They further said the Act does not elaborate on the roles of parents⁵ and family relatives in preventing CSAE. They also said the exclusion of the community leaders (*Dikgosi* and *Dikgosana*) in the administration of justice on

⁵ Section xxx of the Children's Act does articulate the role of parents or caregivers. The response may justify the lack full understanding of the Act.

CSAE cases weakens the cultural relevance of the Act. In addition, the *Dikgosi* said that the failure of government to educate them (*Dikgosi*) on the Act's provisions limited their understanding of the Act, thus they are hand-tied to address the social ills associated with CSAE at the community level.

“The Act addresses some of the key issues that concern children, but it lacks issues such as parenting. It excludes the traditional roles and responsibilities of handling abuse cases at the family level that involve parents and uncles. Most *Dikgosana* and families do not understand the Act's provisions, thus some serious abuse cases are thrown out of court which reflects gaps within the Act.” (*Kgosi* #1, female, Customary Court President).

Dikgosi who rated the contextual relevance of the Act at ‘3’ said that since the Act's enactment, magistrates' courts have persecuted some of reported child abusers in their communities, charging some with long jail terms.

“Despite not getting involved in the handling of child abuse cases, we have seen some increase of abuse cases being reported and perpetrators being arrested and tried in the magistrate courts.” (*Kgosi* # 3, male, Headman of Records).

The study also asked *Dikgosi* to describe whether the Children's Act attends to the needs of the abuse victims, their families, and marginalized populations (the poor, underserved, vulnerable and the most at-risk). Most of the *Dikgosi* (4 out of 5) said that the Act does not discriminate based on the child's geo-location, socioeconomic status, and vulnerabilities.

“The Act does not discriminate children based on socioeconomic status and religion. Each child receives equal protection under the law and has equal access to health, education, and shelter.” (*Kgosi* #1, female, Customary Court President).

However, *Kgosi* # 5 cautioned that while the Act is inclusive and addresses the needs of all Batswana children equally, victims from low-income families, those from illiterate families in rural settings, and those most at risk (such as disabled children) may not have equal access to the judicial system despite their equal need for services. *Kgosi* # 5 emphasized that most parents or

family members may either hide abuse when the perpetrator is the bread winner or parents may not know where to go to report abuse cases because they lack knowledge about the provisions of the Act. He also pointed out that many poor families in rural areas settle for monetary compensation rather than reporting abuse cases to the police or social workers, thus denying victims equal access to the Act's provisions.

When asked whether the goals and objectives of the Act are achievable under the current implementation approach at the community level, the five *Dikgosi* told the research team that while the Act's goals and objectives are achievable, the exclusion of *Dikgosi* from jurisdiction of some CSAE cases and their lack of legal education and understanding of the Act will hinder its implementation at the community level.

"Yes (goals and objectives of the Act are achievable), but there are still some gaps within the social fabric and cultural norms. Socially, we have dysfunctional families with parents who do not have responsibilities – you need involvement of an informed *Kgosi*. Culturally, a man can have many children from different women, but only children from his wife will benefit in case of inheritance, leaving other children in poverty. The Act does not address these issues, which are the main cause of negligence and poverty associated with abuse. Our cultural norms - *Monna selepe o a faapaanelwa*." (concubines) encourages men's behavior (*Kgosi* # 5, male, Chief Representative).

"If *Dikgosi* and *Dikgosana* and the community are capacitated to enact the provisions of the Act with clear roles and responsibilities, the goals and objectives of this Act may be attainable. Currently, we (*Dikgosi* and *Dikgosana*) do not have authority to handle child abuse cases and we are not actively involved in such cases. It is, therefore, difficult to implement the Act at community level without the involvement and support of *Dikgosi*, *Dikgosana*, and the family members." (*Kgosi* # 3, male, Headman of Records).

b). Involvement in the Formulation of the Act

The study questioned the extent of *Dikgosi*'s involvement in the formulation of the Act. The *Dikgosi* were asked to rate the extent of involvement on the involvement scale coded between 1 and 4. On the measurement scale, '1' meant *not involved*, '2' represented *limited involvement*, '3' stood for *moderate involvement*, and '4' represented *extensive involvement*. The *Dikgosi*

rated the extent of their involvement during the Act's formulation at '1' on the measurement scale. Thus, the results suggest the *Dikgosi* were not involved during the formulation of the policy.

"There were no community consultations during the formulation of this Act. Maybe the *Dikgosi* in the "*Ntlo ya Dikgosi*" were involved but there were no consultations at the *kgotla*. Senior *Dikgosi* were consulted after the policy had already been formulated." (*Kgosi* #1, female, Customary Court President).

Asked whether the degree of involvement in the formulation of the Act affected its implementation at the community level, the *Dikgosi* said that the lack of active involvement at the Act's formulation stage excluded some positive traditional norms that have protected children from harm for centuries in their communities. *Dikgosi* viewed their exclusion in the formulation of the Act as a Government's strategy to weaken the authority of the *Bogosi* (Chieftainship) institution.

"*Kgosi ke kgosi ka batho*", meaning we are chiefs because of the people. If *Dikgosi* are involved in handling and management of child abuse cases, cases will not be withdrawn and perpetrators will not be cleared easily because *Dikgosi* knows people at grassroots level. We can get witnesses and support from people in our communities." (*Kgosi* #2, male *Kgosikgolo*).

The *Dikgosi* noted that some of the conflicts between some cultural norms and the Act's provisions⁶ will remain unresolved; thus, implementing the Act in some tribal settings will always be confounded because they were not involved in the formulation of the Act. The discussants strongly believed that the first step is to assure *Dikgosi* the authority of *Bogosi* by allowing some cases to be tried at the customary court. The *Dikgosi* suggested a nation-wide

⁶ *Dikgosi* discussed several conflicting perspectives between the Act and the cultural norms. For example, the Children's Act requires immediate reporting of an abuse incident to the government authorities whereas the Tswana culture emphasizes consultative processes and arbitration which involve the community leadership and family members. Consultations and family arbitration is common when the perpetrator of abuse is a family member. Thus, the conflict between the Act and tradition norms without proper training on what to do, it becomes difficult to implement the Act.

capacity building of *Dikgosi* (at all levels) on the Act's provisions and *kgotla* education of the community about the Act. *Dikgosi* also suggested education about the Act to include other community leaders especially religious leaders, family members, and youth.

c). Extent of the Act's Dissemination

When asked to describe the level at which the Act was disseminated, *Dikgosi* told the researchers that the government organized workshops that included some senior traditional leadership (Court Presidents, Chief Representatives, and Religious Leaders) but there were no organized *kgotla* meetings to disseminate the Act. Thus, *Dikgosana* (Headman of Arbitration) at the ward level and the communities were left out in the dissemination process. Some of the respondents acknowledged attending government-organized dissemination workshops, but that such workshops left out many of the village headmen who live near families where crimes of abuse occur.

“The Act was disseminated, but there were no *kgotla* meetings to inform the public about the policy. Only one workshop was held in our district which invited *Dikgosi*, traditional healers, and church leaders. *Dikgosana* were not invited.” (*Kgosi* #1, female, Customary Court President).

3.2.2: The Social, Political, and Economic Context

The effectiveness of policy implementation depends on the social, economic, political, and cultural (including gender norms) environments in which the policy is being implemented. The study asked *Dikgosi* to provide their views about the effects of these factors on the Act's implementation in their communities. The collective views suggest that the social, economic, political, and cultural (religious and gender norms) circumstances of victims and their families either hinder or facilitate the implementation of the Act within communities.

a). The Intersection between Culture and Law

There was a consensus among the *Dikgosi* that some cultural norms hindered the implementation of the Act at community level. *Dikgosi* said while the Act advocated for children's rights, the law conflicted with cultural norms of discipline and raising children. *Dikgosi* reasoned that in Tswana culture, children were 'seen' but not 'heard,' thus, children are supposed to obey elders' orders.

"In our culture, children are not involved in family decision-making. However, the Act is saying children have the right to be involved. The conflict between our culture and law can cause misunderstanding that may hinder the implementation of the Act in many communities." (*Kgosi # 3*, male, Headman of Records).

b). Gender Norms and Socio-economic Status

Results on the impact of gender norms and socio-economic status and the Act's implementation at the community level, suggest that in most rural communities unemployed women and their children are vulnerable and at risk of abuse and exploitation when abusers have financial influence over them. *Dikgosi* told the research team that abusers who provide financial support to victims take advantage of poor women and their children. When asked to elaborate, *Dikgosi* listed poverty, unemployment, and illiteracy as factors negatively impacting the implementation of the Act in most rural areas. Citing some examples, *Dikgosi* said that the poor, unemployed, and illiterate women often fail to report incidences of abuse (especially intra-familial abuse) and refuse to testify against accused husbands, boyfriends, brothers or uncles when the perpetrator is a bread winner or a respected family member. In most instances, poor parents settle for monetary compensation rather than reporting the abuse to authorities.

"Poverty makes women vulnerable to abuse and exploitation and has had a negative influence that undermines the implementation of the Children's Act in our communities. Women hide abuse to ensure continued financial support and preserve family respect. Some low-income families in our community neglect the law because they do not understand it. For instance, they use their children to sell sex for food. They do not care, especially in remote areas, and may not have access to government programs for

improving their income status... Therefore, there is a need to educate *Dikgosi* and families about the provisions of the Act.” (*Dikgosi* # 5, male, Chief Representative).

c). Religious Beliefs

Dikgosi told the researchers that while religion has played a positive facilitative role in addressing repressive cultural practices, some religious beliefs in some denominations in the country espoused oppressive norms against women and children.

“Some churches in our communities have oppressive rules on women and children that can lead to abuse for example teenage marriages. Diverse cultures and belief systems affect the implementation of the Act both positively and negatively.” (*Kgosi* #2, male *Kgosikgolo*).

c). The Political Environment

Commenting on the political influence on the implementation of the Act, three of the five *Dikgosi* told researchers that the political environment had had the positive influence in ensuring that children are protected from harm in the country regardless of their social, economic, religious status. *Dikgosi* applauded the legislative arm of government for the law and the executive arm for enforcing it. However, *Dikgosi* said that by stripping their judicial powers and authority over CSAE cases at the community level, the decision severely limited the law’s implementation within communities.

“The law was developed by politicians and excluded *Dikgosi* in its implementation. It's hard to expect the community to carry out the provisions of this Act. We have opinions on how to improve the Act and facilitate its implementation at the community level.” (*Dikgosi* # 4, male, *Kgosikgolo*).

In addition to the positive political environment, *Dikgosi* told the research team that some political members (councilors and members of parliament) encourage community activities that influence abuse in their communities. *Dikgosi* said some politicians have consistently opposed regulating traditional alcohol brewing, which *Dikgosi* consider as social ills associated with child

abuse. Politicians fear regulating traditional alcohol brewing because they feared losing political elections.

3.2.3: Leadership for the Act's Implementation

Leadership is a critical element for effective implementation of a policy. Effective leaders communicate policy's goals, rationale, and mechanisms, and become champions to ensure that the provisions of the policy are carried out.

a). Opinion Leaders and Influential Institution Support

The study questioned *Dikgosi* whether the opinion leaders provided leadership support to the *Dikgosi* in the implementation of the Act at the community level. Three of the *Dikgosi* identified the Gender Affairs Department (GAD), Emang Basadi, WEBA, TAWLA, Stepping Stones International, Humana People to People, and Mmabana organizations as ones that have provided leadership on issues that involved the implementation of the Act in their communities. These institutions have in the past provided capacity building training for *Dikgosi* in child protection and empowerment of women and the girl child in their communities.

b). Institutional Leadership

The study solicited *Dikgosi*'s views on the state of government's institutional leadership in implementing the Children's Act at the community level. *Dikgosi*'s responses varied on the lead government institutions. Three *Dikgosi* (# 1, 2, and 4) identified the GAD in the Ministry of Nationality, Immigration and Gender Affairs, the Botswana Police Services in the Ministry of Defence, Justice, and Security, and the Department of Social Protection (DSP) through the District Social and Community Development (S&CD) offices in the Ministry of Local Government and Rural Development (MLGRD) as lead government institutions in implementing the Children's Act. *Dikgosi* credited GAD for providing guidance to help *Dikgosi* in differentiating civil from criminal cases and identified the S&CD offices as the lead organization

because they are the first point of contact for handling CSAE cases in their communities. *Dikgosi* also identified the Police Services because they investigate abuse cases when reported.

However, the *Dikgosi* described the current leadership as limited and inadequate to facilitate the Act's effective implementation at the community level because they are often not sure whether to report child abuse cases (including domestic violence) to the police, or to social services. *Dikgosi* suggested that in order to improve the current institutional leadership in handling child abuse cases, the Tribal Administration of the customary court/*kgotla* and the headmen of arbitration should be the entry point for reporting child abuse cases. The approach would work because headmen of arbitration live among victim and abuser families and know their communities well.

c). Leadership Effectiveness in Implementing the Act

Dikgosi were requested to rate the effectiveness of government service providers' leadership in implementing the act at the community level on the scale of 1 to 4, where '1' stood for *not effective*, '2' meant *somewhat effective*, '3' meant *mostly effective* and '4' stood for *very effective*.

The *Dikgosi* rated government sectors' leadership in the implementation of the Act at the community level at '2', suggesting that leadership in implementing the Act was somewhat effective. *Dikgosi* decried the lack of strong leadership of government institutions at the community level to guide and facilitate implementation. Below are quotations from two *Dikgosi*:

"I do not think Parliament has effective leadership qualities. If the institution (Parliament) was effective, they would be the ones teaching the community about the Act's provisions at *Kgotla* and political meetings." (*Kgosi* # 3, male, Headman of Records).

"Child abuse cases are not successfully handled and solved by police even if they are reported to them. Police are also not giving feedback to *Dikgosi*." (*Dikgosi* # 4, male, *Kgosikgolo*).

3.2.4: Stakeholder Involvement

Section 4 of the policy assessment evaluated the extent to which different sectors of government service providers (Health, Gender Affairs, Social Protection, the Police Service, the Judicial system, and the Education system) involved *Dikgosi* and the family members in the implementation of the Act at the community level. *Dikgosi* rated stakeholder involvement on a measurement scale of 1 to 4, where ‘1’ stood for *no stakeholder involvement*, ‘2’ represented *limited involvement*, ‘3’ indicated *moderate involvement* and ‘4’ stood for *full multisectoral stakeholder involvement*.

Most of the *Dikgosi* (3 out of 5) reported that communities were not fully involved in the implementation of the Act at the community level through GAD, S&CD Offices, and the Police and non-governmental organizations.

“They (government sectors) involve stakeholders in the implementation of the Act but the community makes it difficult to work with them. For example, the community does not report abuse cases.” (*Kgosi* #1, female, Customary Court President).

“Most (Government) service providers such as the judicial system, police, health, social protection know the Act themselves and respond to issues pertaining to it. However, they are not teaching or educating the community about the Act.” (*Kgosi* # 3, male, Headman of Records).

Dikgosi told the research team that while social workers were the custodians of children’s welfare, responsible for handling child abuse cases, and educating community members about the Act, they (social workers) were not active.

“In most cases, the police involve community stakeholders, but school heads and nurses are not involved in the implementation of the Act. While social workers are custodians of children’s welfare, they are not active in teaching the community about the Act.” (*Kgosi* #2, male *Kgosikgolo*).

When the study asked *Dikgosi* whether government sectors actively involved *Dikgosana* and family stakeholders, all of the *Dikgosi* rated involvement at 2, suggesting limited involvement.

“Many families are not involved in addressing child sexual abuse despite having many incidences of abuse at family level. In remote areas, many child abuse cases occur and families do not have responsibilities to protect their children. I hardly handle any child cases because they are not my priority as compared to other social issues.” (*Dikgosi* # 5, male, Chief Representative).

“*Dikgosana* do not understand the Act because they are not trained. When I was in Lerula, I asked a *Dikgosana* (Headman of Arbitration) about the Act after discussing marriage and child custody issues. He did not know the provisions of the Act.” (*Kgosi* #2, male *Kgosikgolo*).

3.2.5: Planning and Resource Mobilization

Section 5 of the assessment explored whether *Dikgosi* were familiar with the Act’s implementation strategy; plans and implementation guidelines specific to addressing child protection at the community level. The section also inquired if *Dikgosi* received resources to carry out child protection activities stipulated in Section 33 of the Children’s Act.

A). Planning: Implementation Strategies, Plans, and Guidelines

The results show that *Dikgosi* were unaware that there were implementation strategies, plans, and guidelines in place which aimed at facilitating implementation of the Act at the community level. *Dikgosi* told the researchers that if there were planning structures for child protection for *Dikgosi*, they were neither aware of nor involved in developing such structures.

The *Dikgosi* suggested that strategies, plans, and guidelines should emphasize the need for magistrates to train and allow the customary courts to handle some of the child abuse cases in order to address some of the implementation gaps.

“Some cases of child abuse should be handled by *Dikgosi* following child friendly services procedures to help magistrate courts lessen their caseloads and to avoid taking long to resolve cases. Should be consulted on the implementation of the Act.” (*Kgosi* #1, female, Customary Court President).

“It seems like the government wants to undermine *Dikgosi* by not training them so they remain ignorant. I suggest that senior chiefs should handle the cases like before because magistrates are taking too long to solve the cases. Chiefs can do a better job in solving child abuse cases.” (*Kgosi* #2, male *Kgosikgolo*).

b). Perceived Roles and Responsibilities

The research explored if *Dikgosi* knew their roles and responsibilities stipulated in the Children’s Act. Results show that *Dikgosi* were not familiar with their roles and responsibilities as indicated in the Act. However, they hold several views about their roles and responsibilities in supporting the effective implementation of the Children’s Act at the community level.

“*Dikgosi* should raise their concern to amend the Act so that it incorporates the traditional law. *Ntlo ya Dikgosi* (House of Chiefs) should advise the policy makers to make and amend this Act to advocate for protection of children. *Ntlo ya Dikgosi* should advocate for some authority for *Dikgosi* to handle child abuse cases. Let magistrates deal with cases that involve murder.” (*Kgosi* #1, female, Customary Court President).

The participants suggested additional roles and responsibilities for *Dikgosi* including:

- 1). Making referrals to relevant service providers through the customary court and *kgotla*
- 2). Building a community system that allows families to report all forms of abuse cases to ensure perpetrators face justice
- 3). Making *Dikgosi* accountable to support investigation of abuse cases in the community and help dig deep for evidence; and
- 4). Uphold commitment through the *kgotla* and customary court by supporting magistrates’ courts in ensuring that abuse cases are resolved under the law.

c). Training to Support the Implementation of the Act

Four of the five *Dikgosi* had not received any training on the Act and only one *Kgosi* reported to have received training. The *Dikgosi* said they needed training from magistrates to understand the Act, its provisions, their expected roles and responsibilities and how to handle cases in their communities. They also needed training on reporting protocols and documentation of cases and registration of offenders at the community level.

d). Resources for Supporting the Act's Implementation

The study explored whether *Dikgosi* receive any funding and other resources for supporting the implementation of the Act at the customary court (community level). In addition, the study asked whether *Dikgosi* had activities for supporting customary court that required funding and allocation of resources.

Results show that *Dikgosi* do not receive funding to support the implementation of the Act at the customary court. *Dikgosi* told the research team that they had several activities they would want to execute to support the implementation of the Act at the community level if they had the resources to do so. When probed to mention some of the activities they had in mind, *Dikgosi* listed the following activities:

- a. Educate communities about the Act - especially children, youth and their parents.
- b. Conduct seminars for *Dikgosi* taking into consideration that we do not have a high level of education. We depend on Court Clerks to learn about the Act because we do not know much. They end up disrespecting us because we do not know most of the procedures. They tell us what to do especially among Headmen of Arbitration because most are not educated.
- c. Invite social workers and other government service providers to train and dialogue about social issues.

- d. Invite organizations such as SSI and other NGOs to train *Dikgosi* and the community on the Act.

3.2.6: Operations and Services of the Act

The research examined the operations and services of the Act's implementation in reference to *Dikgosi*'s roles and responsibilities at the community level. The study asked *Dikgosi* to rate the effectiveness of coordination processes among government service providers (the judicial system, the police, social welfare services, and the health sector) at the district level in supporting the community to implement the Act. *Dikgosi* rated coordination effectiveness on the measurement scale of 1 to 4, '1' stood for *not effective*, '2' represented *somewhat effective, but many improvements needed*, '3' *mostly effective with some improvement needs* and '4' meant *very effective*.

a). Perceived Coordination Effectiveness

Two *Dikgosi* (#1 and 4) rated coordination of government institutions to support the community legal system to implement the Children's Act as mostly effective, that coordination needed some further improvements.

"The police service and social welfare offices at the district level coordinate and collaborate in handling child abuse cases at the district level. They also sometimes coordinate with the *kgotla* in cases of child negligence and poor parenting." (*Kgosi* #1, female, Customary Court President).

However, three *Dikgosi* (2, 3, and 5) rated the coordination of government institutions in supporting the community legal system to implement the Children's Act at '1', suggesting coordination with the customary court/*kgotla* system was poor or ineffective. These *Dikgosi* reported that they do not have contact with government sectors providing child abuse services because they were not involved.

“Coordination among service providers is not effective because some service providers are not informed and lack knowledge about the Act.” (*Dikgosi* 5, male, Chief Representative).

“We have never had a magistrate come to the *kgotla* to ask us to help address some of the challenges magistrates face in dealing with child abuse cases. They never come to educate us on how we can help them solve some of the cases.” (*Dikgosi* 3, male, Headman of Records).

When asked to provide suggestions on how to improve the situation, most suggested developing an Act implementation coordination forum composed of representatives including the district commissioner (or a designate), the magistrate court, the police, social services, the health sector, education sector, and non-governmental organizations.

“We need collaborative community forum that can educate *Dikgosi* on the roles and responsibilities of addressing child abuse cases as per the Act. The forum must bring all government sectors including the district commissioner, magistrates, the police, social welfare officers, health officers, teachers, and organizations to advise *Dikgosi* to professionally handle child abuse cases” (*Dikgosi* #3, a male, Headman of Records).

b). Perceived Barriers to the Act’s Implementation

Section 33 of the Children’s Act requires community leaders (*Dikgosi* and *Dikgosana*) to participate as unelected members of the Village Child Protection Committees (VCPC). The purpose of the committee is:

- a. To educate their respective communities about the neglect, ill-treatment, exploitation or other abuse of children, and
- b. To monitor the welfare of children in their respective communities.

The study asked *Dikgosi* whether there were barriers to providing child-related services through the Village Child Protection Committees at the community level. Results show that the VCPCs were either not active (where they were established) or do not exist. Such committees were not carrying out child protection duties as stipulated in section 33 of the Children’s Act in their communities.

“*Dikgosi* are not involved in child abuse and child negligence cases. The customary court should handle these cases. However, the Act does not give Chiefs authority to handle such cases. We can handle some if we are trained.” (*Kgosi* #1, female, Customary Court President).

Dikgosi explained that they were not using the Act and lacked the understanding of the Act’s provisions and their roles and responsibilities in supporting child abuse services at community/customary court level.

“We lack knowledge about the Act which can contribute to errors, hence negatively affects handling of cases.” (*Dikgosi* #4, male, *Kgosikgolo*).

c). Flexibility to Adapt Policy Implementation Strategies

The study asked the *Dikgosi* whether they had the flexibility to adapt policy implementation strategies and activities to respond to their local community’s needs. All the five *Dikgosi* said they had the flexibility to adapt the Act implementation strategies and activities to respond to their local needs, despite concerns that the Act does not incorporate traditional customs. The *Dikgosi* also remarked that they were interested in gaining knowledge about the Act to improve the welfare of children in their communities. They were, however, hesitant to support the Act’s implementation because they do not have the understanding of the Act. *Dikgosi* strongly believe that if they were educated on their responsibilities, the Act would achieve its desired goals and objectives.

3.2.7: Feedback on Progress and Results

Feedback and results of the policy implementation track timely and relevant information concerning the policy outcomes and implementation process.⁷ This section asked *Dikgosi* to describe their experience on the feedback on progress and results of implementing the Children's Act at the community level.

a). Monitoring the Children's Act Implementation

The study asked *Dikgosi* to describe the government institutions that monitor the implementation of the Act in their communities. Two of the *Dikgosi* did not know any responsible government institutions while three *Dikgosi* mentioned the Department of Social Protection and the Tribal Administration. However, the *Dikgosi* did not know how these two government institutions monitor the implementation of the Act.

b). Reporting Progress of the Customary Court

When asked whether they were required to report on the progress or accomplishments of the customary courts under the Act, the *Dikgosi* told the research team that they were not required to report progress.

c). Feedback for Customary Courts

The study asked *Dikgosi* if they needed any feedback from government institutions that provide service to abused children on planning and decision-making at the customary court level/*kgotla*. The study found that *Dikgosi* were not actively involved in the implementation of the Act and thus do not receive any form of feedback. However, the *Dikgosi* wanted to get feedback on the following areas of the Children's Act implementation:

⁷ Austrian Government (2013). The Cabinet Implementation Unit within the Department of the Prime Minister and Cabinet provide whole-of-government advice on implementation and delivery, with a focus on capability building, implementation assessments and progress reporting. Vienna, Austria.

- i. Social workers and the police to report on the outcome or verdict of cases from magistrate courts
- ii. Know the severity of child abuse cases reported in their communities for the *Dikgosi* to plan and decide on appropriate interventions where necessary.

“Receive feedback from magistrates on what challenges they face in court because these cases are from our villages (wards). We could encourage communities not to defend perpetrators or withdraw cases, report (unreported) cases, educate families and reduce child abuse cases. We know everyday lives in our wards.” (*Kgosi* #1, female, Customary Court President).

3.2.8: Overall Assessment of the Act’s Implementation

The study asked *Dikgosi* to rate the overall implementation of the Act, identify positive outcomes since its enactment, and barriers that hinder its effective implementation at community levels in Botswana. The study also asked *Dikgosi* to propose policy actions that may be needed to overcome barriers that hinder the effective implementation of the Act in their communities. *Dikgosi* rated the overall implementation of the Act at the community level on a 4-level measurement scale, where ‘1’ stood for *not being implemented*, ‘2’ meant *partly implemented*, ‘3’ represented *many parts of policy are being implemented*, and ‘4’ was *effective implementation*.

a). Overall Opinion about the Act’s Implementation

Overall, the *Dikgosi* rated the implementation of the Children’s Act at ‘2’ on the measurement scale, suggesting that the Act was partly implemented at the community level. Justifying their ratings, the *Dikgosi* cited some examples related to implementation. First, they believed that most incidences of child abuse cases in their communities are not reported to responsible government service providers for investigation. Secondly, they opined that in some instances reported cases were dismissed because some community members (families) withdraw or refuse to testify in court. In addition, the *Dikgosi* also cited an increase of teenage pregnancies in most communities, long waiting periods for cases before trial, and an increase of perpetrators

exhonerated from trial. *Dikgosi* cited these examples as a sign of poor Act implementation at the community levels. The *Dikgosi* emphasized that the ineffective implementation of the Act at the community level was largely because they were not actively involved in the implementation of the Act. They also mentioned that they lacked the capacity to support government service providers (the police, social welfare services, and magistrate courts) in handling such cases at the community level. On the other hand, they recognized the negative impact of child abuse on the social well-being of their communities. They also told the researchers that the increase of teenage pregnancies, cases withdrawn from the courts, and incest was worrisome, a sign of deteriorating Tswana customs and norms.

3.3. TOPIC THEMATIC CONSTRUCTION FROM CASE STUDIES

This section presents results of the group discussion by case scenarios. In each case scenario, the moderators asked *Dikgosi* to analyze the case and identify whether a crime had occurred or not and how they would handle the incident. The research team framed the views into themes representing collective views of the discussants.

SCENARIO 1:

“The head teacher from your local primary school reports that an eight -year-old girl is being” Used“ by her uncle. The girl is in standard two.

In scenario 1, 44 *Dikgosi* from Bobonong, Goodhope, and Kanye deliberated what the word “used” connoted after the head teacher of a local school reported his suspicions to *Kgosi*. They also discussed whether a crime had occurred or not and provided opinions to justify their reasoning. They then provided views on how they would handle the case.

Theme 1: Framing of the word 'used' in Reporting Alleged Abuse

Dikgosi told the research team that the word 'used' was one of the many common Setswana words used to communicate sensitive issues of sexual nature. More than half of the *Dikgosi* involved in the discussion associated the word 'used' in this scenario to exploitive sexual abuse of a minor. They reasoned that since the person suspected of using the child was a male member of the household, and that the victim was a girl-child, it was obvious that 'used' connoted exploitive sexual abuse. They urged that if the suspect in the scenario was a female relative, an aunt for example, the word would have meant other forms of abuse.

“When you hear that a child has been used, you cannot think of household chores. So, you have to ask the school head: ‘*O belatse eng?*’ ‘*O ka tswa a bone eng?*’ (What brought about his suspicions? What did he suspect?) and What did he see? What exactly made him think the child was being used? When we say, the word used, keep in mind that the uncle is involved. There is no other explanation that comes to my mind, except that the child was being sexually abused.” (*Kgosi* # BB06, Female, Headman of Arbitration)

“The word “used” may mean many things, but it’s an eight-year-old girl-child. The fact that the uncle is involved, I ask myself where the mother was. Using a child of that age to me, it means rape. “*Ke botlhodi*” (it’s a weird behavior). (*Kgosi* # KY 4, male, Headman of Arbitration)

Dikgosi further pointed out that the fact that the head teacher of a school reported the incidence to *Kgosi* indicated that the case was serious because the head teacher cannot waste his time on a trivial issue.

“To understand this, we must first acknowledge that the school head would not just come report a case over something menial. So, in this manner it means it is a serious offence. Moreover, the school head must explain further what he means by the word used and how the child was used.” (*Kgosi* # BB3, male Headman of Arbitration).

Theme 2: The Word “Used” as Ambiguous

Fifteen of the *Dikgosi* said that the word ‘used’ in the scenario was vague and obscured the underlying meaning when applied in Setswana because the word carries many meanings. They urged that the word could mean different forms of abuse or communicate culturally accepted chores an adult family member can ask a girl-child to do.

“I don’t know, the word “Go dirisiwa” (to be used), we use it interchangeable. You can use a child as an uncle by not allowing the child to go to school or use her to take care of cattle... In English, it’s easy to understand the meaning, but in Setswana it has many meanings. It could be sexual or work. I can use the child when I disagree to what the child tells me. As we all know that we have laws that protect children, we can use the child when we break these laws and make children do things that are not age appropriate. For example, you can use a child to buy you alcohol or cigarette. You can use a child to work in farm. You can use the child to run errands and do household chores which are allowed in our culture.” (*Kgosi # GH1, male, Headman of Arbitration*).

SCENARIO 2:

A mother comes to you to report that an 18-year-old son of her neighbor has been having an 8-year-old daughter perform oral sex on him. The neighbor has been manipulating the child by telling her that he is giving her some food, and “That the food will make her healthy.” The mother of alleged offender is present in the conversation stating that, it is not a sexual violation as there was no penetration involved. There is a rumor in the community that the alleged offender is HIV positive. The police are protecting the confidentiality of the HIV status of the alleged perpetrator as they believe he has the right to have this information protected. The child is awaiting results on whether she is HIV positive.

Fifty-Eight *Dikgosi* deliberated the scenario. The aim was to identify underlying themes that would facilitate their decisions to determine whether a crime had occurred and the steps they would follow to provide proper services at the community level.

Theme 1: Framing of Oral Sex as Rape

Nineteen of the 58 *Dikgosi* who took part in the discussion described the 18-year-old boy as a rapist for engaging in the oral sexual act with a minor girl. They urged that by forcing his ‘thing’ in a child’s mouth for sexual gratification, the boy committed a sexual offense, which they classified as rape.

“You need to understand that this is rape, a man just cannot take out his ‘thing.’ You need to report to the police.” (BB4b, male 84 years, Chief Representative)

“First, if the parents come to report, I will first have to establish if it’s a civil or criminal case then advise accordingly. I will inform the parent that it shows that there is a criminal offense committed. We should take in consideration that “rape” is not only penetration but includes sexual gratification of any kind besides penetration such as the use of any object. As *Kgosi*, my authority allows me only to give guidance, contact the police. I will report because I am empowered by the Children’s Act of 2009.

We as *Dikgosi*, we do not have authority to handle child cases, however, the Act stipulates that as *Kgosi*, an ex-official member, I sit in the child consultative forum by my title in the community. As *Kgosi*, I am the chief of arbitration, but it is my role to advise the parents that this case is a criminal offense, it is not a civil case, in that as such I am not going to arbitrate it.” (SP11, male, 43 years old, Court President).

Most of the 19 *Dikgosi* were horrified to hear that the accused was rumored to be HIV infected. They feared that the girl would be infected as well. *Dikgosi* suggested the case demanded immediate reporting to the police and the Social and Community Development (S&CD) office to investigate and to the hospital to test the girl for HIV. Six of the 19 *Dikgosi* identified the mother of the accused as equally guilty of a crime for protecting and supporting her son’s abusive behavior.

“The way I see it, it’s two offenses. The parent who do not see this as a crime and the 18-year-old boy who molests a minor girl-child. These cases are coming to our Kgotla; we get scared to attend them and immediately refer them to a social worker, even though we do not end up knowing how they handled the case. We end up hearing it from the community how it ended.” (*Kgosi* # KY15b, Male, Headman of Arbitration)

Theme 2: Framing of Oral Sex as Insanity

Eight *Dikgosi* described the act of the 18-year-old boy as evil and labeled his sexual preference non-Tswana and ‘disgusting.’ *Dikgosi* suggested the boy was insane because of witchcraft, however, said the boy had not committed a sexual offense because there was no vaginal penetration in the act.

“If the boy took off his clothes and asked the girl to play with his manhood, that is witchcraft, and it’s evil. He cannot make a child play with his sperms.” (*Kgosi* #BB8, Male, Headman of Arbitration)

“I am thinking is it not important to test (for HIV) or assess why this boy used her mouth. Are we not supposed to believe he is insane or psychologically not fit? Why would he use her mouth instead of the usual part? (*Kgosi* #GH7b, Male, Headman of Arbitration)

Theme 3: Framing of Oral Sex as Non-Sexual

The eight *Dikgosi* further urged that the oral act on an eight-year-old girl while disgusting and a non-Tswana sexual norm, did not qualify as rape or defilement because there was no vaginal penetration. These *Dikgosi* characterized the boy’s conduct as unusual citing other unusual sexual behaviors reported in other communities, however, told the research team that the boy was a ‘rapist in the making’.

“The fact is the boy was not sexually abusing the child, I mean, he did not put his manhood in the usual place. I believe the boy did this because he knew that he might get discharged because he did not penetrate. I think this case may drag on for a long time and even to prove that the child is infected may not be achieved.” (*Kgosi* #GH13b, Male, Headman of Records)

“Similar cases are there in Papatlo (a settlement in Goodhope). We had a case of a young boy who was in form 3, but now he is in the mental hospital because he was having anal sex on the other young boys.” (*Kgosi* # GH16b, Male headman of Arbitration).

SCENARIO 3:

A twenty-four-year-old woman comes to you to report that her stepfather has been sexually abusing her since she was ten years old. In fact, her step-father removed his wife from the home after a disagreement. The abuse has produced three children. The father is now sexually abusing the grandchildren as she (the daughter) has become older and undesirable to him. The father states that his children are like “cattle and goats” and, therefore, he owns them and can do as he pleases with them. The daughter has gone to the police. However, they will not lay charges on him, as they are afraid of being “bewitched.”

Fifty-Eight *Dikgosi* discussed the case and identified five thematic constructs.

Theme 1: The Stepfather as a ‘Sebeteledi’

Twenty of the 58 *Dikgosi* characterized the stepfather as a “Sebeteledi” (a rapist); an abuser, and a dangerous man who had raped and violated the rights of his stepdaughter since she was ten years of age. *Dikgosi* confessed that incidences of stepfathers sexually abusing their stepdaughters were common in their communities. *Dikgosi* expressed disgust with the behavior of men who rape their children.

“This is a difficult case. We are sitting on these cases, and they are not new to our ears. They do happen. In this case, the father started with the stepdaughter and now his own blood children. It should be handled by ‘*Mophato*’ (tribesmen) to come and intervene and interrogate this man. Why *Mophato*? Because they are older and this man, he is older, he is too old for us to deal with in this case. *Mophato* should be involved because it’s an issue that can be handled by tribesmen in customary court in privacy (ke kgang ya lesaka” ya sephiri).” (*Kgosi* # KY6, 36 years old, Male, Headman of Arbitration).

“Such incidents happen in our communities where the mother is chased by the abuser. For example, a man impregnated his daughter while his wife was on “botsetsi” (a traditional practice in some communities in Botswana where a woman who has given

birth is separated from her husband/boyfriend to lactate).” (*Kgosi* # KY-3, 46 years old, Headman of Arbitration)

“*Phoso* - the mistake is here! This is a young woman, but why didn’t she report the case at an early age? (I agree) she was raped and this is rape. (However), she should have reported at that early age when she was 10 years. She is also guilty (*Kgosi* # KY20, 48 years old, Male, Headman of Arbitration).

Theme 2: Framing of Women and Children as Property

Dikgosi expressed concern over some men who still hang on to the outdated cultural beliefs where in some tribal settings husbands treat their wives and children like cattle and goats.

Dikgosi described such cultural beliefs as outdated and a serious source of abuse.

“This scenario indicates to me that there are still some of those people who believe in the tradition that their wives and children are their properties and can be disposed of as they please. This man started chasing his wife, went on to sexually abusing his stepdaughter and now his grandchildren.” (*Kgosi* # SP12, Male, Assistant Tribal Secretary)

“I see the father not being responsible to take care or protect his children. *Ke go ija motlhana* - ‘He is eating his own flesh.’ I would ask why and where did he see this happening.” (*Kgosi* # GH-13, Male, Headman of Arbitration)

“We are asking ourselves, where do these men come from? Where did they see this happen? This is a disgrace. Children are treated as properties in some cultures; they are disposed of by parents the way it pleases them.” (*Kgosi* # KY7, 68 years old, Male Headman of Arbitration)

Theme 3: Framing of the Victim as a Willing Prey

Five of the *Dikgosi* described the 24-year old complainant as a willing victim who consented to have a sexual relationship with her stepfather. They considered her guilty of a crime for waiting a long time to report the abuse to the police and *Kgosi*. They wondered whether her motivation to report was related to her abuse or fear that she will be chased just like her mother because the abuser has a new prey.

“These cases are there. In most times, the child being abused is entertaining it, which has resulted in her mother being chased away from the house by the abuser.” (*Kgosi* # KY-10, male, 36 years old, Headman of Arbitration)

“These issues are difficult to resolve. This girl should have reported the matter well in time, even before the mother was chased away. She took too long to report the matter, the way I see this could have been avoided if she had said something earlier.” (*Kgosi* #BB-6B, male, 54 years old, Headman of Arbitration)

Theme 4: Framing of Intimate Partner Violence and Negligence

Four *Dikgosi* characterized the mother as a victim of intimate partner violence (IPV) and suggested that she might have allowed the abuse because she was afraid for her own life because the husband was abusive. They further suggested that she allowed the abuse to continue because she wanted financial protection from the abuser. However, *Dikgosi* reasoned that the mother was negligent and exposed her child at sexual abuse. *Dikgosi* blamed the mother for failing to protect and report the abuse to *Kgosi* immediately after the child started being abused despite being aware that her child was being abused. Thus, these *Dikgosi* blamed the mother for creating a mess.

“The person who is guilty is the mother because she failed to report this case even though she was aware. I see the young girl not reporting the case until she has the 3rd child, I first ask her this question; “why did you take long to report?” (*Kgosi* #GH7, Male, Headmen of Arbitration)

Theme 5: Fear of Witchcraft in Reporting Abuse

Dikgosi confessed that fear of being bewitched and its impact on Batswana social life played out in this case. However, they viewed the refusal by the police to investigate the crime for fear of being bewitched as irresponsible, unaccountable, and incompetent. *Dikgosi* said they would act against police officers who refuse to investigate a crime by reporting them to their seniors.

“Ke bona go itlhokomolosa tiro ga ba sepodisi. I see the lack of accountability by the police and failing to do their job.” (Kgosi # GH2, Male, Chief Representative).

“If the police and the public fear witchcraft, it means they have all reached a point of halt. It is worrisome if the police are afraid of witchcraft but there are senior government officers that may be approached if the contact person doesn’t want to risk being bewitched.” (Kgosi # SP11, Male, Court President).

SCENARIO 4:

“A sixteen-year-old girl comes to you to report that has been sexually violated repeatedly by her older brother. Her mother is aware of the incident and is present in this conversation. The sexual violations have resulted in the birth of a physically disabled child. The young girl is experiencing high levels of trauma not only from the abuse but the added responsibility of taking care of a special needs child. During this conversation, the mother insists that a formal report cannot be made against her son to the police as he is in the army and contributing financially to the household. “Who will feed us?” she asks you.

Forty-Four *Dikgosi* discussed scenario and identified four thematic constructs they consider important to inform how they would handle the case.

Theme 1: Framing of the Sexual Relationship as Exploitative

Of the 44 *Dikgosi* from Bobonong, Goodhope, and Kanye who discussed the scenario, 17 characterized the sexual relationship between the siblings as exploitative, motivated by financial protection from the abuser. *Dikgosi* described the sexual relationship as rape and a serious crime involving a minor. These *Dikgosi* said such serious crimes warranted immediate reporting to government authorities (the police and social welfare services) for investigation. They identified the brother and the mother as liable for rape and exploitation of minor, respectively.

“We hear the issue; the 16-year-old is coming to Kgosi to report that she is sexually abused by a brother. As to why did she think she can come and report now, we do not

know. The issue is for *Kgosi* to refer the case to the police. Both the brother and the mother are abusers. This is an offence, a serious offence. There is no way as *Kgosi*, I can send them home and say go and talk at home.” (*Kgosi* # GH15, Male, Headman of Arbitration).

Theme 2: Framing of the Sexual Relationship as a Taboo

The 17 *Dikgosi* further depicted the incestuous sexual relationship between siblings as taboo, a deplorable sexual behavior that does not conform to the Tswana sexual norms.

“I see that this is incest, a “Botubi”, Botlhodi (a disgrace). We do not have such in our culture, I believe this boy is doing this with the encouragement of the mother. This is a serious offence; if we can allow this we will destroy our communities. This woman should be sent to jail, be charged with an offence.” (*Kgosi* #GH2, Male, Headman of Arbitration).

Theme 3: Signs of a Dysfunctional Family Environment

Sixteen *Dikgosi* said the scenario depicted an example of a dysfunctional family environment common in communities where poverty, alcoholism, literacy, and other forms of abuse are common in a family. *Dikgosi* characterized the brother as a sexual predator who is using his financial influence and employment in the army to exploit his sister. *Dikgosi* described the mother as an irresponsible and greedy parent, guilty of a crime for protecting her abusive son and failing to report an incestuous sexual relationship. In addition, the discussants blamed the victim and characterized her as guilty for not reporting a crime in time until the birth of a physically disabled child.

“As Bangwaketse, there are people who were slaves, who used to work as laborers. These people do sleep with their own sisters, children, and even with their mothers. It does happen here in *Ngwaketse*. What I am seeing is that after independence *Dikgosi*’s authority was taken out and this contributed to dysfunctional societies. In years, back *Kgosi* used “*kgalema*” (intervene and discipline). There was a lot of respect for *Dikgosi*; they had a role to discipline and bring order to their communities. Nowadays everything is worse and there is nothing we can do; we have no authority.” (*Kgosi* # KY03, male, Headman of Records)

“In our culture, the mother should have informed uncles to punish the brother for committing incest. *Maimane yo o tshwanetse go otlhaiwa go dira botubi jo a bo dirang.*” I am asking myself if food is more important than the life of the child. Just for the sake of having food, she allowed the daughter to do this and now it resulted in a child with a disability. This woman should be sentenced to prison and the brother be dismissed from work” (GH6, a male, Headman of Arbitration).

Theme 4: Framing of Untrustworthy Victim

Some of the *Dikgosi* described the victim as untrustworthy and said she lacked credibility. They accused the victim for agreeing with the mother and brother to hide an incestuous sexual relationship to ensure continued financial support. They suggested that the relationship between the siblings could not be categorized as a sexual abuse or offense. They urged that the girl decided to report because of stress of caring for a physically disabled child from the incestuous relationship.

“There is no crime in this case... The only issue that I am picking is the child with a disability. There has not been anything said to this brother; she waited for the child to be born (to report). The child with a disability has brought conflict in the family. This brother was providing for the family very well. The mother, the victim, and the perpetrator agreed and allowed the sexual relationship to continue.” (*Kgosi* #BB03, Male, Headman of Arbitration)

“I think the girl is reporting because she gave birth to a child with a disability. She reported abuse because she is not ready to care for the child with a disability. She would not have reported abuse if she did not give birth to a child with a physical disability.” (*Kgosi* #BB2, Female, Headman of Arbitration).

3.4. HANDLING CHILD ABUSE AT COMMUNITY LEVEL

The participatory nature of the research design allowed *Dikgosi* to discuss the scenarios using ‘lived’ experiences about procedural steps they take to handle CSAE cases in their communities. Results from both in-depth interviews and focus group discussions suggest that most of the *Dikgosi* who took part in this study do not adjudicate on CSAE cases at the customary courts. The collective views strongly suggest that *Dikgosi* were not directly involved in handling, reporting, and documenting CSAE cases in their communities. They told the research team that in most instances, they do not want to hear CSAE because they do not have the authority to preside over such cases.

“Like I said, if there is a case committed... I will advise the victim to call a social worker. They have been trained to know how to intervene and talk to the victim. As *Dikgosi* we do not arbitrate such cases, we just make a call to inform the social workers.” (*Kgosi* #SP1, Female, Customary Court President).

“Back in the olden days, *Dikgosi* had powers and authority to sit and listen to such cases but nowadays we do not do it, we are not sure if we will be doing the right thing...” (*Kgosi* # GH7, male, Headman of Arbitration).

Given that most *Dikgosi* were not directly involved in handling CSAE cases, the moderators rephrased the questionnaire guides and instead asked the discussants what they would do if they had authority to adjudicate CSAE cases in their communities. Results show that *Dikgosi* would handle cases differently. In some instances, *Dikgosi* identified the actions of the alleged perpetrators as child abusers and their actions as crimes that warranted reporting to authorities (the police and social workers).

“It’s important to inform the police. What we are seeing happen is that parent dismiss child abuse cases. Even if you report as *Kgosi* they came to plead to dismiss the case. I want to emphasise that *Kgosi* should refuse to arbitrate if the relatives or one parent come to ask if the case should be dismissed.” (*Kgosi* # GH7, Male, Headman of Arbitration).

However, other *Dikgosi* did not see crimes that warranted reporting to the police or social workers. These discussants told the research team that the first fact-finding step to address CSAE alleged cases in their communities would involve consultations with family members (the uncles, the victim's parents, the perpetrator, and other relatives) to find the truth before taking any further action.

“First you call the uncles, the parents, grandparents (if they are still alive) or the relatives of the child if the mother is not around to find out how much they know about the abuse of the child.” (*Kgosi* # GH 10, Male, Headman of Arbitration).

When asked how they would report a CSAE case if they are convinced a crime has occurred, *Dikgosi*'s opinions varied. Some said the first point of contact was the police, others mentioned social workers, while some *Dikgosi* suggested contacting family members. Others suggested that all CSAE cases, if reported to *Dikgosi* at a ward level, should be reported through the chieftainship hierarchy. The senior chief should be the one reporting to government service providers through the customary courts.

“The first contact is police, however we should not ignore the social workers, it's an issue of who will act urgently on the case, depending on how severe the case is, to ensure that evidence is not lost. Most cases are proven by medical evidences, so that means it's important to respond urgently. You will never know, if you report to the social worker, how long it will take for them to act. My first contact is the police.” (*Kgosi* #SP-11, Male, Customary Court President).

3.5. INTERPRETIVE RESULTS: CROSS-CUTTING ISSUES

This section presents underlying contextual and cross-cutting issues emerging from mixed (triangulated) results from in-depth interviews and focus group discussion. The contextual and cross-cutting issues may directly or indirectly influence the implementation of the Children's Act and the provision of child protection services in the communities.

3.5.1: The Weakening the *Bogosi* Institution

Dikgosi consistently raised the notion that the increasing problem of sexual violence against children (and women) in their communities was due to the weakening of the *Bogosi* (chieftainship) institution. The collective view was that cultural structures that had shielded children from harm, ill-treatment, and neglect for generations are in the state of collapse due to the eroding of social and culture values. For example, *Dikgosi* said the centralization of judicial authority for CSAE cases from customary to criminal courts removed them from active involvement in the adjudicating of CSAE cases.⁸ The decision resulted in a high backlog of CSAE cases awaiting prosecution in magistrates' courts and increased the number of victims withdrawing testimonies because chiefs are not involved. *Dikgosi* also remarked that many witnesses recant testimonies as a direct result of the ineffective magistrates' court system. They reasoned that their removal from adjudicating CSAE cases is against the backdrop that for centuries, they had protected children through the customary court system.

Literature confirms that customary court system was the highest legal organ of the Tswana traditional authority, where *Dikgosi* had executive, administrative, and judicial powers. They administered justice in customary courts with advice from a network of royal relatives, close advisers, and hereditary village headmen (Mogalakwe, 2006, p.6). The concern about the gradual weakening of the *Bogosi* is consistent with other studies conducted in Botswana. Dipholo et al. (2012) found that the establishment of the modern local government institutions after independence significantly changed the social and political landscape of chieftainship in Botswana. The sum effect of this transformation eroded the powers and influence of traditional leadership. Sharma et al. (2005) also reported that under the post-independence laws, chieftainship has the complete subordination to a political appointee (cabinet minister).

⁸ The criminal jurisdiction of the customary court is limited and prevents the court from dealing with cases such as treason, bigamy, corruption, abuse of office, robbery, *rape* and other serious offences: Government of Botswana (2005). Initial Report to the United Nations Committee on Civil and Political Rights.

Ultimately, the *Bogosi* authority and powers over land and stray cattle transferred from chieftainship to the district administration.

Studies on the roles of chieftainship in democratic Botswana suggest that despite its gradual weakening, the institution remains a critical player in the implementation of policies and government programs at the community level. Chieftainship remains the only legitimate and respected institution in the rural areas of the country. It still has the power to galvanize and facilitate communities towards successful implementation of social, political, and economic policies (Dipholo et al. 2012; Morapedi, 2010, Sharma et al., 2005). Thus, *Dikgosi*'s argument that limiting their judicial powers to preside over CSAE cases undermines the implementation of the Children's Act and delivery of child protection services within communities is valid. However, devolving judicial powers to *Dikgosi* can infringe on the rights of children unless the transfer of judicial powers is aligned to the Children's Act provisions.

3.5.2: Factors that Hinder Handling of CSAE Cases

Findings suggest that at the time of disclosing alleged sexual offenses, age (both the victim and perpetrator), and relationships between victims and perpetrators determine how *Dikgosi* would handle CSAE cases within communities.

a). Immediacy of Disclosing CSAE Incidences

The collective views from triangulated data imply that immediate disclosure of incidences of sexual violence would result in immediate action from *Dikgosi*. The immediacy of disclosure would result in either consulting family members or reporting to authorities (the social services or the police). Late disclosure on the other hand would not be treated with the urgency they deserve. Most of these cases would be settled outside the court system and perpetrators often fined or let free because victims' testimonies would be considered untrustworthy. Results show that some *Dikgosi* translated late disclosure as a sign that victims had consented to the sexual

encounter. Thus, the results imply that late disclosure would deny victims access to legal services, contrary Section 25(1) of the Children's Act of 2009.

Review of empirical evidence show that most child victims of intra-familial sexual abuse (as is the case in this study) delay disclosing. Besides being developmentally immature, children are often manipulated to feel guilty and responsible for the abuse. The victims may fear not being believed, being blamed, and fear repercussions for accusing a familiar and often a trusted family figure (Murray, Nguyen, and Cohen, 2014). Children abused by a family member may experience increased self-guilt, thus force them to delay disclosing or to recant testimonies. In most instances, caregivers are likely to compel child victims not to disclose (Lippert, Cross, Jones, & Walsh, 2009). London, Bruck, Wright, & Ceci (2008, p.37) found that non-disclosure or delayed disclosure was common when the victim and perpetrator share close relationships. Thus, children abused within families where there are low levels of familial support, avoid disclosing and may change testimonies than abused children with familial support.

b). Age of the Victims and Perpetrator

The findings indicate that *Dikgosi* would not report cases to authorities if both the victim and the perpetrator were 14 years old or under. They urged that in such cases, they would recommend family members to settle the case outside the court system. From their experience, *Dikgosi* indicated that even when such cases are reported to the police or social services, families are advised to either mediate within the family, separate the children, or have the victim and perpetrator undergo counseling. The handling of a 14-year-old perpetrator would contravene section 13 (3) of the Penal Code, which provides that a male person above 12-years-old is capable of having carnal knowledge.

C). Cultural Values and Relationships

Results revealed that incidences of incestuous sexual abuse involving uncles, stepfathers, and siblings were common but underreported. Conversations with *Dikgosi* suggest that in some communities, sexual abuse between a stepfather and a step-daughter was not as severe and often not urgent compared to the sexual relationship between a biological father and her daughter. Findings imply that in some communities, step-fathers are ordered to pay a fine and marry the step-daughter as a second wife. In a scenario of an alleged sexual abuse of eight-year-old girls by an uncle, some *Dikgosi* implied the young girl might have consented to the sexual act. The notion of an eight-year old girl consenting to sex is unimaginable. The opinion of consent in this scenario may accentuate an underlying cultural sexual norm, which existed in some major tribes in Botswana. Qualitative study on sex and sexuality among ethnic groups in Botswana offer a point of argument. Ntseane (2004) found that in some cultures, girls received sex education to expect request for sexual favors ‘*Mantsala*’ from tribal or blood male cousins and sexual ‘gifts’ ‘*Setlogolo ntsha dithogo*’ from uncles. Some men may still hold-on to these age-old sexual norms in some communities.

3.5.3: The Capacity of the Customary Courts

The views from triangulated data imply that the customary court organizational capacity is weak and unable to effectively implement the Children’s Act and deliver child protection services at the community level. There were several organizational structure and process issues that constrain the customary courts system to support delivery of child protection services within communities. These include the lack of legal knowledge and understanding of the Act. *Dikgosi* told the research team that most of them did not know or understand the provisions in the Children’s Act and their roles and responsibilities to address CSAE cases in their villages. They reported being afraid to advise victims because they may give them inaccurate advice. *Dikgosi* further narrated that most families do not know the long-term effects of abuse to the victims and,

like them, do not understand what constitutes human rights. Thus, some men believe they can own women and children as their property.

Dikgosi also reported that they do not have procedural guidelines on how to handle CSAE cases at the grassroots level once reported to them. *To whom should we direct CSAE cases when reported to us? At what point, should we report to the health service providers in the event of HIV risk?*” *Dikgosi* inquired. The findings also suggest weak coordination and linkages between the *Kgotla* (Customary Court) and government service institutions that handle abuse. The study also found that policy implementation structures such as the VCPC were inactive in most villages. There was also weak coordination and linkages between community and government services providers. *Dikgosi* also complained that they do not know the verdict of cases reported in their villages because there is no feedback reporting mechanism.

These findings are consistent with other studies and reports about the organizational capacity of customary courts in Botswana. The United Nations Committee on Civil and Political Rights reported that *Dikgosi* had limited knowledge to apply statutes under their jurisdiction (GoB, 2005). The report further observed that the quality of decisions reached in the customary courts varied considerably. Sharma et al. (2005) also reported that while customary courts are popular in rural areas, easily accessible, cheap, and provide quick verdicts, the quality of legal services in these courts is poor. In addition, while the courts enforce some criminal laws of Botswana, the presiding *Dikgosi* do not have sound legal education and adequate understanding of the laws (p. 292).

3.5.4: The Conflict between Traditional Norms and the Law

Findings identified both positive and negative intersections between the Act and traditional ways of life. Some *Dikgosi* viewed the Act as an important legal instrument, which promotes the rights of children among some families who are aware of children rights. Notwithstanding its weaknesses, the *Dikgosi* commended the severe punishment handed down to some of the

perpetrators in magistrates' court. Narratives suggest that long-term court sentences handed to perpetrators has had impact to deter crimes against children.

However, the findings suggest that the Act conflicts with traditional norms of discipline and the way of life. For example, *Dikgosi* remarked that the demand from the rights movement to involve children in decision-making at family level challenges the Tswana norms of parenting where children are expected to be subservient to parents and elders. *Dikgosi* also complained that the prescription and limiting the use of corporal punishment at family and *kgotla* levels impacted negatively on disciplining children and youth in the country. The opinions expressed in this study, mirror those reported by the Joint Advisory Committee (JAC) of Ntlo ya *Dikgosi* and the Botswana Council of Churches (BCC) on social values (2008). The report suggests that the focus on the human rights-based approach for children and women for example, had weakened the cultural way of life. The JAC of Ntlo ya *Dikgosi* and BCC suggest that regulating corporal punishment resulted in the increase of deviate behaviors among children and youth. To emphasis this point, the reported noted: “*For the development of our children, we have spared the rod and completely spoiled our children.*”

4.0. RESEARCH DISCUSSION AND INTERPRETATION

Activating accountability in protecting children's rights in Botswana is one of the few phenomenological qualitative social research projects to examine the implementation of the Children's Act at a grassroots level. The study also explored *Dikgosi*'s 'lived' experiences for handling CSAE cases within communities. The findings provide valuable information for developing strategies to strengthen the delivery of child protection and human rights services in communities. This section summarizes, discusses, and interprets the research findings. The research discussion and interpretation are tailored to respond to the research objectives. The section also presents research implications, study strengths and limitations; and suggested recommendations.

4.1. THE ACT'S IMPLEMENTATION ANALYSIS

The policy implementation analysis in this study used questionnaire guide based on the social policy initiative framework, a hybrid policy analysis model that combines the top-down, bottom-up, and principal-agent theoretical perspectives of policy implementation. The social policy initiative framework assessed implementation on seven critical policy dimensions (See Table 2). The assessment of the Children's Act implementation at the grassroots level draws from *Dikgosi*'s worldviews.

a). The Act, its Formulation, and Dissemination

While *Dikgosi* agreed that the Children's Act is contextually relevant and promotes children's rights within communities, they also said that the policy framers did not consult the community through the *kgotla* system during its formulation. *Dikgosi* also remarked that after its formulation, the Act was never fully disseminated through the *kgotla* system. The collective view from *Dikgosi* was that the Act is 'foreign' because it lacks the Tswana social and culture

values and child protection norms. For example, *Dikgosi* said the Act does not address cultural norms that put many children at risk of sexual violence. The Act does not penalize men who fail to care for children born out of wedlock (from known concubines). They urged that many of these children are vulnerable to sexual violence because they lack parental and financial support from their biological fathers.

The lack of country-wide consultative process through the *kgotla* system during the Children's Act formulation and later dissemination created two major implementation gaps. First, *Dikgosi* have deliberately taken a passive and non-committal stance towards the Act's implementation at the community level. Second, *Dikgosi* and the public lack the knowledge and understanding of the Act's provisions to enforce it, thus, undermining the delivery of child protection services within communities. Formulating and disseminating social policies in Botswana are hinged on the old-age tradition of '*therisanyo*', i.e., public consultations (Botlhale, Lekorwe, Bashi, & Baakile, 2015). '*Therisanyo*' underpins policy-making and remains one of the tenets of Tswana democracy and governance of social development through the *kgotla* system. Public consultation through the *kgotla* allows traditional leaders and the public to deliberate and provide suggestions on social issues that affect their well-being (Botlhale et al., 2015).

b). Political, Social, Cultural, and Economic Factors

Findings suggest that notwithstanding the implementation gaps, the Act enjoys both political as well as administrative support from the legislative, executive, and the judicial arms of government. *Dikgosi* acknowledged the availability of structures for supporting the implementation of the Act through the parliament, Ntlo ya *Dikgosi* (legislative arm), the magistrate courts (the judiciary) and government departments including the police, social services, the health, and the education services (executive arm). Seemingly, the operation realm of the Act protects all children against harm, ill-treatment, and neglect regardless of their socio-economic status, geo-location, religious affiliation or political ideals.

However, conversations with *Dikgosi* suggest a disconnect and weak linkages among child protection arms of government, which affect the enforcement of the Act at the community level. *Dikgosi* observed that politicians, who developed the Act, do not educate the public through the *kgotla* system about the Act's provisions. They also urged that many politicians are against regulating the brewing and selling of local alcohol for fear of losing political votes. Most *Dikgosi* associate excessive alcohol consumption with gender-based violence and sexual violence against children. In addition, *Dikgosi* decried the lack of legal support from magistrates and technical advice from social welfare officers on how to handle child abuse cases reported in their villages. Furthermore, narratives imply that *Dikgosi* do not know what to do when alleged child abusers coerce uneducated, unemployed or poor parents of abused children to drop criminal charges against them. While *Dikgosi* insisted that they do not preside over CSAE cases, results suggest that they may not object when alleged perpetrators and victim/parents agree to settle the matter outside the judicial system. Where the alleged abusers are family breadwinners, victims are coerced to recant their testimonies to ensure continued financial support. Thus, parental illiteracy, lack of knowledge about the Act's statutory provisions, unemployment, and poverty prevent some child abuse victims from accessing children protection services in some communities of the study areas.

The findings are consistent with a rape incident reported in the Voice Newspaper of March 24, 2017⁹ The incident involved a 68-year old man who reportedly raped a 14-year-old girl in Otse Village, Southeast District. The village chief in the presence of a police sergeant arbitrated the case at the *kgotla*. The perpetrator paid the victims' parents BWP 2,300.00 (\$226.60) and a promise of two goats for the crime. The mother told the reporter, "...I do not understand the law, therefore, I accepted the payment." Commenting on the incident, the village chief purportedly said, "The customary court does not deal with rape case and the money was paid to the victim's parents at the police." The findings in this study and the incident reported

⁹ *The Voice Newspaper* on March 24, 2017 (p.22).

above imply that although the government has put in place structures to safeguard children's rights, children from disadvantaged families lack equal access to legal services in most villages.

c). Policy Implementation Leadership

The findings of this study imply weak implementation leadership and governance to implement the Act among community leaders. *Dikgosi* said they lacked supportive guidance from service providers at the *kgotla*, contrary to the statutory provisions of section 32(3-6) of the Act. For example, *Dikgosi* rarely receive organized supportive guidance from commissioners of social welfare, magistrates, social services, and other government service providers. In addition, *Dikgosi* insist they lack the leadership (judicial powers) to handle CSAE cases because the government took away their authority. Thus, *Dikgosi* are unwilling, unaccountable, and noncommittal to enforce the Act largely because they do not know it and feel excluded. In policy implementation, leadership matters. Leaders translate policy vision, mission, and goals into implementable strategies at each level of execution. They mobilize resources and play a critical role in fostering coordination and collaboration among multiple policy actors to effect social change. The duty of a leader is to coordinate efforts of policy actors towards a common goal, mobilize and manage resources; and develop programs to improve social well-being of individuals (Jamu, Johnson, Haidar, and Gabaitiri, 2016). In this study, results suggest weak leadership within communities and from government service providers to achieve desired child protection services at the community level.

d). Child Protection Organizational Capacity

The results strongly suggest weak child protection organization capacity at the community level. In this study organization capacity includes four dimensions of the social policy initiative framework: stakeholder involvement, planning and resource mobilization, operations and service delivery, and feedback and progress reporting. Results strongly show that there is limited stakeholder involvement between the customary court (*kgotla*) and government providers

mandated to guide and support the provision of child protection services in the communities. Stakeholder involvement in policy implementation entails collaboration and coordination of policy actors. Collaboration galvanizes policy actors to build social capital and resolve policy implementation barriers. Collaboration contributes skills and shares information and resources (Bhuyan et al., 2010; Brynard, 2005). The weak collaboration between government service providers and the *Bogosi* institution means effective implementation will remain elusive within communities. The findings also revealed the lack of coordinated community-based planning and resource mobilization for the customary courts. Policy coordination fosters planning aimed at reaching consensus on outstanding conflicts among policy actors to reach shared policy goals (Bhuyan et al., 2010: 8). The lack of coordination among stakeholders suggests there is no integrated planning to leverage knowledge. The weak implementation leadership, non-committal attitudes by *Dikgosi*, and lack of stakeholder involvement, indicate the absence of integrated cross-sector capacity needed to facilitate policy implementation (Jamu et al., 2016).

Results also show that *Dikgosi* lack the legal knowledge and understanding of the Act's provisions and their role mandated by the Act. Without the implementation guidelines within customary courts and the legal education, *Dikgosi* are constrained to register, handle, and to report CSAE cases. Thus, there are no operational systems to drive child protection service at the community level. Operational systems and services delivery in policy implementation involve building capacities of policy implementers to carry out the statutory provisions under their jurisdiction (Jamu 2016; Mthethwa, 2012: 43). The lack of operational systems and service delivery processes indicate that *Dikgosi* are constrained to enforce the Act in their communities. The lack of monitoring and information systems implies that *Dikgosi* and social welfare officers have abdicated their responsibilities, contrary to section 33 (1b) of the Children's Act.

e). Overall Children's Act Assessment

The collective view about the Children's Act's implementation using the social policy initiative framework shows implementation gaps in all the critical dimensions. Thus, the study strongly suggests that the Act's provisions are not effectively carried out within communities to protect children from harm, ill-treatment, and neglect. Our findings are consistent with other policy assessment studies conducted in Botswana. In an implementation assessment of orphaned and vulnerable children (OVC) program, Feranil et al. (2010) found three major implementation gaps:

- The government service providers (district and city leadership and *Dikgosi*) knew little about the Children's Act. The study also found a lack of stakeholder consultation with local authorities during policy formulation and implementation.
- *Dikgosi* and other decision makers lacked resources to implement the Children's Act within their communities (p.15-17).
- The study also found a lack of guidelines to facilitate the Act's implementation and mechanisms to monitor implementation progress (Feranil et al., 2010).

In a study with community leaders and the public, the JAC of Ntlo ya *Dikgosi* and BCC (2008) found weak enforcement of laws that deter social ills such as child abuse at the community level. The study also found weak implementation capacity within local authorities. In an evaluation of why public policies fail in Botswana, Kaboyankgosi & Marata (2013: 321) found that policy implementation in Botswana fails because implementation leadership in the public sector has declined. The decline of policy implementation leadership has resulted in the decline of public accountability and the lack of commitment among policy actors. In a policy implementation study in the health sector, Jamu et al. (2016) found that weak implementation leaders and lack of operationalizing policy provisions in the Botswana health systems contributed to poor delivery of pneumoconiosis care in the Botswana health sector.

4.2. CHILD SEXUAL ABUSE CASE DISCUSSIONS

This section discusses and interprets views from real-life legal cases which allowed discussants to explore and provide their analytical perspective on factors that hinder CSAE handling within communities. The research tabled legal cases (vignettes) which presented different forms of sexual abuse. Three cases featured intra-familial sexual offenses between uncle and niece (Case 1), stepfather and stepdaughter (Case 3), and brother and sister (Case 4). The fourth scenario featured a forced incident of oral sex between a young girl and a neighbor.

a). Prevalence of and Profile of CSAE

The collective view from discussants implies that the cases discussed in this study (case 1 3, and 4) are prevalent in their villages. However, *Dikgosi* characterized oral sexual acts (case 2) as a ‘foreign’ sexual behavior, inconsistent with the Tswana sexual norms. The characteristics and circumstances described in the case scenarios parallel previous research results on child abuse in Botswana. The analysis of the cases shows that all the victims were girls aged between eight and 24 years old. In all cases, the abuse started when the girls were under 16 years old. They disclosed the abuse late after they suffered prolonged periods of abuse. On the other hand, the alleged perpetrators were all grown men, 18 years and older and were all known and trusted adults to the victims.

The profile of CSAE victims in this study mirrors findings from other studies conducted in Botswana. In a national gender-based violence study, Machisa and van Dorp (2012) found that 25 percent of women who took part in the research were sexually abused before celebrating their 18th birthdays. The alleged perpetrators were largely men. In a national survey of primary and secondary school children aged between 13 and 19 years, researchers found that two in every ten schoolchildren who had had sex were coerced by male perpetrators (MoBE, 2016). Thus, our study and available literature suggest the prevalence and the most at-risk population for CSAE in

Botswana are girls. The abuse occurs in places considered safe and with people entrusted to protect the victims.

Several studies have highlighted the prevalence of CSAE within communities in Botswana. The JAC of Ntlo ya *Dikgosi* and BCC identified child sexual abuse as one of the growing problems in Botswana (2008, p. 60). The report implied that CSAE in Botswana had increased because of eroding social and cultural values. The report underscored the deteriorating traditional structures that have resulted in weakened family units. Subsequently, the family cannot protect child from harm. The report also highlighted existence of age-old cultural practices that perpetuate child abuse by family members (Ntlo y *Dikgosi* and BCC, 2008, p.61).

b). Factors that Hinder Reporting CSAE

Triangulated data suggest that in addition to inefficient Children's Act implementation, there are several other factors that hinder community leaders to provide child protection services in the communities. These elements include how *Dikgosi* construct CSAE criminality, the interplay between cultural values and gender norms, and the timing of sexual abuse disclosure. The results also suggest that framing of what constitutes sex by different people and the use of metaphors to report sexual abuse can hinder handling of CSAE cases within communities.

The Construct of CSAE Criminal Acts at Community Level

The summary view shows that an average 60 out of 102 *Dikgosi* characterized the events in each of the four case studies as rape (or defilement) and therefore criminal acts. About 40 of the 60 *Dikgosi* said they would immediately report the criminal incidences to the police and social welfare officers for further investigation. However, 20 of the 60 *Dikgosi* said they would first consult family members (uncles, grandparents, parents of the victim, and the perpetrator) to get more information and decide whether to report to authorities or not. Thus, characterizing CSAE as a crime would not necessarily trigger automatic reporting to authorities in some communities.

The study also found about 42 *Dikgosi* described events in the vignettes as non-crime for varied reasons. For example, in the first scenario, where an uncle allegedly abused his eight-year-old niece, some *Dikgosi* suggested the niece had consented to have sex. In second case study, some *Dikgosi* described the boy who had tricked an eight-year-old girl to perform oral sex on him as ‘insane’ with ‘unusual’ sexual behavior. However, they strongly argued that the boy had not committed a crime because he did not penetrate (no penile-virginal interaction). In the third and fourth case studies *Dikgosi* discredited the victim’s credibility urging that by disclosing the incident late, the victims consent to sex, therefore, there was no basis for a crime. The findings imply that the construct of criminality differs considerably within across study districts. These differences would negatively impact on the implementation of the Children’s Act and provision of child protection services. Thus, children in need for legal services within different communities would not receive equal services, contrary to section 25 (1) of the Children’s Act.

The Interplay of Cultural Values and Patriarchal Gender Norms

The view suggesting an eight-year old girl consented to sex from some traditional leaders may highlight an intersection of age-old cultural values and patriarchal gender norms. Literature suggests that culture and gender norms still play a significant role in how people frame their actions in Botswana. For example, the use of euphemistic expression such as ‘*Ditlhogo*’ perpetuates sexual violence against children in some communities. ‘*Ditlhogo*’ encourages nieces to offer ‘sexual gifts’ to uncles (Ntshwarang, Malinga-Musamba, 2015; Ntseane, 2004). Thus, cultural values and patriarchal gender norms are still embedded in some people and may influence their sexual decisions. Therefore, these values and norms hinder effective handling of CSAE cases in some communities.

Framing of CSAE Disclosure

Results in this study imply that late disclosure of abuse would undermine the credibility of the victims and most instances, the cases would not be treated with the urgency they deserve. These

cases would be settled outside the criminal court system. Some *Dikgosi* considered late disclosure as a sign that the victim consented to the sex. Such cases would be classified as non-crime acts. Thus, sexually abused and exploited children who delay disclosing abuse events at village level would be denied their rights to legal services, contrary to section 25(1) of the Children's Act of 2009.

Literature suggests that many children delay disclosing abuse incidences for numerous factors. For example, non-disclosure is common in dysfunctional families where children lack parental protection. In these families, young victims delay reporting incidences of sexual abuse compared to older victims (London et al.). Studies also show that victims of penetration than assault, those who are threatened, and those with close relationships with assailants delayed disclosing abuse (Bicanic, Hehenkamp, van de Putte, van Wijk, and de Jongh, 2015). In this study, all four victims were under 16 years when the abuse started and in two case studies (3 and 4) there was evidence of dysfunctional family environments. Three of the victims had experienced vaginal penetration while one had experienced mouth penetration. In all the four case studies, the alleged perpetrators were well-known and trusted to the victim. Drawing from literature, our study results suggest fear for being blamed, fear of blaming well-known and respected family members, and immaturity may contribute to the late disclosure (Bicanic et al., 2015).

Framing of Oral Sex at Community Level

The findings suggest some *Dikgosi* (almost all the customary court personnel) characterized oral sex as a crime, and therefore punishable under the law. However, others described oral sex as a 'strange and disgusting' sexual behavior but strongly insisted that it was non-sexual because it does not involve vaginal penetration. These findings are consistent with the global observations of oral sex in other parts of the world (Crooks and Baur, 2005). Studies suggest that the construct of oral sex between both males and females varied by age, geographical locations, religion, and culture. For example, all religions in the world condemn and characterize oral sex as unnatural, a

sin and a non-sexual act. On the other hand, in many parts of the western world oral sex is accepted as a form of sex while in most parts of Africa, particularly in rural areas, people view oral sex as unnatural behavior and a non-sexual event because it does not involve penile-vaginal interaction (Crooks & Baur, 2005). Thus, handling of oral sex events will vary depending on how community leaders define sex. In communities that believe oral sexual acts are unnatural but non-sexual, alleged perpetrators would receive punishment for lewd behavior, but not sexual crimes. Thus, these decisions would lead to the miscarriage of justice.

Metaphoric Framing of Reporting of Sexual Abuse

The collective views from *Dikgosi* suggest metaphoric use of words to report child sexual abuse while accepted would dilute the seriousness of CSAE cases at community levels. Literature shows that language shapes the way people think about life and what actions they take (Van Engen, 2008). The use of the word ‘used’ to report possible sexual abuse, applied metaphor to communicate a sensitive social issue. Research on sex and sexuality in Africa identifies sex is a ‘taboo subject’ and not often referred to in simple terms (Segopolo, 2014). Synthesis of literature suggest in this context, the word ‘used’ was applied appropriately to avoid the use of a culturally offensive word: ‘sex.’ The findings strongly suggest that while the metaphoric use of language will remain a central cultural aspect in many communities in Botswana, people using metaphors should consider when, where, and in what circumstances to apply such language (Van Engen, 2008; Semino et al., 2016). Findings suggest that in judicial space, it is imperative to use plain language regardless of its sensitivity, i.e., call a “spade, a spade.” This is important in communities where a ‘sexual gift’ is traditionally sanctioned. In these communities, the use of metaphoric framing of child abuse and exploitation may defeat the ends of justice. Thus, to avoid the miscarriage of justice when reporting cases of sexual violence people should use plain language rather than metaphors.

c). Risks associated with CSAE

The collective views from *Dikgosi* suggest that dysfunctional family environments, socio-cultural beliefs and socio-economic status are associated with CSAE within communities. In dysfunctional families, the interaction, social, and economic circumstances are impaired and chronic. In these families, children do not consistently get the care and protection they need. The negative patterns of parental behavior are dominant in children's lives characterised by conflicts, misbehavior, child neglect, ill-treatment; and continual and regular abuse leading other members to allow and hide such incidences (Flores, Salum, and Manfro, 2014; Stokes, McCord, and Aydlott, 2012). Accounts from *Dikgosi* discussed caregivers' excess use of alcohol, intimate partner violence, and lack of parental education on human-rights, unemployment, and poverty as factors associated with dysfunctional family environment. They blamed mothers for failing to report incidences of abuse of children when the perpetrator is the primary financial provider in the household (cases 3 and 4). *Dikgosi* further remarked that some cases that end up in magistrates' courts are often withdrawn because mothers refuse to testify against alleged perpetrators. Instead, they often settle for financial compensation. The narratives suggest that addressing these factors would advance child protection services within communities.

The findings in this study are consistent with views of the public expressed in a report by JAC of Ntlo ya *Dikgosi* and BCC (2008). Ntlo ya *Dikgosi* and BCC attributed the increasing social ills including child sexual abuse in the communities to alcohol abuse. The study implied that parents or caregivers who abuse alcohol are unlikely to fulfill their parental duties and often undermine the protection of the children at the family unit. Empirical studies also suggest that intimate partner violence (gender-based violence) breeds intra-familial child sexual abuse and exploitation (Bidarra, Lessard, and Dumont 2016). UNICEF (2009) found that low education and unemployment of caregivers, and household poverty contributed to inadequate care and protection of children in Botswana. Female-headed households (46 percent) were more negligent in protecting children than male-headed households (27 percent). With one of the highest percentages of female-headed households in the world, Botswana children in most of

these families are vulnerable to sexual abuse. The study also found that uneducated, unemployed and poor single mothers do not report incidences of abuse especially when the perpetrator can pay a fine (UNICEF, 2009).

4.3. IMPLICATIONS OF THE RESEARCH FINDINGS

Programmatic Implementations

The collective view from this study strongly suggests that child sexual abuse and exploitation is common in the many villages of the study districts. The results show that there are many factors associated with incidences of child sexual abuse in the communities. These factors may include dysfunction family circumstances such as substance abuse, low educational status, lack of knowledge of existing legal instruments, unemployment, poverty, and negative socio-cultural values and norms. Conversations with *Dikgosi* also noted that some of the children who suffer from sexual abuse and exploitation may not get the legal services they deserve because of the analytical reasoning *Dikgosi* would construct such incidences and handle the cases.

The review of literature shows that survivors of abuse suffer from several psychological and health problems including anxiety, risky sexual behaviors and preoccupations, anger, guilt, shame, depression and post-traumatic stress disorder (PTSD). CSAE survivors abuse alcohol; use illicit drugs, and have suicidal ideation (Lyon and Ahern, 2011). Thus, survivors of sexual abuse need a long-term continuum of care. The need to design coordinated programs is therefore important to ensure long-term healing and protection from further abuse. The implication of this research suggests that protecting children from sexual abuse and developing resilient protective interventions for survivors will need considering individual survivor factors, family circumstances and support systems, parent-child relationships, community as well as societal support systems.

The Bronfenbrenner's Process-Person-Context-Time (PPCT) ecological model offers an ideal to address multiple elements that constrain the Children's Act's implementation and

proper handling of CSAE cases at community level in Botswana. The Bronfenbrenner PPCT ecological model accounts for both proximity factors such as processes, the individual circumstances, context factors, time framework and the concept of interaction. The model also considers distal factors such as societal issues that include translating the Children's Act and other legal statutes into community actions (Renkert, 2005).

Policy Implementations

Triangulated data imply that chieftainship through the customary courts at village/ward level is the primary leverage point to advance Children's Act implementation and delivery of child protection services at the community level. Thus, the community-based child protection services will need policy actions, including the possibility of transferring 'some' legal powers to customary courts. However, devolving legal powers to customary courts to adjudicate CSAE cases is a double-edged sword. The decision would either advance children protection services or impinge on their rights.

Literature suggests that chieftainship is the only recognized and legitimate community institution in Botswana to advance policy implementation at the grassroots level (Dipholo et al., 2012). Thus, developing sustainable community-based programs and galvanizing community members to promote children's rights will depend on the active involvement (not ceremonial) of *Dikgosi*. From a practical point of view, to advance policy implementation and child protection services within communities, government must consider recognizing customary courts to adjudicate 'some' CSAE cases. Nevertheless, *Dikgosi* admits that the current customary court system does not have the organizational capacity to provide professional and quality legal services consistent with the expected legal standards. Thus, policy decisions to devolve judicial powers to customary courts will need strengthening of the court system. There would be a need to develop implementation guidelines to regulate the procedural safeguards without altering the purpose of the customary courts.

4.4. RESEARCH STRENGTH AND LIMITATIONS

These findings contribute to the academic knowledge and offers avenues for strengthening policy implementation and child protection delivery service at the grassroots level. To the best of our knowledge, this is first participatory social research to examine the implementation of the Children's Act and the procedural processes of handling CSAE within communities using traditional leaders analytical 'lens' with limited influence from researchers. The design allowed traditional leaders to discuss and provide their views based on their experiential knowledge to unearthed underlying factors that hinder child protection and human rights service delivery. The methods and procedures applied before and during data collection; and the handling and analysis of data were consistent with the COREQ guidance. The execution of the research protocol reduced the chances of 'discovery failure' and ensured sufficiency of the information, i.e., gain information saturation. However, there are some potential limitations.

First, the sample was drawn from four districts; it is not representative of all tribal communities in the country. Thus, the views and reflections in this study may not necessarily represent the views of *Magosi* in Botswana. Second, the sample for the in-depth interviews was less than the proposed sample of 12. The study did not have a large enough pool of senior chiefs because most took part in the group discussions. However, the study met the minimum sample of five, needed for a phenomenological in-depth study (Cresswell, 1989, p.64). Third, social research involving sensitive issues with communities often provokes tensions that can result in 'discovery failure.' To gain information trustworthiness, the research team included two respected senior chiefs (a Paramount Chief and a former Customary Court Present) to moderate group discussions. There was a concern that having respected and outspoken traditional leaders would bias the discussion because such personalities would impose their world-views in the discussions. To address this potential problem, the research team included experienced assistant moderators who ensured focused but hands-free open discussions. Thus, the design included delimitation strategies to address known design limitations before and during data collection.

5.0. CONCLUSION

The study highlights the strengths as well as bottlenecks regarding the current state of child protection service delivery within communities in Botswana. The findings strongly suggest that the ‘traditional walls of child protection within communities are in the state of collapse’ because *Dikgosi* are passive and non-committal in enforcing the Children’s Act. The state of child protection walls is a direct result of the weakening of the *Bogosi* institution and the weak critical dimensions of policy implementation to facilitate enforcement of the Act within communities.

However, the collective views from this study and the review of the literature suggest that the *Bogosi* institution is the leverage point for enhancing the implementation of the Children’s Act and the delivery of child protection services within communities. However, the current institution and its structures do not have the organizational capacity to translate the Children’s Act provisions into child protection services. Consequently, the community structures such as the customary court cannot provide proper and quality legal services to CSAE survivors within communities. Besides, the results imply that programs to address proximal factors that expose children to abuse are not available to some families, particularly in the rural areas. Thus, children living in families and communities with weak supportive structures because of negligent parents/caregivers, parental illiteracy, lack of information on the Act, unemployment, and poverty are prone to sexual abuse and exploitation. The results identified programmatic areas that could advance service delivery. The results also provide policymakers, donors, and non-governmental and civil society leaders, valuable information to develop for data-driven child protection programs at the grassroots level.

6.0. RECOMMENDATIONS

The participatory approach allowed *Dikgosi* to propose recommendations they considered relevant to address the gaps identified in this study. The recommendations also include summative views from the Chairman of *Ntlo ya Dikgosi*, Technical Working Group on Child

Protection, The Academy African Women Leadership Academy (TAWLA) and Stepping Stones International (SSI).

Policy Recommendations

Bogosi remains an essential institution to advance governance, policy implementation, and delivery of social services at the community level. Magosi, through the Dikgotla, provide a platform through which people can deliberate issues that matter to their lives. They have the legitimacy and power to galvanize their communities towards social change, such as child protection. To address poor Children's Act implementation and delivery of child protection services at the grassroots level, the study recommends:

- A national dialogue and consensus to identify appropriate roles and responsibilities by harmonizing and aligning such to mandates stipulated in the Bogosi (Chapter 41.01- ss.17-20), Customary Court, and Children's Acts.
- Provision of adequate resources to facilitate implementation of the Children Act and delivery of child protection services at the community level.
- The national dialogue should include discussion of creating a national registry of convicted child sex abusers in the country to safeguard children and strengthen child protection structures. The registration and notification of sex offenders allow to monitor and track offenders following their release into the community.
- Develop a register for cases reported in their communities and actions taken. This will allow establishing a profile and nature of suspected crimes which can be used to develop appropriate prevention interventions.

Programmatic Recommendations

Research findings on the construction of CSAE the related criminality vary within and across tribal communities. Thus, CSAE victims in need for legal services within their communities will receive unequal services inconsistent with the Children's Act provisions. The study recommends:

- The development of child protection community guidelines and standard operating procedures that stipulates how different levels of traditional leadership will handle CSAE cases when reported in their villages/wards.
- The national-dissemination of the Children’s Act through paramount chiefs to all the villages/wards to educate Dikgosi on the provisions of the Act, children’s rights, and the interplay of law and culture.
- The basic legal capacitation of all levels of traditional leadership to install rights-based approach as a social norm when dealing with children related cases, interventions, and issues at the grassroots level. The involvement of magistrates in basic legal capacitation can have profound impact in strengthening child protection services at the community level.

The research found that Dikgosi lacked legal education required to handle or implement Children’s Act in their communities. Besides, literature suggests the customary court system may not provide high-quality services in criminal or civil cases involving children. The proposed guidelines and standard operating procedures must clearly state the:

- The leadership, advisory, and supportive roles of Bogosi, magistrates, social welfare services, the police, health services, guidance counsellors, and school teachers to improve and strengthen the traditional “Walls of Children Protection.”
- The linkages between customary courts and child protection services state and non-state as well as non-state actors.
- The feedback referral mechanism aligned to the Court Procedure Rules and child-related statutes.
- Monitoring and evaluation framework to track the progress of Children’s Act implementation at all levels of service delivery.

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