



## A retrospective study of sexual offences in Zambia

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### ABSTRACT

Zambia has recently reported high incidences of sexual abuse against women and children. Zambian law categorises sexual offences into rape, defilement, incest and others, with defilement constituting the majority of the reported cases (> 89%). Between 2010 and 2012, convictions of defilement cases were achieved in only 13% of cases reported to the police. DNA evidence has shown prominence in resolving crimes, specifically as an identification tool in sexual offences. Currently there is no empirical evidence describing the role of forensic evidence in sexual crimes in Zambia; as such a retrospective study was conducted to evaluate this between 2007 and 2014 (n = 1154). Only 14 (0.1%) of the cases had forensic samples collected in the form of a vaginal swab for semen analysis. In all cases where a suspect was identified (60%), identification was based on the witness/victim testimonies, and in no case, was forensic DNA evidence used to assist in identification or corroborate the testimonies. Overall, 28.1% of cases were taken to court and the conviction rate was 12.4%. These findings support the use of employing DNA evidence in sexual offence cases to aid the identification of suspects, which is hypothesised to increase the number of cases prosecuted in Zambia.

### 1. Introduction

Zambia is a land locked, Southern African country, with the population of over 13 million people and is predominantly a Christian nation.<sup>1</sup> Like other Sub-Saharan countries, Zambia has high morbidity and mortality, with the human immunodeficiency virus (HIV) prevalence rate at over 14%.<sup>1</sup> Gender-based violence cases are consistently on the rise, the majority of which are physical and sexual violence against women and children.<sup>2</sup>

Sexual offence cases in Zambia include but are not limited to; defilement of child below the age of sixteen years, rape, incest, unnatural offences, and defilement of the imbecile.<sup>3</sup> The most frequent reported cases have been defilement of the child, and it has been consistently higher than any other types of sexual offences since 2006.<sup>2,4</sup> Defilement is similar to rape but it involves victims aged below the age of sixteen years, and consent of the act is immaterial.<sup>3</sup> Incidences of rape cases rank second to defilement cases, and involve having non-consensual sex with victims who are of and above the age of sixteen years.<sup>2,4</sup>

Cardinal in investigations of criminal cases is the identity of the perpetrator(s), which becomes difficult when there are no eye witnesses or the eye witnesses are unable to identify the suspects. In some cases, physical evidence left at the crime scene, when recovered, may be used to identify the perpetrators.<sup>5,6</sup> There are a number of forensic samples

that may be collected at the scene of crime and are useful in investigations; among them are biological fluids, latent marks and soiled clothes.<sup>5–10</sup> What guides the collection of possible sample(s) is the way individuals (victim and perpetrator) interacted with each other and the scene of crime. As per the Locard's principle of exchange, it is expected that these interactions lead to some material exchange.<sup>11</sup> These materials, once recovered, can be used as evidence to help identify the individual(s) who might have come into contact with the scene of crime and/or articles thereof.<sup>5</sup> The materials can also help investigators understand how, why, where and when the crime was committed.<sup>5</sup> In sexual crimes, semen analysis, genital injuries examination and DNA analysis have typically been used to investigate the crime, in addition to victim and/or eye witnesses' testimonies.<sup>5,6,9,12,13</sup>

Forensic DNA profiling is currently the most definitive method of human identification.<sup>5,7,14</sup> It is therefore a preferred method of perpetrator identification in criminal sexual offence investigations.<sup>5</sup> It has a sound history of resolving cases that would otherwise be difficult to resolve using conventional methods of identification and investigations.<sup>5,14,15</sup> It has also been used to overturn wrongful convictions of suspects erroneously identified by traditional methods.<sup>16</sup>

Other equally important types of forensic evidence required in resolving sexual offences, besides DNA evidence, include body fluids analysis, examination of body injuries and analysis of soiled cloths,

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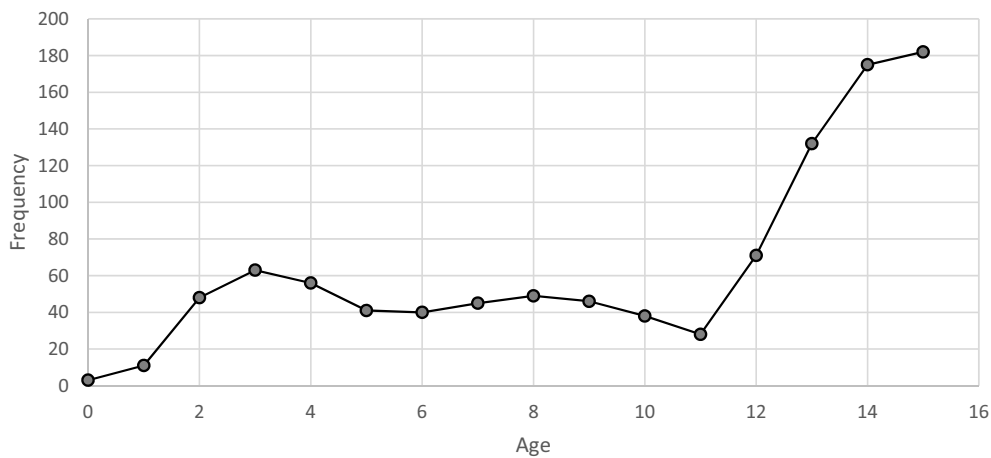


Fig. 1. The chart shows the victims' age frequency distribution across the 1028 cases of defilement of the child reviewed in this study, with the minimum and maximum age being 0–15 years old, respectively.

among others. These pieces of evidence may be helpful in corroborating the victim's testimony of the crime scene and events.<sup>5</sup> In Zambia, DNA evidence is not routinely used in investigations of criminal offences, mainly due to lack of forensic facilities capable of performing forensic DNA analysis.<sup>2</sup> Selected cases requiring DNA evidence have had samples sent to South Africa for analysis. There is also no standardised protocol for handling forensic samples in sexual offence cases.

The Zambian law requires that accusations made by a minor need be corroborated, otherwise no one can be convicted on them.<sup>17</sup> Therefore, when done properly, forensic evidence is best suited to be the most definitive corroborative evidence.<sup>6,18</sup> Understanding the case characteristics and how variables relate may be helpful in predicting the case outcome at the police investigation stage and in court.<sup>5,15</sup>

The use of robust scientific methods in fighting crime has shown to be valuable in solving crimes that are difficult by traditional methods.<sup>5,15</sup> However, the relationship between sexual offence cases, DNA evidence and genital wounding has not yet been assessed in relation to court outcome in Zambia. This data, as well as the research in sexual crimes would provide valuable information in fine tuning the strategies used in crime management and investigation in a local context. Therefore, the main aim of this study was to evaluate the role of forensic evidence in sexual offence cases in Zambia, focusing on the cases reported between the years 2007 and 2014 at selected Police stations.

## 2. Methods

A retrospective review of sexual offence cases ( $n = 1154$ ), reported at eight out of ten Zambia Police stations in Lusaka District, was undertaken. The police stations included in this study were Woodlands, Chilenje, Kabwata, Chawama Kanyama, Matero, Emmasdale and Chelstone, excluding their Police posts (in Zambia, Police stations have several small stations under their command known as “Police posts”). These eight police stations were considered the busiest with the most reported cases of sexual assault in the Lusaka district of Zambia. Lusaka district is one of the four districts in Lusaka province, covering the area of 360 km<sup>2</sup>. It was the most densely populated district in the Province with the population density of 4853.2 persons per square kilometre. Over 50% (1 747 152) of the total population in Lusaka province (2 191 225) resided in Lusaka district from which the police stations in this study were found.<sup>1</sup>

The cases reviewed were (i) defilement of a child, (ii) rape, (iii) incest, (iv) sodomy, (v) indecent assault of a boy under fourteen years and (vi) defilement of an imbecile/idiot. Only cases involving penetration were included in this study. Attempted sexual intercourse, even if it was considered as defilement of an imbecile, was not part of this study. All the case files of these specified sexual offences reported to the

selected police stations between 1 January 2007 and 31 December 2014 were reviewed. Information pertaining to the set of predefined variables were captured using Epidata 3.2 10. The IBM® SPSS Statistics 23 was used to compute the descriptive statistics of the data set. The associations between variables were estimated using the Chi square tests (cross tabulation).

The study received the ethics approval from the University of Cape Town, Faculty of Health Sciences, Human Research Ethics Committee (HREC REF: 385/2016). In Zambia, the Zambia Police Service authorised access to the case files under its custody.

## 3. Results

### 3.1. Descriptive statistics of the sexual offence cases

A total of 1154 cases from the eight police stations met the inclusion criteria for this study and were reviewed. The majority of the cases ( $n = 1028$ ; 89.1%) were defilement of the child. Rape cases were the second most frequent case type observed ( $n = 74$ ; 6.4%), followed by ‘other’ (defilement of the imbecile/idiot, indecent assault of boys under fourteen years, and unnatural offences) ( $n = 45$ ; 3.9%). The least observed were incest ( $n = 7$ ; 0.6%). The age range of victims in this study was 0–72 years (mean age of  $13 \pm 6.3$  years) for all cases (Fig. 1).

### 3.2. Sexual offence cases legal outcome

Overall it was observed that 346 (30%) cases were taken to court and 149 (12.9% of reported cases) resulted in convictions. Fourteen (1.2%) cases had forensic samples collected, of which six (42.9%) of the cases proceeded to court. There were 1140 (98.9%) of cases where no forensic samples were collected, out of which 340 (29.8%) proceeded to court, and 800 (70.2%) did not. The cases with forensic samples in this study also had a slightly higher conviction rate (14.3%) compared to those without (12.9%); and cases with forensic samples had less acquittals (0%) compared to those without forensic samples (8.2%) (Fig. 2).

### 3.3. Defilement of a child

As mentioned above, defilement cases were the most prevalent ( $n = 1028$ ; 89.1%). For analysis purposes, these cases were categorised into three age groups (0–5 years, 6–10 years and 11–15 years), and then compared to each other with respect to certain variables. As indicated above (section 3.1) majority of the cases (60.9%) involved those in post-pubertal age (11–15 years).

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