

**THE EFFICACY OF THE EXISTING LAWS IN REGULATING THE NUMBER OF STREET
CHILDREN IN KAMPALA**

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DECLARATION

I NYIKADA ESTHER IDIA, do hereby declare that this dissertation was carried out in accordance with the requirements of the University's Regulations and Code of Practice for Research degree programmes and that it has not been submitted for any other academic award. Other works cited or referred to are accordingly acknowledged.

Signature.....Date:.....

NYIKADA ESTHER IDIA.

APPROVAL

This dissertation has been submitted for examination with my approval as University Supervisor.

SIGNED:DATE:.....

MR. EXPEDIT KKAAYA

DEDICATION

I would like to dedicate this work to my siblings, because they always look up to me and this has motivated me to do work very hard so as to make them proud. May the God Lord bless you.

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I am deeply indebted to my supervisor Mr KKaaya Expedite for his dedicated and generous support towards me in this journey right from the start, for guiding me and never giving up on me, may his cup always overflow.

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ABSTRACT

This research study is intended to analyze the legal framework governing street children in Uganda, the efficacy of those laws, whilst analyzing the possible reasons as to why children are being on streets as well as the risks faced by these particular children, much emphasis will be on the post-independence Era up to date focusing mostly in the Kampala Metropolitan Area.

The research will also look at the possible solutions or ways of how to do away with the problem of children on streets while promoting and protecting their rights.

INTRODUCTION

Homelessness is defined as the lack of a fixed, regular, and adequate night time residence.¹ It can also be defined as the state of having no home or permanent residence. Homeless people in Kampala. The main causes of homelessness in Uganda however include conflict/war where there has been conflict in the north and north east for the past thirty years. These conflicts caused many deaths including many parents leaving children with one parent or no parent at all thus leaving them orphaned. These conflicts also incite fear in families which pushes them to relocate to larger cities. ²Another cause of homelessness is also poverty where 38% of the population lives on less than 1.25 dollars per day, according to 2009 World Bank estimates. Domestic violence also leads to homelessness in such a way that children who witness or experience violence within their homes will sometimes choose to leave home to go to the streets. These children choose to face the peril of street life rather than continue to face the known dangers of living in their homes.³

In the recent decade, Kampala has become a breeding place or rather a harbor for homeless people majority of who are children aged 4 to 17 years, the elderly and disabled. The heartbreaking part of it is not they did not choose to be on the streets, they found themselves there due to factors beyond their control. We cannot blame these people for being on the streets however discomfoting and ugly they make us feel. We rather should see how we can help them get off the streets and live decent lives.

The Uganda government estimates that Kampala has at least 15,000 homeless children aged 7 and 17, with the BBC reporting that many of these children are victims of child traffickers who steal from their villages. ⁴

¹ <https://soarworks.samhsa.gov>

² Croro.org

³ Croso.org

⁴ Globalcitizen.org

Kampala's mayor, Erias Lukwago, told the BBC that the law wants to protect children from traffickers who bring them to the city and make them beg.

*"it's now a lucrative business for some individuals who procure these kids from various parts of the country and bring them on the streets of Kampala " he said, " it is a business, we want to bring that to an end. "*⁵

Uganda is estimated to have a total average of 4,016,980 homeless people per day in the year, 2024 according to the list of sovereign states by homelessness population thus we can see an increase.

The New vision on 6th February, 2024 reported that Kampala Metropolitan area has about 25,000 street children and these could contribute to a rise in urban crime, the Parliamentary committee on budget has warned in the latest report.⁶

In 2014, the Human Rights Watch released a report, *"street children in Uganda.* "Uganda has one of the largest populations of young people in the world with over 56% of its 37 million people under the age of 18, and more than 52% under age of fifteen."⁷

Children whose families cannot provide usually spend their days and sometimes nights on the streets. They usually huddle together for warmth and protection. while on the streets during the day, they usually engage in activities such as searching for food in the garbage, begging, searching for pieces of scrap metal that can be sold, finding small tasks to do in exchange for food or money like carrying luggage for people at the bus depot, sorting beans in a market stall, sweeping and doing laundry. ⁸

According to source child hub organization, 44% of street children connect with the streets between 5 and 10 years old.

First of all, **Article 17(1) (c) of the Constitution of the Republic of Uganda** as amended makes it a duty of every citizen of Uganda to protect children and vulnerable persons against any form of abuse, harassment or ill treatment.⁹ It is unfortunate that the article does not seem to apply to the homeless people in Kampala who are labeled *"street children"* by the majority. No one seems to care about them.

⁵ ibid

⁶ www.newvision.co.ug

⁷ <https://www.hrw.org>

⁸ www.croso.org

⁹ The 1995 constitution of the republic of Uganda as amended.

These homeless people are charged with various offenses.

The Penal Code Act under **section 167** makes it an offence for any person who wanders or places himself or herself in any public place to beg or gather alms, or causes. it further criminalizes a person who wanders about and endeavors by exposure of wounds one deformation to obtain or gather alms, such a person shall be deemed to be an idle and disorderly person and on conviction liable to imprisonment for three months or a fine not exceeding three thousand shillings.¹⁰ However, it is important to note that the principle of legality in criminal law and international criminal law states that no one should be punished for an offence that is not defined and penalty for it not prescribed by the law. This is manifested in the **1995 constitution of the Republic of Uganda under Article 28(12)**¹¹ which provides that except for contempt of court, no person shall be convicted of an offence unless the offense is defined and the penalty for it prescribed by law. This therefore means that as long as an offense is not expressly provided for by law, it cannot be imposed on an individual. In light of this principle, the constitutional court in the case of **Francis Tumwesigye Ateenyi V the Attorney General constitutional Petition no. 36 of 2018**¹², the constitutional court annulled section 168(1) (c) and (d) of the Penal Code Act which creates the offence of idle and disorderly. Tumwesigye argued that these sections contravened articles; 20(1), and (2), 23(1) (c), 28(3) (a) and 12, 29(2) of the constitution. He further argued that section 168 (1) (c) of the Penal code Act provides that any suspected person or reputed thief who has no visible means of subsistence shall be deemed a rogue and a vagabond and commits an offence and is punishable by imprisonment. He argued that this offence is not sufficiently defined contrary to article 28(12) of the constitution which requires every offence to be defined in law. He further argues that this offence is vague and permits police officers to arbitrarily arrest and detain a person in the absence reasonable suspicion and not the assumption of an illegal and disorderly purpose, contravening article 21(1) of the constitution that guarantees equality before the law and article 28(3) which presumes innocence for anyone charged with an offence. Justice Engonda-Ntende agreed with the petitioner as he held that the said elements of offence should not be ambiguous or

¹⁰ The Penal Code Act cap.120

¹¹ supra

¹² Tumwesigye Francis Ateenyi v AG constitutional petition no.36 of 2018

vague and too broad to amount to a precise definition of an offence thus declaring the said section null and void.

However, in the quest to reduce the number of homeless people roaming the streets of Kampala, the Kampala metropolitan leaders sought it wise to come up with the **Kampala Child Protection Ordinance, 2022**. A year after the passing of the ordinance, 590 children were been rescued from the streets, with 90% being girls. Additionally, more than 41 people have been prosecuted for using children for labor and begging activities.¹³

The ordinance criminalizes children loitering in public places, begging, vending or hawking. It further empowers KCCA to rescue any child found engaging in such activities on the streets. Such a child is to be rescued and handled through diversion programs by probation and social welfare officers.¹⁴ Section 10 of the Kampala child protection ordinance also forbids anyone from sending a child to beg or solicit for alms in public places, streets, offices, or commercial establishments. Additionally, it prohibits profiting from a child engaged in begging or soliciting for alms.¹⁵ Despite all the efforts put by the authorities so as to reduce the number of homeless people on the streets like arresting them and imprisoning them, they always find themselves back on the streets of Kampala,

BACKGROUND TO THE STUDY.

Street children are poor or homeless children who live on the streets of a city, town, or village. Homeless youth are often called street kids, or urchins.¹⁶ These can also be defined as boys and girls, aged under 18 years, for whom "the street" (including unoccupied dwellings and wasteland) has become home and/or their source of livelihood, and who are inadequately protected or supervised.¹⁷

Homelessness is defined as the lack of a fixed, regular and adequate night time residence.¹⁸ It can also be defined as the state of having no home or permanent residence. Street children are poor or homeless children who live on the streets of

¹³ Kcca.go.ug

¹⁴ Kcca.go.org

¹⁵ Kampala Child Protection Ordinance, 2022.

¹⁶ en.m.wikipedia.org

¹⁷ Sarah Thomas de benitez(23rd February, 2009), state of the world's street children

¹⁸ <https://soarworks.samhsa.gov>

a city, town, or village. Homeless youth are often called street kids or street child; boys and girls, aged under 18 years, for whom "the street" (including unoccupied dwellings and wasteland) has become home and/or their source of livelihood, and who are inadequately protected or supervised.¹⁹ Some scholars argue that due to the high demand of labor in precolonial times, families were forced to give birth to very many children as children were regarded as a source of wealth. This mode of production was ideal and easily provided for the basic needs. (Kakama, 1993).²⁰ There were very close social ties and responsibilities would extend to extended family members, or even clan members as well as children. Bamugemereire argued that since the production is labor based, children were not only viewed as a potential source of labor but also as economic surety for their parents when they hit old age Hence prompting society to give birth to a lot of children.²¹

Kyeyune also noted that after the industrial revolution, there resulted urbanization and unequal development between rural and urban areas, poor working condition for the workers with the children taking to the streets whenever their parents could not afford to send them to school or were unable to feed them. ²² Industrialization hence resulted into congestion in the centers, extreme concentration of environmental inequalities, physical discomfort and poverty came to peak hence the emergence of street children.²³

The population of Uganda is one of the largest in the world. Out of 37 million people, 56% of Ugandans are under the age of 18 and more than 52% are under 15 years. As of 2019. There were an estimated 15,000 orphaned and homeless children aged between 7 and 17 years in Kampala, the capital city of Uganda in 2019. Homelessness in Uganda is largely caused by the conflict in Northern Uganda from 1987 to 2006. Other factors such as domestic abuse and neglect are also responsible for the high numbers of homeless children in Kampala.²⁴

Children on the streets suffer harassment, cold nights, various sicknesses, child labour, sexual abuse, HIV/AIDS, hunger, lack of sanitary facilities, mob justice and

¹⁹ Croug.org

²⁰ Kakama, children and their rights; village perceptions,1993

²¹ Bamugereire, P; Juvenile Delinquents in Uganda

²² Kyeyune,G S; street children; why they are out, fountain publishers, kampala,1996

²³ Nyonyintono, B protection of child rights; socio economic imoact

²⁴ <https://borgenproject.org>

many times are sent to prisons for petty crimes because they do not have anyone to bail them out.

STATEMENT OF THE PROBLEM

There has been a significant increase in the number of street children in Kampala today. A child is defined in the constitution as a person below the age of 18 years.²⁵

The ideal situation should be that homeless people such as children and the vulnerable are protected through provision of food, basic education, shelter etc.²⁶The constitution of Uganda further imposes a duty on every citizen to protect children and vulnerable persons. This is provided for under **Article 17(1) (c) of the Constitution of the Republic of Uganda** which states that it a duty of every citizen of Uganda to protect children and vulnerable persons against any form of abuse, harassment or ill treatment²⁷.

The welfare principles under section 3 of the Children Act as amended provides that in matters concerning a child, the court shall make decisions on what is in the best interest of the child.²⁸

Despite the various laws, that penalize the problem of children being on the streets is seen to be increasing instead of reducing. However, that is not the case in the streets of Kampala as every passing day, we see a lot of homeless people on the streets of Kampala with the majority being children who are below the age of 17, with no shelter, and no visible means of survival as they depend on the peanuts that are given to them through begging. It is heart-breaking that these homeless people especially children are either trafficked so that they can beg on the streets or they are there due to factors beyond their control such as wars, domestic

²⁵ The 1995 constitution of the Republic of Uganda.

²⁶ *ibid*

²⁷ The 1995 constitution of the Republic of Uganda as amended

²⁸ The Children Act, 2016 as amended.

violence, and poverty which has forced them to seek for a living on the streets. The homeless especially children survive through begging for alms, carrying luggage for travellers to and from the bus parks for small pennies. Others even go on to look for food from the rubbish pits so that they cannot go hungry and this in turn makes them more vulnerable to diseases.

The **United Nations Convention on the Rights of the child (UNCRC)** affirms the rights of children to enjoy a privileged status, in order to enable them develop physically, spiritually and morally. The convention further stipulates that children should enjoy special care, protection, affection, moral and material security which include; adequate nutrition, housing, education, services; and declares that every child should be protected against neglect, cruelty, exploitation and shall be accorded special relief in times of disaster. These interesting aspects have been incorporated into our very own Children's Act Cap 59 vide the Children's Amendment Act of 2016. In addition to the above, in 2020, the Government of Uganda came up with the **National Child Policy (NCP)**. The National Child Policy demonstrates the commitment by the Government of Uganda to ensure the wellbeing of children. It aims at upholding the rights of children and protecting them from all forms of abuse, neglect, exploitation and violence.²⁹

In order to address the problem of growing number of people on streets, the Kampala Capital City Authority passed an ordinance in 2022 , which has caused more than 41 people have been prosecuted for using children for labour and begging activities. On 22nd February, 2024, the Daily Monitor reported, *" tears at City Hall Court as over 100 women are sentenced to one month of community service. Failure to comply will result in one month imprisonment. These women were charged with sending children to beg or solicit alms in public places."*

As long as these laws and policies are deliberately ignored, the number of children on streets will keep increasing and this will result into an increase in crime rates such as pick pocketing, child trafficking, theft and the young girls will eventually become sex workers in the quest to look for survival on the streets.

OBJECTIVE OF THE RESEARCH.

²⁹ The National Child Policy, 2020.

General objectives

The main objective of this research is to analyse the efficacy of the existing laws in combating the issue of homelessness.

Specific objectives

1. To assess the current legislative framework governing street children in Kampala
2. To analyse the implementation and enforcement of laws aimed at regulating the number of street children.
3. To identify the gaps and challenges in the existing laws concerning street children.

RESEARCH QUESTIONS

1. What are the key laws and policies in Uganda aimed at addressing the issue of street children in Kampala?
2. How are these laws and policies enforced at the local and national levels?
3. What are the main challenges faced in enforcement of laws concerning street children in Kampala?

SIGNIFICANCE OF THE STUDY.

This study will shed light on the causes of homelessness among children, the different laws that are put in place to curb the vice of children being on streets, the challenges faced by the authorities in enforcing these laws. Furthermore, this study can also facilitate advocacy aimed at promoting the rights and well-being of street children and fostering community based approaches to address this problem.

JUSTIFICATION OF THE STUDY.

This research will throw more light on policies that are put in place to curb the problem of street children in Kampala. By evaluating the effectiveness of the existing laws, the study aims to identify opportunities to better protect the rights of these street children.

SCOPE OF THE STUDY

Thematic scope

This study will focus on examining the underlying reasons for the increasing number of street children and different legislations and policies that have been enacted to fight this vice of street children. In addition to that, this study will also explore the alternative ways of combating the increasing number of street children.

Geographical scope

This study will be carried out in the central region of Uganda and mainly the Kampala Metropolitan area, since it is the area with the largest number of homeless people.

Time scope

The study shall focus on the period from 2007 to 2024. This is simply because the research aims at comparing the changes in the number of homeless people in Kampala during that period.

LITERATURE REVIEW

This segment focuses on the existing literature in relation to homelessness in Kampala and beyond. It also focuses on how other jurisdictions that is the rest of Africa and the world have dealt with homeless people such as the street children. The researcher will also compare and analyze the data of other researchers and identify the gaps in the existing literature where the data has not been extensively researched.

According to L Ochola , more than 80 million African children lack access to healthy shelter, and 16 million of these children are living on the streets. He further deduces that this phenomenon of street children represents massive social failure as well as a violation of the United States Convention on the Rights of a Child. He further contends that urbanization and the attendant process of industrial expansion, land speculation and the beautification has created a cycle of

poverty, evictions, family disruptions, and unwanted and abandoned children.³⁰ In African cities, at least 60% lives in informal, underserved, and frequently illegal slums and squatter settlements in households generally headed by a single mother.³¹ Additionally, Remington added that the number of “street children” in India and Nepal is increasing at an alarming rate because of urbanization. Each year, an estimated 150,000 young Nepalese girls are sold as prostitutes in India where the number of working children below the age of 14 has grown from 13.59 to 18.17 million during 1981-1990. He contends that street kids are at a risk of exploitation by adults in hazardous, or even banned jobs. The experiences of some NGOs have shed light on special needs of these children. Alternative schools have been set up in slum where children live and work, the curriculum of schools should include opportunities for enhancing self esteem and learning income producing and survival skills³²

The author in “*Needs of Rio Children*” stated that millions of children and adolescents live on the streets of urban Brazil and are being bypassed by the existing social services. He gives an example of the state of Rio de Janeiro where there are only two shelters. Many of these children are from single parent households that could not produce enough income to support them, thus becoming victims of interfamilial sexual abuse or violence. The author urges government agencies to assume responsibility for providing these citizens with shelter, food, access to public school system with a culturally sensitive curriculum, and health services that address the needs of the population. Non-governmental organizations are also urged to develop innovative programs for street children, including outreach programs, educational strategies and materials.³³

RESEARCH METHODOLOGY

This study will be basically qualitative and library-oriented. It is mainly desktop research and this includes review of relevant literature such as statutes, text

³⁰ L Ochola ,Eviction and homelessness: the impact on African children Devt Pract.1996 Nov.

³¹ ibid

³² F Remington; the forgotten ones. A story of street children and schooling in south Asia. Intergration.1993 sept.

³³ A Filgueiras. Plan parent chall; Needs of Rio street Children, 1993.

books and journals, articles, the internet and guidance from case law and legal principles. The researcher will access material and data from statutory bodies and specialized institutions and relevant government ministries.

LIMITATIONS OF THE STUDY

There existed some factors that limited my research. The costs involved in transport during the research to meet my respondents, stationary, communication, typing, photo copying and binding were fairly high. The time frame for the preparation of the research is also so limited.

CHAPTER TWO

Definition

Homelessness is defined as the lack of a fixed, regular, and adequate night time residence.³⁴ Street children are poor or homeless children who live on the streets of a city, town, or village. Homeless youth are often called street kids or street child.

Causes of homelessness

The main causes of homelessness in Uganda however include conflict/war where there has been conflict in the north and north east for the past thirty years. These conflicts caused many deaths including many parents leaving children with one parent or no parent at all thus leaving them orphaned. These conflicts also incite fear in families which pushes them to relocate to larger cities.

In Kampala, the increasing number of street children is mostly caused by domestic violence, broken families and poverty whereby a majority of the population in Uganda is living below the poverty line. Low risk perception of the dangers of having children on the streets by the parents and the community who seem not to mind yet these street children grow up and turn into street adult men and women.

³⁴ <https://soarworks.samhsa.gov>

Lack of coordination framework to coordinate and harmonize the street children response. Increasing lack of Parental care and child abuse most especially in urban areas.

They cannot even afford a decent meal once a day and as a result, they cannot also afford rent hence pushing them to the extremes by going to the streets with hope that they can get what to eat. However, it is worth noting that the increasing number of children on streets threatens not only the safety of those around them but also the children themselves. They don't have where to rest in the night and when it rains, they struggle to gain some warmth by piling together. Unfortunately, when these rains become too strong, the children are left with no choice under the coldness and this sees those contradicting different kinds of diseases.

Particular places provide different opportunities for survival as street children are often drawn to those parts of the city where income can be earned. At different times and in different places the street becomes a place for work, as many engage in activities such as begging, stealing, selling in markets, carrying luggage, minding or cleaning cars and any other informal tasks that opportunistically present themselves. However, some areas will be avoided as they are less productive, such as residential areas, or are well-controlled spaces, such as near police stations or government offices Kampala's mayor, Erias Lukwago, told the BBC that the law wants to protect children from traffickers who bring them to the city and make them beg.

*“it's now a lucrative business for some individuals who procure these kids from various parts of the country and bring them on the streets of Kampala “ he said, “ it is a business, we want to bring that to an end. ”*³⁵

Uganda is estimated to have a total average of 4,016,980 homeless people per day in the year, 2024 according to the list of sovereign states by homelessness population thus we can see an increase.

The Kampala Capital city Authority as they looked for solutions for the larger number of people who spend nights on the city's verandas decided to ban people from giving food or money to these homeless kids.³⁶

³⁵ ibid

The New vision on 6th February, 2024 reported that Kampala Metropolitan area has about 25,000 street children and these could contribute to a rise in urban crime, the Parliamentary committee on budget has warned in the latest report.³⁷

In 2014, the Human Rights Watch released a report, “*street children in Uganda*. “Uganda has one of the largest populations of young people in the world with over 56% of its 37 million people under the age of 18, and more than 52% under age of fifteen.”³⁸

“It is evident that homelessness is typically not a deliberate choice” says someone who witnessed a large number of people vying for spaces to rest. He further says, “Homelessness is not a choice contrary to stereotypes linking homelessness with criminality and drug addiction, the reality is different.”³⁹ Many homeless individuals are facing family issues, parental loss, or have been affected by natural disasters.⁴⁰ Therefore any one can become homeless at any time as natural disasters happen at any time since they have the power to render people homeless and needy.

On 22nd April, 2022, the office of the president issued a press statement titled “**KCCA rescues 194 children from the streets.**” Whereby on Wednesday, 20th April, the KCCA undertook an operation to rescue 194 children mainly from Karamoja from the streets of Wandegaya, Kabalagala, and Jinja Road and transported to Kobulin Youth skills center in Napak District for counseling and rehabilitation, overseen by the ministry of Gender, Labour and Social Development in Napak District. The objective of the center is to empower marginalized young people to improve on their livelihoods.”

It has also been established that mothers of these children give them up to be used as beggars on the streets and the traffickers pay ugsh.5000 per day.

RISKS OF CHILDREN BEING ON THE STREETS.

The constitution mandates protection of children under article 34. These rights are further elaborated in section of the children Act as Amended. These rights are

³⁶ Globalcitizen.org

³⁷ www.newvision.co.ug

³⁸https://www.hrw.org

³⁹ Globalcitizen.org

⁴⁰ ibid

conferred on everyone as Article 17(1) (c) of the Constitution of the Republic of Uganda states that it a duty of every citizen of Uganda to protect children and vulnerable persons against any form of abuse, harassment or ill treatment⁴¹ thus no child should be harmed by those supposed to protect them.⁴²Section 5 and 6 of the children (amendment Act) also protects children from social or economic exploitation and shall not be employed in or required to perform work that is likely to interfere with their education or physical, mental, spiritual or social development.⁴³ The same is provided for under sections 6 and 7 of the Employment (Employment of Children) Regulations. 2012⁴⁴

While children should not be forcefully removed from the only home that they know, leaving them there while it possess greater danger with no protection is also not acceptable. While on the streets, children suffer violence. The fact that they are already vulnerable, they are not in position to advocate for these basic rights they ought to enjoy such as not having shelter can leave them vulnerable to abuse. They are often beaten, robbed or possibly targeted by law enforcement officers in some cases.

Street children are also a target to abusers. They are vulnerable to exploitation by these officers who may sexually assault them, forcedly recruit them into criminal activities and also send them on streets to beg.⁴⁵

Another risk is addiction to drugs. Children being on the streets is most likely to influence them into taking drugs as they try to cope with the realities of living on streets, trauma, hunger, stigmatisation discrimination and this will be followed by the negative effects of taking them hence making them a danger to society.

Also due to the harsh realities faced by these street children, they often suffer from depression, anxiety and trauma which may further lead to substance abuse and suicide.

Children on the streets suffer harassment, cold nights, various sicknesses, child abuse, child labor, sexual abuse, HIV/AIDS, hunger, lack of sanitary facilities, mob

⁴¹ The 1995 constitution of the Republic of Uganda as amended

⁴² Children Act cap 5

⁴³ ibid

⁴⁴ The Employment(Employment of children) Regulations

⁴⁵ Streetchildren.org

justice and many times they are sent to prison for petty crimes because they do not have anyone to bail them out.⁴⁶

CHAPTER THREE: THE LEGAL FRAMEWORK GOVERNING STREET CHILDREN IN KAMPALA.

DOMESTIC LAWS

1. THE 1995 CONSTITUTION OF THE REPUBLIC OF UGANDA.

The Constitution⁴⁷ is the supreme law of the land and has a binding force on all authorities and persons throughout Uganda. As a primary legal instrument, the constitution contains provisions on the rights of all persons, including children and the marginalised groups under chapter 4 of the constitution.

Under the National Objectives and directives of state policy, number XIX the State is obliged to take all necessary steps to protect and preserve a family, there are express provisions under the Objectives of state policy for the purposes of safeguarding the interests of all special interest groups and other vulnerable groups.

Article 31⁴⁸ Makes provision for the rights of a family **31(5)** provides that children may not be separated from their families except in accordance with the law.

Article 34 also provides for the rights of children. **Clause I** ⁴⁹states that children shall be cared for by their parents or those entitled to bring them up by law.

Article 32(2)⁵⁰ entails a child to basic education which shall be the responsibility of the state and parents of the child and Article 34(4) provides that children are entitled to be protected from social and economic exploitation and shall not be employed in or required to perform work that is likely to be hazardous or to interfere with their education or to be harmful to

⁴⁶ Croug.ug

⁴⁷ Article 2(1) of the Constitution of the Republic of Uganda, 1995 as amended.

⁴⁸ The 1995 constitution as amended.

⁴⁹ ibid

⁵⁰ supra

their health or physical, mental, spiritual, moral or social development. In light of this provision, most of the street children cannot afford education, however, through introduction enforcement and making it compulsory for children on streets to attend UPE schools, these children have something to occupy their mind other than working for people who will exploit them through giving them hazardous work with little or no pay at all.

Article 34(7)⁵¹ in particular makes provision for the fact that special Protection should be accorded to orphans and other vulnerable children. The government of Uganda has supported NGOs in this cause who build homes to facilitate for the orphaned children. This has been through providing tax exemptions to such charity organizations.

Under the Constitution of the Republic of Uganda **Article 51**⁵², the Uganda Human Rights Commission is established and under **Article 52**⁵³ charged with the protection of human rights and also taking note of the Human rights abuses as against all citizens Street children inclusive, the commission noted that the government's approach of "resettling and rehabilitating street children without addressing the factors that send children to the streets is an unsustainable solution in the long run" and argued that "there is an urgent need to address the causes and not just the symptoms."

THE PENAL CODE ACT cap 120

The Penal Code Act under **section 167** makes it an offence for any person who wanders or places himself or herself in any public place to beg or gather alms, or causes. it further criminalizes a person who wanders about and endeavours by exposure of wounds one deformation to obtain or gather alms, such a person shall be deemed to be an idle and disorderly person and on conviction liable to imprisonment for three months or a fine not exceeding three thousand shillings. ⁵⁴

THE KAMPALA (CHILD PROTECTION)ORDINANCE, 2022

⁵¹ ibid

⁵² supra

⁵³ ibid

⁵⁴ The Penal Code Act cap.120

In 2022, the Kampala Capital City Authority passed the child protection ordinance aimed at safeguarding the children in the city, and has been instrumental in combating the exploitation of the minors.

The ordinance criminalizes children loitering in public places, begging, vending or hawking and prohibits the sale of alcohol to minors.

KCCA is empowered to rescue any child on the streets and a child that is found loitering or engaging in the various labor activities are rescued and handled through diversion programs by probation and welfare officers.

Those who contravene the law are sentenced to 6 months imprisonment or a fine of two currency points.(forty thousand shillings)

The ordinance also bans children from being engaged in labor activities and imposes a duty on parents to make sure that their children are protected from harmful employment.

Section 10(1 and 4) ⁵⁵of the ordinance further makes it an offence to send a child to beg or solicit for alms in a public place as it causes public disorder.

INTERNATIONAL LEGISLATION

The Government of Uganda is a signatory to a number of International instruments such as the UN Convention of the Rights of the Child (CRC)⁵⁶ and the AU Charter on the Rights and welfare of the child⁵⁷. The Palermo protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the UN Convention against Trans-national organized crime (2000). The Optional Protocol to the Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography, and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, 2000. All these emphasize taking appropriate measures and strategies to promote and protect the rights and welfare of the children in Uganda including street children.

The Convention on the Rights of the Child (CRC).

Uganda ratified the Convention on the Rights of the Child in 1990 which require states to prevent torture, as well as other cruel, inhuman, or degrading treatment or punishment. This prohibition applies "not only to acts that cause physical pain

⁵⁵ The kampala(child protection ordinance)

⁵⁶ Ratified by Uganda in 1990

⁵⁷ Ratified by Uganda on 17th August 1994

but also to acts that cause mental suffering to the victim," and the infliction of such treatment can never be justified.

Article 33 requires states to take all appropriate measure "to protect children from the illicit use of narcotic drugs and psychotropic substances."⁵⁸

The government should take legislative, administrative. Social, and educational measures to protect children from misuse and forced ingestion or consumption of drugs as described in this report.

The CRC ⁵⁹specifies that depriving children of liberty "shall be used only as a measure of last resort and for the shortest appropriate period of time," and that "[e]very child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

These international treaties also impose an obligation on states at all levels of government to take measures to protect children against sexual violence and abuse. The government should provide a remedy where fundamental protections have been violated. The CRC requires that states "undertake to protect the child from all forms of sexual exploitation and sexual abuse."⁶⁰

This includes ensuring that perpetrators of sexual abuse and exploitation are brought to justice.

⁵⁸ Convention on the Rights of a child.

⁵⁹ Convention on the Right of a child.

⁶⁰ *ibid*

CHAPTER 4: SUMMARY OF FINDINGS, RECOMMENDATION AND CONCLUSION.

As the final chapter in this dissertation, this chapter will sum up the findings of the entire research and where applicable suggest recommendations to assuage the challenges raised across the research.

SUMMARY OF FINDINGS

In my findings, the government and KCCA has done almost everything possible within their power to do away with the problem of street children in the city, it is however unfortunate that all these efforts have been put in vain as the children keep resurfacing on the streets. In my interaction with one KCCA officer, he said, “we have done all we can, including arresting the children and their mothers that send them to beg for alms on these streets but after their release, these children are brought back on these streets. When I asked him if there are people who benefit from these children being on the streets, he said yes, and they are smart people because despite efforts to catch them, they have failed. These people give little pennies like 5000 shillings daily to the mothers of these children in exchange of them being on the streets to beg daily.

When the authorities get the children, they are taken to baby homes, however, after some time, these children are given back to their parents and the cycle keeps continuing.

1. The government has tried to reunite these children with their families by taking them back to Napak as 90% of these street children are from Karamoja. However, the children are still brought back like they weren't taken back home thus frustrating the efforts of the authorities. Most of these children are trafficked from mainly Karamoja to Kampala for

commercial purposes. The traffickers use them to beg on the streets of Kampala. Yet there is a law on Prevention of trafficking in persons⁶¹ in place.

2. When these street children are got, the probation and welfare officer take them to homes where they are rehabilitated and if possible even taken to UPE schools. There are different organizations that deal in rehabilitating the street children, these include the Homes of promise, child Restoration Outreach and Koblin Youth skills center Napak.

RECOMMENDATION

- The Government should build vocational schools for these street children who cannot return back home, so that they can acquire skills. These street children can develop skills and talents in soccer, sports and carpentry to mention but a few but need to be supported so that they are able to develop love for education as they gain those skills and this can keep them out of the streets.
- Government should come up a mechanism on how to enforce the various laws in place that prevent child trafficking. This is because it is seen that these children cannot even afford a basic meal and yet they are always found in Kampala, this means that there are a group of people who traffic these children and gain off them. A special force should be established to arrest people that take young children as young as two years to beg on the streets.

⁶¹ Enacted in 2010

CONCLUSION

In conclusion, despite the efforts by the government to do away with street children, and despite the various laws put in place, there's still a lot of work that needs to be done. The penalties in regard to sending children on streets, trafficking them and also exploiting them this should be harsh so as to deter would be offenders.

BIBLIOGRAPHY

LEGISLATION

- The 1995 constitution of the Republic of Uganda as amended
- The Penal Code Act cap. 120
- The Children Act cap.59
- The Kampala (child protection) Ordinance

INTERNATIONAL INSTRUMENTS

- The convention on the Rights of a child

JOURNALS

- L Ochola ,Eviction and homelessness: the impact on African children Devt Pract.1996 Nov.
- F Remington; the forgotten ones. A story of street children and schooling in south Asia. Intergration.1993 sept.
- A Filgueiras. Plan parent chall; Needs of Rio street Children, 1993

WEBSITES

- Globalcitizen.org
- www.newvision.co.ug
- <https://www.hrw.org>
- Streetchildren.org
- Croug.ug

TEXT BOOKS

1. Kakama P, children and their rights; village perceptions 1993

2. Bamugereire P; Juvenile Delinquents in Kampala 1988

3. Kyeyune G,S; street children, why are they out; fountain publishers Kampala

1966