

**THE RATIONAL OF THE INCEPTION OF JUVENILE DELINQUENCY UNDER THE
UGANDAN CRIMINAL LEGAL SYSTEM
A CASE STUDY OF KAMPIRINGISA JUVENILE DETENTION**

BY

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**A RESEARCH REPORT SUBMITTED TO THE SCHOOL OF LAW IN
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APPROVAL

This is to satisfy that this research report is done under our supervision and it is now ready for submission to the school of law in Kampala international University with our approval.

DR. MAGNUS CHIMA

Signature  Date 

Declaration

I, **AMUNYO ANDREW** do hereby declare that the work presented in this dissertation arises out of my own research; I certify that it has never been submitted or examined in any university as an academic requirement for any award.

Sign

Date


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27/09/17
.....

AMUNYO ANDREW

Dedication

I give praise and thanks to the Almighty GOD for giving me the strength and the capacity to complete this work successfully. For all he has done to me, for his blessings, guidance, wisdom, knowledge, favors and endless blessings throughout my life and this far.

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I am deeply indebted to my mother and sister and to all my family for all the support they have rendered to me in the completion of a Bachelors Degree in Laws, am most grateful.

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Abstract

The research investigates extent of Juvenile Delinquency under the Law of Uganda, a Case Study of Kampilingisa Rehabilitation Center and Naguru Remand Home. Delinquency is not in-born; it is acquired and gradually grows within an individual turning him or her into juvenile delinquents with time, depending on the environment which he lives. Most parents produce children out of choice, when they feel the time is right and are both happy about having them. So juveniles are conceived and born normal children but in most cases the unfriendly and cruel environment in which they are raised changes them to social perverts. On taking juvenile delinquents to RCs, force and various approaches are used but after rehabilitation; the environment that led to the growth of delinquency once again welcomes juvenile. At this point, one would call upon the police and all the stake holders to put their approaches onto the environment that led to the birth of delinquency rather than juveniles. The culture of peace and pro-social behaviors are the wishes to all individuals to juvenile delinquents and this can be explained using analogy of birth. At birth, a child cries because of changes in environment but parents use different approaches to rehabilitate the environment in order to make the born child grow with the peaceful mind and pro social behaviors. Such rehabilitation of environment makes juvenile grow well as an upright human being but the change of environment in the period of growth lead to the growth of delinquency among juveniles. It is from such background that one should strive to rehabilitate the environment together with juveniles rather than juveniles alone.

CHAPTER ONE

GENERAL INTRODUCTION

1.0 Introduction

This chapter presents the introduction to the study, it investigates the background of the study, the statement of the problem, the purpose of the study, the scope of the study, the significance, research questions and research objectives, the literature review, the methodology and chapterization of the research.

1.1 Background of the study

Juvenile delinquency, also known as juvenile offending, or youth crime, is participation in illegal behavior by minors (juveniles) (individuals younger than the statutory age of majority).¹ Most legal systems prescribe specific procedures for dealing with juveniles, such as juvenile detention centers, and courts. A juvenile delinquent is a person who is typically under the age of 18 and commits an act that otherwise would have been charged as a crime if they were an adult. Depending on the type and severity of the offense committed, it is possible for persons under 18 to be charged and tried as adults (Siegel, 2011)².

Nearly all cultures possess a transition phase from childhood into adulthood. As the world changed, so did the transition into adulthood. Whereas before, in most now industrialized countries, this transition ranged from brief to almost non-existent, it is now a significant part of a person's development. It is known now as adolescence. In fact the popular term "teenager" wasn't coined until the '50s to describe this new group of people living through adolescence. It is believed that this new, drawn-out transition

¹Siegel, Larry J., and Brandon Welsh. *Juvenile Delinquency: The Core*. 4th ed. Belmont, CA: Wadsworth/cengage Learning, 2011.

² Ibid

from childhood into adulthood that is common in the western world has left many adolescents in a sort-of limbo where they must seek to define their identity and place in the world, and delinquency may provide a way to do that³. This is supported by the fact that crime is committed disproportionately by those aged between fifteen and twenty-five⁴. However, contrary to popular belief it is highly rare for teenagers to become spontaneously aggressive, antisocial or violent simply with the onset of adolescence. Also, although there is a high percentage of offending among all teenagers, the majority of offenses which violate the law are one-time occurrences and most often non-violent. Only about 5-10% of adolescents commit violent crimes. In the United States, one-third of all of suspects arrested for violent crimes are under eighteen⁵.

In recent years, the average age for first arrest has dropped significantly, and younger boys and girls are committing crimes. Between 60-80% percent of adolescents, and pre-adolescents engage in some form of juvenile offense (Human Rights Watch, 2015 Report). These can range from status offenses (such as underage smoking), to property crimes and violent crimes. The percent of teens who offend is so high that it would seem to be a cause for worry. However, juvenile offending can be considered normative adolescent behavior. This is because most teens tend to offend by committing non-violent crimes, only once or a few times, and only during adolescence. It is when adolescents offend repeatedly or violently that their offending is likely to continue beyond adolescence, and become increasingly violent. It is also likely that if this is the case, they began offending and displaying antisocial behavior even before reaching adolescence⁶.

³Steinberg, L. (2008). *Adolescence*, 8th ed. New York, NY: McGraw-Hill

⁴ Piquero et al., (2003) *The Criminal Career Paradigm: Background and Recent Developments*. *Crime and Justice: A Review of Research*, 30, 359-360

⁵ Ibid

⁶Steinberg, L. (2008). *Adolescence*, 8th ed. New York, NY: McGraw-Hill

Justice for children is a comprehensive term for dealing with children who come in contact with the law. The situations in which children are involved in the justice system are categorised in four broad categories namely, the criminal justice system, the civil justice system, the administrative justice system and in the informal justice system such as at customary/traditional courts or tribunals. Children's right in the justice system therefore looks at the applicable norms, laws, procedures, structures and institutions in place for these areas. In order to ensure that children's rights and legal safeguards are fully respected and protected, children in contact with the law must be dealt with through a specialised justice system where measures specific to the needs and evolving capacities of children apply.

Delinquency is an increasing social problem in Uganda. According to Uganda police crime report 2005 delinquents were 848⁷; in 2008 delinquents were 2421 and crime report 2009, delinquents were 2245. When these figures are compared, the trend increasing implying that juvenile delinquency in Uganda is still high. Ideally the family plays a pivotal role in socialization of children and it greatly shapes the behaviour of children. Juveniles are more likely to become delinquents if there is little or no socialization.

1.2 Statement of the problem

Uganda has ratified a number of international and regional treaties and conventions including the Convention on the Rights of the Child (CRC) which legally obliges the state to protect the rights of all children including those who are in conflict and in contact with the Law. At the national level the Children's Act *Cap. 59*, has put in place full safeguards for the rights of all children in the country. The adoption of the Children's Act was a giant stride forward in harmonising national laws with international treaties which Uganda has signed and ratified. The Children's Act has immensely improved the lives of many Ugandan children. It guarantees their rights to health and medical care,

⁷ Uganda Police Crime Report of 2005 Pg. 12

of which are the responsibility of the parents, the extended family and the government. The provisions of the Children's Act also empower the police to caution and release child offenders without recourse to formal hearings thus taking on a more rehabilitative approach.

The legal framework also supports separate juvenile courts, although in practice such courts are not "separate" from the usual criminal courts that are used by adults. Nonetheless, there are still a number of problems to surmount. Uganda's severe economic and social difficulties have prevented the full realisation of children's rights, and there is concern over the inadequate enforcement of legislation to ensure the 'physical and mental integrity' of all children. Street children are of particular concern. Today's toxic combination of economic and social factors is forcing more and more children to continue pouring into the streets throughout the country. Uganda is failing to protect particularly homeless children against police abuse and other violence. Street children throughout Uganda's urban centres face violence, and physical and sexual abuse. A considerable percentage of children appearing before the juvenile courts are street children with some arrested for committing crimes, and some taken in to be 'processed' by the care and protection system. Despite the existence of a juvenile justice legal framework in Uganda, child offenders continue to miss out on their human rights with the law. This has led to negative consequences in their lives, communities in which these children live and the country at large. The study therefore aims to investigate the applicability of the law in regards to juvenile delinquency in Uganda.

1.3 General objective of the study

The purpose of this study is to analyze the rationale of the inception of juvenile delinquency under the Ugandan criminal legal system, a case study of Kampiringisa Juvenile Detention.

1.4 Specific objectives

- i. To identify the major causes of juvenile delinquency in Kampala Uganda.

- ii. To examine the institutional and legal framework governing the rehabilitation of juvenile delinquents in Uganda.
- iii. To analyze the rehabilitation plan initiatives for juvenile delinquents in remand homes.

1.5 Research questions

- i. What are the major causes of juvenile delinquency in Kampala Uganda?
- ii. What is the institutional and legal framework governing the rehabilitation of juvenile delinquents in Uganda?
- iii. What are the rehabilitation plan initiatives for juvenile delinquents in remand homes?

1.6 Scope of the study

The research will be carried out in Kampiringisa Remand Home in Kampala Uganda, it will cover several respondents within the establishment, street children that have been in the area and selected judicial officers.

1.7 Significance of the study

The study was use to all juveniles in the country. Kampala city has got a very large number of street children, these children come from different parts of the country and they end up committing unlawful activities such as theft, murder, among others. Such crimes are unlawful according to the 1995 Constitution of Uganda, therefore these juveniles are punishable, this research will embark on the causes and effects of juvenile delinquency and will enlighten more of the teenagers about the dangers of unlawful activities.

The research provides information to the government and other organizations about the different factors and challenges associated with juvenile delinquency in Uganda and the world at large, the research is focused on helping the government and NGOs in overcoming juvenile injustice and crimes in the country.

1.8 Methodology

Research Design

The research design was a case study and descriptive using qualitative approach. This kind of approach in the descriptive research design was applicable since the environment did not change. The qualitative approach helped generating in-depth understanding of the phenomena under the study.

Study Population

The study population comprised of several officials from the judiciary, street children and various stakeholders in Kampiringisa Remand Home. The study population presents a total number of 20 respondents.

Sample size

Table: Showing the total number of respondents

Category	Respondents
Judicial officials	5
Street children	5
Kampiringisa officials	5
Other community members	5
Total	20

Sampling techniques

Sampling technique was purposive focusing on gate keepers and legislators in the country. The sample size was 20 respondents since they were purposively selected and it was adequate to inform the study because of their role and mandate. The actual response were seven (19).

Sources of data

Primary source

In order to acquire relevant information pertaining to the research study and objectives, the researcher will majorly utilize primary instruments, these will include related instruments to the East African Integration Treaty and Protocols, Ugandan Legislation and the International Conventions.

Secondary sources

There was also need for further information which was collected from the textual materials and various libraries and more insight was perceived through observations and newspapers.

Data collection instruments

These are the tools used for getting the data which have been collected. For this case the researcher used the following instruments in the data collection exercise interview guide, key informant guide group discussion topics, observation and check lists.

Interview guide and key informants guide:

According to Ahuja (2001), an interview guide and key informants as a data collection techniques, sets of structured questions in which questions are asked and the answer are recorded by the interviewer. These approach normally enables in depth probing which is very vital in carrying out the research.

Observation:

This is physically watching the experiments set and these and then gathering the information from the experiment which was being carried out by the researcher.

Documentary analysis:

According to Mugenda and Mugenda (1999), documentary checklists outline the detailed characteristics of the defined collection process. These instruments covered the information sources like secondary data such as published information.

Data Analysis

Data analysis played a major part in the completion of the study. Collected data was received after retrieval of information the compilation was done. Qualitative data was collected and analyzed using hand text based on themes and sub themes.

Ethical Considerations

To ensure confidentiality of the information provided by the respondents and to ascertain the practice of ethics in this study, the researcher will ensure that he gets permission to adopt the standardized questionnaire concerning the research objectives and interviews addressed to the concerned parties. The researcher will also acknowledge the authors quoted in this study and the author of the standardized instrument through citations and referencing.

1.9 Literature review

Uganda performs well internationally in terms of its approach to children in conflict with the law. In 2008 the African Child Policy Forum ranked Uganda 12th in respect of legal protection of children, stating that Uganda has performed well in areas relating to the juvenile justice system⁸. The 2010 African Committee of Experts on the Rights and Welfare of the Child congratulated Uganda for efforts made under the framework of taking charge of children in conflict with the law especially in terms of setting up Family and Juvenile Courts, and the establishment of the remand homes and the National Rehabilitation Centre⁹.

⁸ The African Child Policy Forum (2008) The African Report on Child Wellbeing: Country Briefs Uganda

⁹ African Committee of Experts on the Rights and Welfare of the Child (March 2010) Recommendations and Observations sent to the Government of the Republic of Uganda by the African Committee of Experts on the Rights

The principals behind many of these international treaties are enshrined in the Uganda Children Act Cap.59 which includes a comprehensive outline of the rights of children in conflict with the law in Uganda such as Northern Uganda and other war infested areas. Children in conflict with the law in Uganda are principally the responsibility of the Ministry of Gender, Labor and Social Development. The Uganda Police Force and the Judiciary of the Republic of Uganda also play an important role. Detained children are placed in one of four remand homes if awaiting trial or in the national rehabilitation centre if they have received orders or sentences.

The Kampiringisa National Rehabilitation Centre serves children from the whole of Uganda. All of the homes and the centre contain young males and females in conflict with the law from the ages of 12 to 18. In addition, and contrary to its original mandate, the national rehabilitation centre also contains children found roaming the streets of Kampala who have not been charged with or sentenced with an offence¹⁰.

Children often test the limits and boundaries set by their parents and other authority figures. Among adolescents, some rebelliousness and experimentation is common. However, a few children consistently participate in problematic behaviors that negatively affect their family, academic, social, and personal functioning. These children present great concern to parents and the community at large. The prevention of delinquency requires identifying at-risk individuals and their environments before delinquent activity and behavior occur, and then removing such risk factors or strengthening resistance to the risk factors already present. The most logical starting point for prevention efforts is the family¹¹.

For many young people today, traditional patterns guiding the relationships and transitions between family, school and work are being challenged. Social relations that

and Welfare of the Child on the Initial Implementation Report of the African Charter on the Rights and Welfare of the Child. Addis Ababa, Ethiopia.

¹⁰ Ibid

¹¹ Ibid

ensure a smooth process of socialization are collapsing; lifestyle trajectories are becoming more varied and less predictable. The restructuring of the labor market, the extension of the maturity gap (the period of dependence of young adults on the family) and, arguably, the more limited opportunities to become an independent adult are all changes influencing relationships with family and friends, educational opportunities and choices, labor market participation, leisure activities and lifestyles¹².

Youths nowadays, regardless of gender, social origin or country of residence, are subject to individual risks but are also being presented with new individual opportunities-some beneficial and some potentially harmful. Quite often, advantage is being taken of illegal opportunities as young people commit various offences, become addicted to drugs, and use violence against their peers.

In Africa, delinquency tends to be attributed primarily to hunger, poverty, mal-nutrition, unemployment and inadequate family involvement in the social set up of their children. The prevention of delinquency requires identifying at-risk individuals and their environments before delinquent activity and behavior occur, and then removing such risk factors or strengthening resistance to the risk factors already present. The most logical starting place for prevention efforts is the family¹³.

In Uganda, there are chances that the family is easily and closely linked with delinquent behavior which becomes initially important when the stress being placed on family functioning is considered, the divorce rate is now about one breakup for every three marriages. The very structure and definition of the family is under going change. The traditional concept of the paternalistic family which there is ale bread winner and a female who cares for the home and children simply is fading away. The majority of mothers of school age children are now employed. Many of the mothers with infants

¹² Ibid

¹³ African Union (1999) African Charter on the Rights and Welfare of the Child

under one year of age are employed outside the home. People are waiting longer to marry and are having fewer children.¹⁴

Single parent house holders have become common and more unwed mother than ever are deciding to keep and raise their children. These families (break away, single parent families) are problem shaken most especially poverty which is the 'song' of the day. Parents have lost control of the children due to inadequacy in resources to answer financial questions; and even in education. In addition, the quality schools (private) of Uganda may not be accessible or affordable in terms of education fees because of the poverty line while even the free Universal Primary Education (U.P.E) has inadequate quality to shape the children into responsible citizens. The U.P.E (Universal Primary Education) setting has even resulted into more delinquency among the poor children of Uganda.

Sometimes it is geography, rather than finances that helps to determine a child's access to social opportunities. Rural families may have a smaller core group of friends and acquaintances than their urban counterparts. It would seem natural that children who are introduced to not only greater numbers of people during their childhoods, but also people of varied backgrounds would grow to be more adept at understanding and relating well to many different types of people¹⁵.

Often rigid and controlling, authoritarian parents place high demands on their kids without allowing room for discussion or regard for the child's feelings. This can result in children who are fearful, anxious, frustrated or withdrawn. Favoring supportive discipline, authoritative parents expect good behaviors from their kids, but they gently and lovingly guide them, rather than being forceful or cruel.

Uganda is one of the many countries with high rates of increasing street children. I will talk about street a child for that is where anyone could start from when asked to

¹⁴ Ibid

¹⁵ Defence for Children International (2009) Juvenile Justice Newsletter No. 13

research about juvenile delinquency. Without knowing if they are delinquent or not one will ask a question as to why they are on the streets¹⁶. A majority will be led to an assumption that many delinquents come from the streets; but again where do they come from and how? Street children in Uganda are characterized by lack of facilitation or even definite source of income, lack of education, malnutrition, and lack of shelter amongst all. Later on they are forced to try to meet some of the above needs by looking for a source of income or property.

¹⁶Uganda 2009. The Population Council Inc

CHAPTER TWO

CAUSES AND EFFECTS OF JUVENILE DELINQUENCY

2.0 Introduction

A compiled exhaustive review of family factors as correlated and predictors of juvenile conduct problems and delinquency found that poor parental supervision, or monitoring, erratic or harsh parental discipline, parental disharmony, parental rejection of the child and low parental involvement with the child (as well as anti social parents and large family size) were all important predictors. However their research rhymes with my findings about the family as the determinant of the good side of the child and the bad side¹⁷. This gives me a go-ahead to research more on the family and the above for proof about their discussion.

Six factors are determined to explain the relationship between single parent families and delinquency. These factors include economic deprivation, reduced supervision, formal controls, and social supports, living in poverty neighborhoods characterized by high crime rates and alienation and lastly an increased criminal justice system response to children from single parent families. They also determined that the absence of fathers increased these factors. Children from both single parent families, as well as those children who live in complex, shifting, and highly stressed families suffer from these same conditions¹⁸.

It was further discussed that the family is the foundation of human society. Children who are rejected by their parents, who grow up in homes with considerable conflict, or who are inadequately supervised are at the greatest risk of becoming delinquent. Adolescence is a time of expanding vulnerabilities and opportunities that accompany the

¹⁷Loeber and Stouthamer-Loeber (1986), Family factors as Correlates and Predictors of Juvenile Conduct Problems and Delinquency, Chicago, pp: 29-149,

¹⁸Wright and Wright in 1994, Family Life, Delinquency, and Crime: A Policymakers Guide. Research Summary. Washington DC

widening social and geographic exposure to life beyond school or family. It known that the family is the foundation and the basis for a child's behavior good or bad but how does it impact on it so that we can fully agree that the family is the prime defector of a child's behavior. More so, slightly contrary to single family discussion, the blame should not be put only on the single parent families but also the two parent families. In their discussion concentration was put on the single parent families there is a possibility that both families have equally the same impacts on the children's social behavior¹⁹.

Robins(1979), in her long term follow-up studies in St. Louis, also found that poor supervision and discipline were consistently related to later offending, and Shedler and Block(1990) in San Francisco reported that hostile and rejecting mothers when children were aged 5 predicted frequent drug abuse at age 18.

In Cambridge-Somerville study in Boston, MacCord (1979) reported that poor parental supervision was the best predictor of both violent and property offenders. Parental aggressiveness which included harsh discipline, shading into child abuse at the extreme were significant precursors of violent offenders, while the mother's attitude (passive or rejecting) was a significant precursor of property offenders.

In the Cambridge study, West and Farrington (1973) found that harsh or erratic parental discipline, cruel, passive or neglecting parental attitude, poor supervision, and parental conflict, all measured at age 8, all predicted later juvenile convictions. Farrington (1992d) reported that poor parental child rearing behavior (a combination of discipline, attitude and conflict), poor parental supervision, and low parental interest in education all predicted both convictions and self reported delinquency. From all the above studies it is evident that from as early as the turn of the century, experts in juvenile delinquency have recognized the family's early and primary role in influencing delinquency²⁰.

¹⁹ Ibid

²⁰West and Farrington (1973), Cambridge study.

2.1 Causes of juvenile delinquency

Juvenile delinquency is the occurrence of crimes or illegal activity committed by an individual under the age of eighteen. Some of the common crimes associated with juvenile delinquency are truancy, theft and gang-related violence. Many courts have special systems designed to meet the unique needs of juvenile crime and often incorporate preventative and rehabilitative measures within their corrections system. Although the reasons for juvenile crime are as diverse as the illegal activities that juvenile delinquents engage in, most of the causes of juvenile delinquency fall within the categories of individual, family and social factors²¹.

2.1.1 Individual Causes for Juvenile Delinquency

The majority of juvenile crimes are overwhelmingly committed by males, and typically these juveniles come from backgrounds that support the concept of power and aggression being a characteristic of masculinity. Having a low IQ and poor impulse control are also factors that tend to contribute to an adolescent's involvement in juvenile crime. Many juvenile delinquents struggle in school and have difficulty being successful in both academic and work activities. Behavioral disorders such as attention deficit disorder and learning disabilities can also contribute to increased risk taking in youths that can often lead to participation in criminal activity. Having a low self-esteem and problems making friends can also lead minors to develop relationships with individuals and groups that tend to participate in illegal activities. Children with low self-esteem are more vulnerable to peer pressure and may find it difficult to refuse to participate when their friends decide to commit a crime²².

2.1.2 Family Causes for Juvenile Delinquency

Families that are filled with conflict and inadequate supervision are frequently blamed for juvenile delinquency and for good reason. Children that are raised in single parent

²¹Wright and Wright in 1994, Family Life, Delinquency, and Crime: A Policymakers Guide. Research Summary. Washington DC

²² Ibid

homes are more likely to be juvenile offenders. Even when living in home with two parents, a juvenile is at risk for delinquency when both parents are too busy or lack the drive to adequately supervise the child. Overly permissive parenting contributes to juvenile delinquency. Children who are given many adult privileges at an early age, such as staying out late, also are more likely to become involved in crime. Not only do permissive parents contribute to juvenile delinquency, but parents who use harsh punishments for discipline are also a known cause of juvenile delinquency. Harsh punishments often create anger within a child that can cause them to act out. This is especially evident in instances of physical and emotional abuse.

While parents have a significant influence over whether a juvenile heads down the path of crime, siblings are also an important factor to consider when assessing the reasons behind juvenile delinquency. Having a sibling that exhibits aggressive or criminal behavior makes it more likely for a child to also participate in that behavior. Wayward siblings have also been known to coerce younger brothers and sisters to participate in committing crimes. The impact of a sibling can sometimes work in the opposite direction, as when a child attempts to set their self apart from a well-behaved sibling by taking part in negative behavior²³.

2.1.3 Social and Cultural Causes for Juvenile Delinquency

Poverty is an often cited cause for juvenile delinquency. Poverty can contribute to juvenile delinquency by leading a child to believe that they must steal to survive. Theft amongst poverty-ridden youths is fairly common and can be attributed to both a need to survive and a need to belong. For many juveniles, living in poverty also means living in dangerous neighborhoods that are prone to violence and criminal activity. In these types of neighborhoods, committing crimes can often be a normal way of life for the people that live in the community. Some of the hardships associated with poverty can also lead to juvenile delinquency, even when a juvenile is trying hard to maintain good

²³Wright and Wright, *Family Life, Delinquency, and Crime: A Policymakers Guide*, 1994.

behavior. For example, a juvenile who must work to support their family might miss school on days that they worked late the night before, leading to truancy²⁴.

Along with poverty, living in a gang filled community is another social reason behind juvenile delinquency. Many children feel a need to belong to a group and gangs are an easy and available way to meet that need. Especially for children with poor family backgrounds, joining a gang can provide them with a sense of family and friendship. For children in dangerous neighborhoods, having the protection of a gang can even be vital to their survival. Unfortunately, gang involvement almost always includes illegal activities involving such crimes as theft, drug distribution and violence. Many of the most violent juvenile offenders claim gang membership.

2.2 Family socialization and juvenile delinquency

Understanding the nature of relationships within the family, i.e. family adaptability, cohesion, and satisfaction, provides more information for understanding youth behavior (Cashwell & Vacc 1996). Cohesiveness of the family successfully predicts the frequency of delinquent acts for non-traditional families²⁵. Family behaviors, particularly parental monitoring and disciplining seem to influence association with deviant peers throughout the adolescent period²⁶.

Juby and Farrington (2001) claim that there are three major theories that explain the relationship between disrupted families and delinquency-trauma theories, life course theories, and selection theories. Trauma theories suggest that the loss of a parent has a damaging effect on children, most commonly because of the effect on attachment to the parent. Life course theories focus on separation as a long drawn out process rather

²⁴ Ibid

²⁵ Matherne & Thomas, *Juvenile Delinquency and Family Affiliations*, published by White Paper Co, 2001.

²⁶ Cashwell & Vacc, *Juvenile Delinquency in Africa*, published by The State Paper ad.1994.

than a discrete event, and on the effects of multiple stressors typically associated with separation. Selection theories argue that disrupted families are associated with delinquency because of pre-existing differences in family income or child rearing methods.

Broken homes and early separations are also risk factors for offending. Broken homes in the Newcastle thousand family study, Kolvin et al (1990) reported that parental divorce and separations up to age 5 predicted later convictions up to age 33. McCord (1991) carried out the study of the relationship between homes broken by the loss of the natural father and later serious offending. She found that the prevalence of offending was high for boys reared in broken homes without affectionate mothers(62%) and for those reared in the united homes characterized by parental conflict(52%) irrespective of whether they had affectionate mothers.

The importance of the cause of the broken homes is also shown in the British National longitudinal survey of over 5000 children born in one week of 1946 (Wadsworth 1979). Boys from homes broken by divorce or separation had an increased likelihood of bearing convicted or officially cautioned up to age 21 in comparison with those from homes broken by deaths or from un broken homes. Remarriage (which happened more often after divorce or separation than after death was associated with an increased risk of offending.

However, one will assume a thorough research and study without looking at both sides of the research; a question is still pending of whether all juveniles are only boys hence creating a gender bias. Wadsworth 1979 made a thorough study on the boys in the broken homes yet when one critically studies the present world, everyone' young or old male or female is exposed to crime. This leads to an assumption that the number of male offenders might tally will that of female offenders. Research has to be carried out

again to encompass both sexes for both female and male is prone to delinquency; after that the reader will be comfortable with the study²⁷.

In a study conducted by Stouthamer-Loeber, it was determined, in longitudinal studies that socialization factors such as lack of supervision, parental rejection of the child, child rejection of the parent and lack of parent/child involvement were found to be the strongest indicators of delinquency. Parental dysfunction, such as criminality, substance abusers and poor marital relations were mid-level predictors and parental health and actual absence of parent were weak predictors. In concurrent comparative studies, the strongest correlate of problem behaviors in children were the child's rejection of the parents and the parental rejection of the child. The importance of effective parental discipline was higher in the comparative studies than in the longitudinal studies. The overall effect of these risk factors appeared to be the same for both boys and girls. What needs to be addressed in this case is the parental rejection of their children rather than children's rejection of their parents as the one of the family causes of delinquency²⁸.

Poor parental disciplining for example beating instead of punishing and poor child-parental ties predict a child's future behavior for these lose a child's vigor with their parents; in the end they happen to live as enemies under the same. The children living under the fear and the aggressiveness from their parents make them migrate away from their homes to solicit for places of comfort. This study will further study this factor and how it influencing today's societies in Uganda.

Criminal, anti-social, and alcoholic parents also tend to have delinquent sons, as Robins 1979 found. For example in her follow-up study of over 200 black males in St. Louis (Robins et al 1975), arrested parents tended to have arrested children, and the juvenile records of records and children showed similar rates and types of offences. McCord

²⁷ Saneul Kalibala and Lynne Elson (2010) Protecting Hope: Situation Analysis of Vulnerable Children

²⁸ Ibid

1977 with her 30 years follow-up study of about 250 boys in the treatment group of the Cambridge-Somerville study reported that convicted fathers tended to have convicted sons. Whether there is a specific relationship in her study between types of conviction of parents and children is not clear²⁹.

Experts concluded that family dysfunction and poor parental supervision and socialization are major influences on children's subsequent delinquency. The family is thus the most natural environment for human development but it is however important not to over-idealize the former, at least in its assumed traditional stable form, since it now seems to be in crisis, as can be seen from statistics worldwide (Bernard van Leer Foundation, 1984). For instance, "In the family system of every human society, incomplete families emerge due to various reasons - demographic, economic or social: such as the death or divorce of a spouse, partition of the family, or migration³⁰".

It is unfortunate that the society did not take action on these earlier findings, thus it has only been recently that the impact of family factors has received much attention or research funding. The implications of existing research are that the family environment can either protect children from subsequent delinquency or put them at greater risk. It is predicted, that depending on the level of functioning, families can negatively impact a child's development.

When young people are exposed to the influence of adult offenders they have the opportunity to study delinquent behavior, and the possibility of their engaging in adult crime becomes more real. The "criminalization" of the family also has an impact on the choice of delinquent trajectories. A study carried out in prisons in the Kampala reveals that families involved in criminal activities tend to push their younger members towards violating the law. More than two-thirds of those interviewed had relatives who were

²⁹ Howell, J.C. (Ed.). (1995). Guide for Implementing the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders. Washington, DC: Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice.

³⁰ UNESCO report of 1991, P. 11

incarcerated; for 25 per cent it was a father and for another 25 per cent a brother or sister. Mores so, the juveniles who were interviewed; one who tried harder drugs and those of theft cases had their parents as drug addicts and thieves which gave a great influence on juvenile delinquency³¹.

Changes in Family Structure and Functioning - The prevalence of divorce and the increasing number of women in the workplace have reduced the number of adults who provide interaction, structure and supervision in a child's life. For instance, of the children interviewed, 9 children had their parents working with good jobs; 2 had their parents as civil engineers, 1 as nurse, 4 with parents who worked in NGOs (non government organizations and the rest had their parents as doctors. All these were full time workers in the places of work. Along with this, institutions have not kept pace in providing alternative programs for unsupervised kids. Add to this new parenting expectations that come with single parent and step-parent families and you now have a confusing, often inconsistent and/or unreliable home base for children³².

Given that three (3) of delinquents interviewed are from single parent households, delinquency is fostered by a lack of parental/juvenile interaction. Monitoring the child is also a major contribution towards the creation of delinquency. By spending time with a juvenile as a family through family activities, it not only provides that necessary supervision for being aware of the whereabouts of the child, how the child is functioning emotionally and how he or she is doing as an adolescent, it creates positive interaction with the parents that is needed for a healthy upbringing.

Children, regardless of whether they are a product of a single parent or dual parent household, are more likely to become juvenile delinquents if there is a minimum amount of quality time spent with the guardians. Guardians actually need to be "parents" rather than just provide for the child. "Parents" provide structure which

³¹ The African Child Policy Forum (2008) The African Report on Child Wellbeing: Country Briefs Uganda, www.africanreportonchildrenrights/ug.com visited on 15/02/2012

³² Ibid

entails rules, encouragement, and any type of consistent adult behavior that a juvenile can use as guidelines throughout his or her own adolescent years.

When interviewed, it was found out that nine children came from broken homes, that is; three lived with biological mother with step father and six lived with biological father and step mother. This was also noted to have an influence on juvenile delinquency. The connection seems self evident, since a child is first socialized at home and from the beginning learns appropriate behavior, values, and beliefs from parents. Any disjunction in an orderly family structure should have a negative impact on the child's life. Family break-up increases an effected adolescent's experience with such delinquency-promoting factors as greater autonomy. Despite the strong hypothetical case linking broken homes to delinquency, the bulk of empirical research on the matter has been inconclusive. In addition to broken and disrupted homes, a number of other family factors have been related to the onset delinquent behavior³³;

More so this research found out that when children reach adolescence, conflict between parents and teens normally increases as teens need to distance themselves from parental identity to establish their own identity. The authoritarian parent tends to emphasize rules and very harsh consequences. There is little room for discussion or negotiation. The indulgent parent tends to spoil the child and expects little or no responsibility at home, choosing instead to clean up after the child both at home and in his social misbehavior. The indifferent parent is so preoccupied with his/her own life and activities that little time and energy is given to either involvement or appropriate structure.

The type of parenting that does work is simply called authoritative parenting. This type of parent assumes a role of authority in the child's life, but the rules and structure are sensible and flexible to accommodate the child's growth toward adolescence and young

³³ Ibid

adulthood. The parent's intelligent explanations of the rules plus reasonable enforcement help to maintain a steady reduction of control as the child matures.

It was found out that children need a warm, close, supportive relationship with their parents. Youths who lack closeness with fathers or mothers or perceive a lack of family cohesiveness are more likely to engage in delinquent acts and status offences. It is closeness to the mother and the father that regulates delinquent activity. Both parents and children have independent impressions of family attachment and that perceived detachment from either party can be used to predict delinquent behavior. A stable unbroken home characterized by loving, supportive parent-child relationships will help insulate a youngster from delinquency.

The quality of family life, including attachment to parents, and discipline, are far more important predictors of delinquent or conforming behavior than measures of family structure (such as absent parents, large families or family income). While negative parent-child relationships are generally associated with delinquency, it is difficult to assess the direction the relationship takes. While it is often assumed that pre-existing family problems cause delinquency, it may also be true that acting-out children put enormous stress on the family, causing the problem to occur. In other words the behavior of parents influences the behavior of children, which in turn influences the behavior of parents, and on and on in an endless loop³⁴.

Parents of beyond control youngsters have been found to be inconsistent rule-setters, less likely to praise, encourage and show interest in their children, and display high levels of hostile detachment. For instance 40% of the children interviewed had had quarrels a number of times with their parents and guardians and others spend a long time without talking to their parents due to lack of corporation in between.

³⁴ Foundation for Human Rights Initiative Report (2009) Juvenile Justice in Uganda

Overall, there is both good practice and elements of concerning practice in Ugandan detention facilities. The majority of children appear to be well looked after, and Fort Portal and Gulu remand homes can be particularly praised in this regard. There are generally good basic facilities and enthusiastic staff in all the facilities, who unfortunately struggle with a lack of resources and provision. There are some concerning elements that deserve the governments immediate attention however. The removal of children in need of care of protection from Kampiringisa Rehabilitation Centre³⁵, the provision of some form of education and vocational training for all children, and training for staff to ensure that they do not administer corporal punishment is crucial. In turn the government would benefit from employing an independent auditor to ensure any changes implemented are closely monitored, staff are present at their posts, and resources are adequate and being maintained. Above all, a closer eye by the government through an auditor would ensure that the welfare of the children in conflict with the law in Uganda is upheld.

³⁵ Foundation for Human Rights Initiative Report (2009) Juvenile Justice in Uganda

CHAPTER THREE

INSTITUTIONAL FRAMEWORK ON THE REHABILITATION OF JUVENILES IN UGANDA

3.0 Juvenile Profile

In Uganda, a child is defined as someone below the age of 18 years, and in 2006 there were 16.8 million children in the country³⁶. Although Uganda has legal provisions for the registering of births, bureaucracy, lack of resources, and the fact that rural births often take place away from medical facilities, mean that the majority of births are not registered. Nevertheless, there appears to have been a large improvement in recent years: only 2% of births were being registered in 2002, rising to 50% by 2004³⁷.

The registration of births impacts on the success of ensuring that the ages of children in conflict with the law are correctly identified. The age of criminal responsibility in Uganda is 12 years old, an age in line with the recommendation of the UN general comment No.10³⁸. Nevertheless, of children aged between 12 and 18, less than 4% have birth certificates, meaning that determination of a person's age is subjective. In order to establish the age of children the police contact the parents, assess appearance, or check the children's teeth.

As such, all of the remand homes and the national rehabilitation centre felt they had housed young people outside of the boundaries of childhood. All of the remand homes stated that they felt they had housed people who were over 18, and two mentioned that they had been sent young people they believed to be below the age of 12. Usually, if the remand homes are sent someone of inappropriate age, they return them to court for a medical assessment to disprove it. This is not always a smooth process. Naguru Remand Home experienced a bitter dispute with the court when they asked for a

³⁶The African Child Policy Forum (2008) The African Report on Child Wellbeing: Country Briefs Uganda www.africanreportonchildrenrightsinafrica.com 03/03/2013

³⁷Foundation for Human Rights Initiative (2009). Juvenile Justice in Uganda

³⁸United Nations (2007) Convention on the Rights of the Child General Comment 10: Children's rights in juvenile justice

medical assessment for a child they suspected of being below 12 years of age. After a protracted argument the young person was accepted as being below 12 and handed to the probation and social welfare officer³⁹. As the court is expected to make an enquiry into the age of anyone who appears to be older or younger than the appropriate age before sentencing, and obtain a medical certificate as proof¹⁰ by the time the juvenile offender has been sentenced to Kampiringisa national rehabilitation centre, the age of the child cannot be disputed. Indeed a representative from the National Rehabilitation Centre, stated that „if the court says he is 12, he is 12 – if they say he is 12 and he is 18 we can’t do anything about it. It is common, especially under my care – some children deflate their ages to get more lenient sentences.” Owing to a tendency against transfer to adult prisons, they also appear to hold young people beyond their eighteenth birthday until they have finished their sentence, regardless of how long that is.¹¹ This means that in some cases there are children held in detention both under the age of criminal responsibility and over the age of childhood.

3.1 Sentence planning

There is limited planning of programmes in the detention facilities. There is no evidence of planning in any of the remand homes, however in the national centre, a process of planning was described: the social workers talk to the children when they first arrive, then they hand them to the career guidance committee. This committee takes them to different areas e.g. education, farming. If they are above school age then straight away it’s vocational⁴⁰. All the child offenders have three months social integration training when they arrive at the centre, then they are supposed to have access to one of the following:

- i. Casework/counseling
- ii. Tracing and resettlement
- iii. Vocational skills training
- iv. Formal education

³⁹ Juvenile Justice in Uganda – October 2010

⁴⁰ Kampiringisa National Rehabilitation Centre interview and site visit - 9th August 2010

- v. Farming
- vi. Hygiene and
- vii. Health management.

Unfortunately there is no evidence that the majority of these programmes are taking place. Also, there is no evidence that they take the young person's background, risks and needs into account. Moreover, there appears to be an informal approach to transferring information. In Naguru they explained how yesterday we took five to Kampiringisa two weeks back we took nine. We give them the nature of the offence, family background, whether they have been at school etc. We don't give them the social welfare report⁴¹.

3.1.1 Education in Juvenile Remands

In January 1997 the Government of Uganda introduced universal primary education and in 2005 universal secondary education was introduced. However universal secondary education is still in its infancy and has not reached all parts of the country, and universal primary education still appears to be excluding vulnerable children due to a lack of resources needed for uniforms, stationary and exam fees⁴². Education was originally provided in the remand homes and centre by the government as part of this scheme. However, as the Commissioner for Youth and Children pointed out, running education programmes in remand homes is difficult because residents come and go regularly and are all at different levels: one person may have stopped in Primary [level] one, some may have never been to school, some know how to read and write and others don't know at all⁴³.

⁴¹ Juvenile Justice in Uganda – October 2010

⁴² Daniel H. Juvenile Delinquency in Africa; The New Vision of 02/06/2011 pg. 15

⁴³ Ibid

As a consequence, the majority of remand home children are provided with absolutely no education at school going age. Fort Portal Remand Home has no educational facilities and most of them can't read or write. Mbale Remand Home also had no educational provision: "we can't take them to a school and no schools come in to teach them". Both Gulu Remand Home and Naguru Remand Home benefit from some support from NGOs, but this is limited in terms of what is available and to whom it is available. For example in Gulu they have some volunteers teaching literacy and numeracy each week, yet there is no secondary provision in the home. One young person told us that he was worried about his education when he is released as he had missed exams while in the home. In Naguru, the Companionship for Works Association, an Italian NGO, provide primary education every morning for those who were at school before they arrived. For others at different levels, an NGO teaches them how to read and write so they do not get out of the habit. Those who have never experienced school do not receive education because „it is difficult to engage them. In Kampiringisa no education is provided. Originally they had five teachers, but they have all retired and not been replaced. Instead, 85 children (whose parents are willing to pay their fees) are sent to local schools. This includes 66 boys and 4 girls at primary level and 19 boys and 3 girls at secondary level. They travel there each morning and return for meals and in the evening. They are monitored by prefects and staff to ensure they do not escape. FHRI reported that the rest of the children, including the street children, do not have access to formal education, and noted that in certain exceptional circumstances members of staff assist some children by personally paying for their school fees⁴⁴.

3.1.2 Religious education

All of the remand homes provided religious studies to some extent. In Fort Portal the warden and visiting Church groups held ceremonies on Sundays. In Gulu there is Bible teaching every Friday and Tuesday, though one child felt that he would like more access to a religious representative. In Naguru a spiritual and moral education

⁴⁴ Juvenile Justice Report of Uganda 2010

programme was being run by a Christian organisation who came to teach the children on a daily basis. In Mbale they have Bible study and in Kampiringisia there were four NGOs that offer spiritual development to the young people⁴⁵.

3.1.3 Vocational training

The majority of remand homes are unable to offer the young people any vocational training. Only Naguru and the national rehabilitation centre are able to offer courses due to the help of NGOs such as the Companionship for Works Association, among others. The vocational training provided in Naguru and Kampiringisa is extensive. In Naguru a number of NGOs were working with the home: Give me a Chance offers tailoring; Sodi offers computer studies; Companionship for Works teaches home economics, music, dance and drama as well as paying school fees for children from poor backgrounds. Further NGOs offer carpentry, hairdressing, art and craft. All the programmes are provided by NGOs but some posts are funded through the government. The children are assigned particular activities according to their interests. In Kampiringisa, owing to a shortage of staff, none of the vocational programmes they advertise as running (carpentry, tailoring, mechanical building and brick laying) are held except welding. Despite this, 26 boys and 4 girls are registered for these courses. This is a marked deterioration from a year prior when FHRI reported that the children could undertake carpentry and metalwork, and were sometimes remunerated for their labour. Some NGOs offer services however: World Support Outreach do football coaching; Tigers Club do sports training; Footstep provide educational materials. In addition, Defence for Children International pays for the children to become trained in carpentry, plumbing and electronics at Masulita Vocational Training Centre and Bira Vocational Training, both of which are boarding schools. Every two weeks the social worker visits the young people to see the progress they are making. They make fortnightly reports on each child giving a copy to the funders and the principal of the centre. It is unclear

⁴⁵ Ibid

whether risk assessments have been carried out for these young people to ensure that they can live safely within a boarding school community.

CHAPTER FOUR

REHABILITATION PLAN OF CHILDREN IN REMAND HOMES

4.0 Introduction

International guidance states that children who are vagrant, roaming the streets or runaways should be dealt with through the implementation of child protective measures⁴⁶ rather than through the criminal justice system. However Kampiringisa National Rehabilitation Centre held 103 such children, 63 boys and 40 girls, alongside young offenders at the time of this review⁴⁷. Kampiringisa National Rehabilitation Centre has a history of holding young people in need of care and protection. It was established in 1952 under the Ordinance Act as an „Approved School“ catering for boys aged 6 to 16 who: had committed offences, were in need of care and protection, or who were beyond parental control. This was changed in 1997 when the Children Act stipulated that the school was opened for children who had been convicted of offences as a place for the detention, rehabilitation and retraining of children“ aged between 12 and 18⁴⁸. However in 2002 the Ministry of Gender, Labor and Social Development initiated a programme designed to „decongest“ Kampala of street children and housed them alongside offenders in the centre. The intention was that street children would be taken to the centre for up to three months pending resettlement with their families⁴⁹.

4.1 Street Children

The government does not provide alternative accommodation for children in need of care and protection, nor do they give dedicated resources to them at the centre, they just give a set amount every quarter and so the street children are not planned for⁵⁰. The children range in age from as little as one year old and are housed with and looked

⁴⁶United Nations (2007) Convention on the Rights of the Child General Comment 10: Children's rights in Juvenile Justice

⁴⁷Kampiringisa National Rehabilitation Centre interview and site visit - 9th August 2010

⁴⁸Government of Uganda (1997) The Children Act Cap 59

⁴⁹Foundation for Human Rights Initiative (2009) Juvenile Justice in Uganda

⁵⁰Kampiringisa National Rehabilitation Centre interview and site visit - 9th August 2010

after by much older offenders⁵¹. The site visit for this review corroborated FHRI findings that the children in the centre are separated only for the purposes of sleeping and that „in their daily activities children at the centre mix freely and participate equally in scheduled programs“. However, it appeared that in the case of the girls, the street children and offenders were also sleeping in the same quarters. This close proximity potentially puts the street children at risk of harm or exploitation from the offenders. Although we were shown a plot of land that had allegedly been set aside for a centre for street children, and although FHRI were told that the government had identified a site for the centre, we were unable to corroborate this with the government⁵². In light of the fact that few organisations are offering targeted support to street children and children from very poor families, addressing the needs of this vulnerable population is crucial. Ensuring that these children do not become tomorrow's offenders should be a priority for the government. International guidelines allow for the institutionalization of children who have been neglected, abused, abandoned or exploited,³⁴ however it is advised that any such institution set up for the care and protection of children should be separate from the detention of children in conflict with the law⁵³.

4.2 Child protection

Child protection is an important element of preventing children from coming into conflict with the law. The framework for child protection has been established in Uganda, however more work is required to ensure that it is fully resourced and coordinated. A total of 4,821 cases where children were the direct targets/victims of crime were reported and investigated in 2009 by Uganda Police Force⁵⁴. This compares with a total of 3,760 cases reported and investigated in 2008⁵⁵. In 2004 the Ministry of Gender, Labor and Social Development developed the National Orphaned and Vulnerable Children Policy, aimed at improving the quality of life for poor and vulnerable

⁵¹Foundation for Human Rights Initiative (2009) Juvenile Justice in Uganda

⁵²Foundation for Human Rights Initiative (2009) Juvenile Justice in Uganda

⁵³United Nations (1990) Guidelines for the Prevention of Juvenile Delinquency www.theriyadhguidelines.com available at 25/06/2012

⁵⁴Uganda Police Force (2009) Annual Report

⁵⁵ Ibid

children. In 2009 it was reported that up to 96% of children in Uganda have some level of vulnerability, and that 51% are considered moderately or critically vulnerable⁵⁶.

In collaboration with the government, organisations such as Save the Children have set up Child Protection Units (CPUs) within most police stations. These units ensure that children are not detained with adults⁵⁷, sensitize the community, children and families as to what constitutes child abuse, and provide training. Judges, Police, and probation and welfare officers are the frontline actors in identifying child protection concerns and assisting vulnerable children. Probation and social welfare officers are supposed to be in place in all districts, however a number of key positions remain unfilled. In some cases police officers individually support vulnerable children and some street children are being taken off the street but are sleeping in police stations⁵⁸.

In 1996 the government announced a policy for vulnerable children that favoured family and community-based care, with institutional care as a last resort. According to the government's National Strategic Plan the nuclear and extended family should be the first line of response to the needs of vulnerable children, followed by members of the community. However, it is understood that the family can become a serious source of abuse of children and misuse of donated resources or inherited properties of the children⁵⁹. Also, community leaders are not usually able to identify or help children in the community who may not have a home or are in a home where they are being neglected and abused: communities and extended families are often too poor to be able to help; everyone expects government and NGOs to look after vulnerable children. In addition, some abusive families may seek to detain children they find a burden. FHRI found that some of the children in the offender category [at Kampiringisa] had not been found guilty in a court of law but had been brought to the centre directly by their

⁵⁶Saneul Kalibala and Lynne Elson (2010) Protecting Hope: Situation Analysis of Vulnerable Children in Uganda. 2009. The Population Council Inc.

⁵⁷ Foundation for Human Rights Initiative (2009) Juvenile Justice in Uganda

⁵⁸ Ibid 57

⁵⁹ Ibid

parents⁶⁰. If a parent informs a probation officer about his or her child's unruly nature, the case may be heard by a magistrate and a Care and Protection Order be made which detains the child in Kampiringisa Rehabilitation Centre.

Provision for children leaving detention is a particular need. For example one child housed at Mbale Remand Home was abandoned by her parents. She lived with her aunt who was brutal to her so she ran away to live with someone in Soroti where she fell in with a man⁶¹. It is possible that this man was sexually exploiting her and he reported her for stealing a mobile phone. She has nowhere safe to go if she is released from custody. There is no welfare alternative to family for such children and they would have to come back to the remand home. International guidelines advise that special facilities should be set up to provide adequate shelter for young persons who are no longer able to live at home or who do not have homes to live in.

4.3 Social welfare report

Children in conflict with the law are often vulnerable children with child protection needs. As one warden explained, "many of the children come from broken families, poor families". The children steal because their families are struggling economically⁶². A recent child consultation for a situation analysis of vulnerable children also revealed that the perception was that children came in contact with the law „through theft, gambling, "fornication", rape, defilement, drug abuse, sex work, use of vulgar language, fighting, homosexuality, poverty, peer pressure, poor home atmosphere, and lack of guidance.

According to the Commissioner for Youth and Children, all children who are undergoing trial for an offence should have a social welfare report prepared by a probation and social welfare officer to ensure that the welfare needs of children are considered in sentencing. This report is designed to give a full picture of the young person and their

⁶⁰ Foundation for Human Rights Initiative (2009) Juvenile Justice in Uganda

⁶¹ Mbale Remand Home interview and site visit - 7th August 2010

⁶² Gulu Remand Home interview and site visit - 3rd August 2010

background and should give a recommendation to the judge as to what solution would be most desirable for the child. The social welfare report should be taken into account by the court before making the order/sentence. A copy of the report should be given to the child and their legal representative and include the social and family background, the circumstances in which the child is living and the conditions under which the offence was committed⁶³. There was a varying level of success in terms of the completion of the social welfare report in the remand homes. Fort Portal Remand Home claimed that the reports were always written for the children⁶⁴. Gulu Remand Home also stated that the social welfare report is written and used by the staff to argue the case for the young people⁶⁵. However in Naguru and Mbale remand homes the social welfare reports do not appear to be regularly written. In Naguru five children's files were shown at random, none of which contained a social welfare report. It was stated that the probation and welfare officers rarely come to do the appropriate interviews with the children and therefore the reports are not completed.

4.4 Conclusion

Overall, there is both good practice and elements of concerning practice in Ugandan detention facilities. The majority of children appear to be well looked after, and Fort Portal and Gulu remand homes can be particularly praised in this regard. There are generally good basic facilities and enthusiastic staff in all the facilities, who unfortunately struggle with a lack of resources and provision. There are some concerning elements that deserve the governments immediate attention however. The removal of children in need of care of protection from Kampiringisa Rehabilitation Centre, the provision of some form of education and vocational training for all children, and training for staff to ensure that they do not administer corporal punishment is crucial. In turn the government would benefit from employing an independent auditor

⁶³ Government of Uganda (1997) The Children Act Cap 59

⁶⁴ Fort Portal Remand Home interview and site visit - 11th August 2010

⁶⁵ Gulu Remand Home interview and site visit - 3rd August 2010

to ensure any changes implemented are closely monitored, staff are present at their posts, and resources are adequate and being maintained. Above all, a closer eye by the government through an auditor would ensure that the welfare of the children in conflict with the law in Uganda is upheld.

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

5.1 Conclusion

The following lessons can be drawn from the study findings; the police get some juvenile delinquents from the streets to rehabilitation centers. Delinquency is not in-born; it is acquired and gradually grows within an individual turning him or her into juvenile delinquents with time, depending on the environment which he lives. Most parents produce children out of choice, when they feel the time is right and are both happy about having them. So juveniles are conceived and born normal children but in most cases the unfriendly and cruel environment in which they are raised changes them to social perverts. On taking juvenile delinquents to RCs, force and various approaches are used but after rehabilitation; the environment that led to the growth of delinquency once again welcomes juvenile. At this point, one would call upon the police and all the stake holders to put their approaches onto the environment that led to the birth of delinquency rather than juveniles.

The culture of peace and pro-social behaviors are the wishes to all individuals to juvenile delinquents and this can be explained using analogy of birth. At birth, a child cries because of changes in environment but parents use different approaches to rehabilitate the environment in order to make the born child grow with the peaceful mind and pro social behaviors. Such rehabilitation of environment makes juvenile grow well as an upright human being but the change of environment in the period of growth lead to the growth of delinquency among juveniles. It is from such background that one should strive to rehabilitate the environment together with juveniles rather than juveniles alone.

Rehabilitation as an approach to delinquency among juveniles demands nothing else rather than friendly environment that can restore justice, order, comfort, dignity and the culture of peace among juveniles. It deals with the restoration of hope to the once

hopelessness juveniles and inculcates the spirit of love and self recognition. In order to do this, rehabilitation centers need to be modernized in a shape beyond family environment of juveniles. Such approach calls for the government and other stakeholders intervention.

The study examined the challenges of rehabilitating juvenile delinquents and the extent to which Rehabilitation Centers shape juvenile behaviors. The role of Rehabilitation Centers therefore, is significant in making the once hated juveniles to be called the loved ones. From the study finding, it was revealed that rehabilitation centers such as KNRC and NRH have got activities that can make the delinquents forget the anti social characters such as playing football, dancing, singing and counseling. Such activities need to be taken to the home environment of juvenile delinquent.

After Counseling and having realized that the acts of delinquency are no longer there, the care-takers then take some juveniles back to schools but those who found that they can not go back to school remain in rehabilitation centers with nothing to do since activities involving carpentry and tailoring which were meant to be in RCs such as KNRC are no longer there. This means that such groups remain idle in Rehabilitation Centers and the anti-social behaviors can once again develop since an idle mind is a workshop of the devil. It thus remains important for the government to revive such activities in order to make the work of rehabilitation more effective and universal.

In the process to rehabilitate juveniles, courts of the law are involved in order to judge juveniles cases. Although Rehabilitation Centers face challenge to transport the delinquents from KNRC (Mpigi District) to Kampala District where there are the courts of law, the practice of taking juvenile delinquents to the courts of the law has remained sounding since it brings justice to juveniles. However, due to the increased number of the delinquency among juveniles it would be better if the government can set up a court responsible for delinquency. Such courts of law should allow juvenile delinquents to defend themselves, using Act 34 of the Constitution of the Republic of Uganda that talks about the rights and who is a child. Act 28 of the Constitution of the Republic of

Uganda talks about the rights to fair hearing which should be embraced in such courts of law rather than judging juvenile delinquents without defending themselves as it was revealed from the study findings.

Lastly, the findings of the study reveal that delinquency starts from troublesome environment at homes of juveniles. This means that rehabilitation of home environment rather than juveniles delinquents would be better solution to curb down delinquency. In such circumstance, the government should get involved into the affairs of various homes that have proved to be sources of delinquency. To juveniles who claim to have lived without parents, relatives need to be engaged into such affairs. This means that the government should increase services to its people.

5.2 Recommendations

In order for Rehabilitation Centers to successfully address the issues pertaining delinquency, there is a need for the government to facilitate the centers to full capacity. The government needs to employ more practitioners in the field in order to make the centers such that RCs can advise means to transport juveniles to the courts of law.

Although the Constitution of the Republic of Uganda is good enough in stipulating the rights of the children, a lot is desired in the Acts. The government needs to streamline its structure on the child growth and development starting from homes up to the society rather than mentioning the rights only. In this, there is a need to explain who and how to observe such fundamental rights and the penalty to the offenders should be well stipulated in the Constitution.

The study shows that in KNRC, there was carpentry and tailoring activities in its initial stages but one wonders how such activities became a buried issue to the extent that rooms where such activities were carried out, have remained vacant for a period. Such activities are good to make juveniles independent on their return to their former homes. Therefore, there is a need to revive the technical studies in the Rehabilitation Centers to occupy juveniles who are not interested in pursuing formal education such that on their resettlement to their former families they are useful persons and independent.

There is a need to train more probation officers and magistrates to work in the circles of juvenile delinquents. In this, the conditions for the growth and development of juveniles in the families should be embraced by the majority and such group of professionals should organizing trainings and workshops for the children growth and development related issues

There is a need to rehabilitate the troublesome environment in families by the parents, community and the government. In such works, the government should have the rights and responsibility to cater for a certain number of children per family in Uganda. In this, family planning methods should be employed in case the government takes up the responsibility of certain number of children per family. This does not mean that parents should stop producing beyond such certain number of children which are to be catered by the government. If parents want to produce beyond the government normal line, they must take responsibility of extra children and in any case of irresponsibility a visible penalty should be placed onto him/her. In such families, the major emphasis should be the culture of peace

Close-knit societies can influence and address the problems facing the youth in particular area and give them the support they need to reject negative peer pressure. Proper justice measures help to rehabilitate juvenile delinquents and so children should not be deemed justice, rather pay attention to offering justice to them. Not all juveniles should be taken to RCs. Juveniles who do not pose a threat to the public safety should be better punished through community services.

In order to do a way completely with the issue of juvenile delinquents, there should be early childhood interventions because it is a strategy which is aimed at nurturing well behaved children as they grow. This makes best in their first five years of age. Parents should teach their children manners and they should not tamper them when they are in wrong.

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