

**ASSESEMENT OF JUVENILE DELINQUENCY UNDER THE LAWS
OF UGANDA; CASE STUDY OF NAGURU**

REMAND HOME

BY

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**A DISSERTATION SUBMITTED TO THE FACULTY OF LAW IN
PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE
AWARD OF A BACHELOR DEGREE OF LAWS OF KAMPALA
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MAY, 2014

DECLARATION

I declare that this piece of work is my own initiative and it has never been submitted at any institution for any academic award and none shall submit it without my consent.

Signature of student: .....

Name of the student: AUMA HARRIET.....

Date: 26th / 05 / 14.....

Dedication

I dedicate this work to my dear Husband Mr. Muwonge Godfrey, my brother Mr. Barasa John and my beloved parents Mr and Mrs Bwire A. Omenya, my children, Nalugga Elizabeth, Ssemaganda David and Nakacwa Ariana for the patience, support extended to me. I thank them for their prayers and words of encouragement towards my success.

Approval by supervisor

"I certify that I have supervised and read this study and that in my opinion, it conforms to acceptance standards of scholarly presentation and is fully, adequate in scope and quality as a dissertation in partial fulfillment for the award of Degree of Bachelor of Laws of Kampala International University,"

Name of Supervisor. MR. DEWAL SAMUKH

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Acknowledgement

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In a very special way, I extend my sincere thanks to Isabirye Derrick and my supervisor, Mr. Ogwal Sam for his patience, dedicated attention, suggestions and encouragement that sustained my motivation to accomplish this research.

More thanks go to all my fellow course mates who have helped me in one way or another towards the completion of this study.

May God bless them.

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List of Acronyms

ANPPCAN African Network for Prevention and Protection against Child Abuse and Neglect

CRC : Convention on the Rights of the Child

CPS : Central Police Station

DFID : Department for International Development

FBI : Federal Bureau of Investigations

LCs : Local Councils

NGO : Non Government Organization

KIU : Kampala International University

NCCD : National Council on Crime and Delinquency

NHRC National Human Rights Commission

OSCA Office of State Courts Administrator

UCR : Uniform Crime Report

UNICEF : United Nations Childrens Fund

List of Statutes

The constitution of the Republic of Uganda 1995

The Magistrate Courts Act (Cap. 13), 1970

The Children Act, Chapter 59 of the Laws of Uganda on August 1, 1997

The children statute, 1996

The community service Act, Cap 11

The family and children court rules, 1998

The Probation Act, (Cap 109)

United Nations Children's Fund (UNICEF)

The League of Nations Declaration of the Rights of the child (1989)

The Convention on the Rights of the Child (1989)

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Kibaagenyi Arap Kohl V R, (1959) E.A92

Wamboi Kamau V R (1965) E.A

Libyan Arab Uganda for foreign trade and development V Adam vissitandis Civil Appeal NO.9

Of 1985 (unreported)

Abstract

The study was carried out in order to assess the effectiveness of juvenile delinquency under the Laws of Uganda using Naguru Remand home as case study in Kampala district. The study objectively sought to identify the different ways how juvenile offenders are handled in relation to the law in Uganda and to establish the possible measures that can be put in place to curb juvenile delinquency in Uganda.

Data was collected using interviews and questionnaires accompanied by secondary sources by extracting information regarding the right to bond by juvenile offenders, by reading newspapers, journals, text books plus the already existing work on internet and magazines.

In findings it established that, family factors which have an influence on offending include; the level of parental supervision, the way parents discipline a child, parental conflict or separation. Criminal parents or sibling, parent abuse or neglect and the quality of the parent-child relationship. Children brought up by lone parents are more likely to start offending than those who live with two natural parents, whoever once the attachment a child feels towards their parent(s) and the level of parental supervision are taken into account, children in single parent families are no more likely to offend than others.

It is recommended that government should enact stringent laws prohibiting importation of guns to arm children. Instead government should establish more learning centers which can take and absorb all street children to learn various skills through various vocations courses from which they may be oriented to becoming useful future citizens who will positively contribute to the economic and social development of this country.

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CHAPTER ONE

1.0 INTRODUCTION

1.1 Background to the study

Juvenile delinquency refers to children who act against the law. Most legal systems prescribe specific procedures for dealing with juveniles, such as juvenile detention centers. There are a multitude of different theories on the causes of crime, most if not all of which can be applied to the causes of youth crime. Youth crime is a major issue and is an aspect of crime which receives great attention from the news media and politicians. Crime committed by young people has risen since the mid-twentieth century, as have most types of crime. The level and types of youth crime can be used by commentators as an indicator of the general state of morality and law and order in a country, and consequently youth crime can be the source of 'moral panics'. Theories on the causes of youth crime can be viewed as particularly important within criminology. This is firstly because crime is committed disproportionately by those aged between fifteen and twenty-five. Secondly, by definition any theories on the causes of crime will focus on youth crime, as adult criminals will have likely started offending when they were young. Usually, a delinquent will do to someone else what has been done to them¹; A Juvenile Delinquent is one who repeatedly commits crime. These juvenile delinquents sometimes have mental disorders/behavioral issues such as post traumatic stress disorder or bipolar disorder, and are sometimes diagnosed with conduct disorder partially as a result of their delinquent behaviors.

Curfews have reemerged recently as a popular option for policy makers in their efforts to deter juvenile victimization and delinquency. Imposed on and off since the turn of the century, curfews tend to receive increased attention when there is a perceived need for more stringent efforts at social control. For example, curfew ordinances were originally enacted in the 1890's to decrease crime among immigrant youth. During World War II, curfews were perceived as an effective control for parents who were busy helping with the war effort. More recent interest in juvenile curfew ordinances came as a response to growing juvenile crime during the 1970's.

¹ Aos, S, Miller, M, And Drake, E.(2006) *Evidence-Based Public Policy Options To Reduce Future Prison Construction, Criminal Justice Costs, And Crime Rate. Olympia: Washington Sate Institute For Public Policy Can Acad And Child Adolesc Psychiatry; 19(1): 32-9*

Uganda adopted The Children Act, Chapter 59 of the Laws of Uganda on August 1, 1997. Under this Act, Local Councils (LCs) are responsible for child protection. If these local government councils cannot resolve a child protection case, it is brought before the Family and Children Court. Section 16 provides that “the child shall have a right to legal representation” in all matters before the family and children court. The Act does not provide any additional information about the responsibilities or duties of the legal representative for the child. The Law Development Center’s Legal Aid Clinic represents children in a variety of cases, but its primary focus is on representing children in conflict with the law. Representing children who have been abused or neglected is primarily the responsibility of the state, which would prosecute these cases as criminal proceedings. Thus it seems that most child abuse and neglect cases are handled through the criminal system, whereas most civil family law cases concern maintenance and custody proceedings

There are two key issues Uganda faces in implementing the provisions in The Children Act, specifically Section 16. First, Uganda does not have the institutions or financial resources to fully implement the provisions in the Act. In its own initial report to the United Nations (UN) Committee on the Rights of the Child it reports: “In the case of child abuse for instance, the Probation Officer in the present circumstances cannot do much. The officer has no ready place to take the child. Existing children’s institutions are inadequate, formal fostering is still not developed owing to cultural and economic limitations. **Lipsey, M and Wilson D.**² asserts that, the greater problem is that Probation and Welfare Officers have no resources, they are few and therefore cannot adequately solve the problems of the child’s family and those of the child.” Moreover, three of the five concerns mentioned in the NGO report to the UN Committee on the Rights of the Child also concern a lack of funding and other resources. Second, customary law is a powerful force in Uganda and at times it conflicts with certain provisions of the Convention on the Rights of the Children³ (CRC). The extended family acting as a support network and the emphasis on village resolution through the Local Councils (LC’s) are two common elements of customary law in Uganda. Both of these factors could prohibit particularly complex or difficult

² Lipsey, M and Wilson D

³ *Lipsey, M, And Wilson D, (1998) Effective Interventions For Serious Juvenile Offenders. Serious And Violent Juvenile Offenders: Risk Factors And Successful Interventions, Chapter 13 Page2.*

cases being referred to the family and children court, instead of being resolved by the LC's. However, it is important to note that there has been extensive training of the LC's on children's rights to legal protection by both the Ugandan government and various NGOs.

1.2 Statement of the problem

Dedicated child-rights agencies have raised the standard of juvenile justice in Kampala. Nevertheless, many imprisoned children still face state prosecution without adequate legal assistance. Several distressing facts deserve attention. State-funded lawyers defend children accused of capital crimes. Children imprisoned for lesser charges receive the attention of a social worker probation officer. Social workers, however, are untrained in courtroom litigation. Unfortunately; this denial of experienced counsel eliminates any potential for a fair hearing. Statistics highlight the more pernicious effects of courtroom delays. Most disturbingly, children are held well beyond their period of legal remand. Reports at Central Police Station (CPS) show that all capital suspects in Naguru Remand Home failed to receive court committals before the six month deadline. Of these children, some of these were retained illegally in the home, while others released in accordance with the law, and it's against such undesirable circumstances that the study assesses juvenile delinquency analysis of the law in order to address the many aspects of youth crime problem.

1.3 Objectives of the study

1.3.1 General Objective

To study and analyze factors for the ever increasing cases for juvenile delinquency in Uganda.

1.3.2 Specific Objectives

- (i) To analyze the different ways how juvenile offenders are handled in relation to the law in Uganda.
- (ii) To examine challenges encountered by the rehabilitation centres
- (iii) To suggest the possible measures that can be put in place to curb juvenile delinquency in Uganda.

1.4 Research questions

- (i) What are the different ways how juvenile offenders are handled in relation to the law in Uganda?
- (ii) What possible measures can be put in place to curb juvenile delinquency in Uganda? •

1.5 Scope of the study

1.5.1 Geographical scope

The study was conducted at Central division. The study covered the period between 2004 – 2010 at Naguru Remand Home.

1.6 Significance of the study

The study will be significant in the following ways:

- (i) As a student of Law, I am optimistic that the researches findings will to a large extent improve on the researcher's knowledge and facilitate me to have a practical approach in solving juvenile delinquency issues in Uganda.
- (ii) The study will be used by Human right organizations to protect the rights juveniles in Uganda and elsewhere.

1.7 Methodology

1.7.1 Research design

The study used a quantitative and qualitative research design for the purpose of making valid conclusions. Quantitative design which was classified in two broad categories, that is; experimental and general survey design examine juvenile delinquency analysis in relation to the law as an independent variable where as qualitative design involved the use of questions to obtain views from the respondents.

1.7.2 Area and population of the study

The study was conducted in Kampala District. The specific attention was made on probation officers. An assessment of juvenile delinquency in relation to the law in Uganda

1.7.3 Sample framework

The study population ranged from the probation officers at Naguru Remand Home. Most of the respondents comprised of inmates under custody.

1.7.3.1 Sample size

The respondents were randomly selected and categorized. They comprised of both sexes but of different marital statuses and age groups and the study used 50 respondents that is; this was done in order to get a variety of views and unbiased response which made the study a reality. Also this sample size was selected since, Sutton and David, (2004), state that a sample size should not be less than 30. Beyond basic description it would be difficult for the researcher to undertake more complex statistical analysis, as most of these analyses require a minimum sample of 30.

1.7.3.2 Sample Technique

1.7.3.3 Sample procedure

The study both used random sampling and purposive sampling procedures. Purposive sampling was used to select different activities in the area of investigation in order to get the required data and information. Random sampling was used because respondents had equal chances of being selected.

1.7.4 Methods for collection

1.7.4.1 Instruments

(i) Interviews

This involved face to face interaction between the researcher and the participant through discussion. The interviews were in two ways, namely:

Structured interviews, in which the responses by the participants were brief and specific.

Unstructured interviews, where the responses were long, elaborated and not specific, the interviews were conducted in group, individual.

(ii) Questionnaires

This was the discussion in written form whereby the responses of the participants were put on paper provided by the researcher, the questionnaires were also in two forms, namely:

Open-ended questionnaires in which the responses by the participants were free according to their understanding.

The close-ended questionnaires in which responses were provided by the researcher and the participants one of them accordingly, for example strongly agree, agree or strongly disagree. The researcher left out questionnaires to mainly the literate group. These had guiding questionnaires which the researcher gave to individual respondents to fill. The researcher gave some two days to respondents to study and fill the questionnaires. He requested the respondents to ask for clarification where they didn't understand.

1.7.4.2 Sources of Data

Data was collected from secondary source:

This data was got by extracting information regarding the right to bond by juvenile offenders in cells, by reading newspapers, journals, text books plus the already existing work on internet and magazines.

1.7.5 Reliability and validity

In order to ensure and maintain a high level of reliability and validity in this study, the researcher did the following:

Questionnaires were pre-tested. Ambiguous questions were made clear and irrelevant questions deleted.

The researcher used accurate questions which were open ended in nature by use of questionnaires from the prisoners in custody, and police officers. The questions set had enough space to give appropriate responses. Close ended questions were used.

1.7.6 Procedure for data collection

After the approval of the proposal by the responsible authority at the police station, the researcher got an introductory letter from the Faculty of Laws at KIU to progress to the field for data collection. The researcher presented the letter to the station officer concerned at the police station who assisted him to make sampling frames with the help of other relevant respondents. The researcher made appointments with respondents on when to meet them. The interviews were

conducted in offices and in compounds of the station. The structured interviews were of about 30 minutes. The in-depth interviews were for about an hour.

The researcher took the questionnaires to respondents preceded by a briefing about the purpose of the questionnaires and asked them to fill them on their convenience to allow them more time and flexibility. Later the researcher made a follow-up and collected the filled questionnaires. Careful observation of respondents from the area of study was also carried out by the researcher.

1.7.7 Data processing

1.7.7.1 Editing and spot checking

The researcher edited and spot checked during and after each interview with the respondents. This ensured that information given is logical, accurate and consistent.

Obvious errors and omissions were corrected to ensure accuracy, uniformity and completeness so as to facilitate coding.

1.7.7.2 Coding

This ensured that all answers obtained from various respondents are given codes as they were entered in computer package called Ms-Excel into meaningful forms for better analysis.

1.7.8 Data analysis

The data filled in the questionnaires were copied and analyzed by tallying it and tabling it in frequency tables identifying how often certain responses occurred and later evaluation was done. The information was later recorded in terms of percentages.

The recorded data was later edited and interpreted which ensured uniformity, legibility and consistence. Also, interview results were coded on frequency tables and be calculated in terms of percentages and presented in this study.

1.7.8 Ethical considerations

It was important during the process of research for the researcher to understand that participation is voluntary; participants are free to refuse to answer any question and may with draw any time.

Another important consideration, involves getting the informed consent of those going to be met during the research process, which involved interviews and observations bearing in mind that the area bears conflict.

Accuracy and honesty during the research process is very important for academic research to proceed. The researcher should treat the project with utmost care, in that there should be no temptation to cheat and generate research results, since it jeopardizes the conception of research.

Personal confidentiality and privacy are very important since the thesis was public. If individuals have been used to provide information, it is important for their privacy to be respected. If private information has been accessed then confidentiality has to be maintained (Stephen, P. 2002).

1.8 Literature Review

Introduction

In this chapter, a review of the literature about juvenile delinquency under the law in Uganda and elsewhere in the world were made. Specific interest areas on the philosophy and understanding of juvenile delinquency analysis in relation to the law and its processes will be given. The chapter reviews the works of other scholars who have written about the topic of the study or those who have addressed similar issues as those of the variable that were available in the study.

In June 2008, the Office of State Courts Administrator (OSCA), Division of Court Programs and Research, surveyed Missouri's 45⁴ regarding their opinions on a statewide definition of juvenile recidivism. Results of the survey supported a statewide definition of recidivism that is: 1) measured as close to the behavioral act of re-offending as possible, without violating the evidentiary rights of youth; 2) based only on new law violations to the juvenile or adult court; and 3) measured annually, using a 12 month tracking timeframe. Based on these recommendations, the following statewide definition of juvenile offender recidivism emerged:

“A juvenile offender recidivist is any youth, referred to the juvenile office for a legally sufficient law violation during a calendar year, who receives one or more legally sufficient law violation(s) to the juvenile or adult court within one year of the initial referral disposition date.” This statewide definition guided the examination of juvenile offender and case attributes related to

⁴ *Administrative juvenile officers.*

recidivism described in the remainder of the report. Identification of these attributes is essential for matching juvenile offenders with evidence-based programming designed to reduce the likelihood of future delinquent behavior.

Pate, S asserts that, curfews have reemerged recently as a popular option for policymakers in their efforts to deter juvenile victimization and delinquency. Imposed on and off since the turn of the century, curfews tend to receive increased attention when there is a perceived need for more stringent efforts at social control. For example, curfew ordinances were originally enacted in the 1890's to decrease crime among immigrant youth. During World War II, curfews were perceived as an effective control for parents who were busy helping with the war effort. More recent interest in juvenile curfew ordinances came as a response to growing juvenile crime during the 1970's⁵.

Many countries had developed Juvenile justice systems in order to deal with young offenders. This concept was derived from a belief that the problems of Juvenile delinquency and related problems of youth in irregular situations are not amenable to resolution within the framework of the traditional processes of criminal law. Juvenile Justice Systems, therefore, have been designed to respond to the needs of young offenders. One principal role has been to provide specialized preventive and treatment services for children and young person's as means for "secondary prevention", rehabilitation and improved socialization

In some countries the concept of Juvenile Justice, as a social service, is perceived as having fallen short of the goals and objectives originally set. Factors such as rapidly increasing numbers of young persons, insufficient resources and aggravated social and economic dislocations have had a devastating effect on the ability and capacity of the juvenile Justice systems to deal effectively with the broad range of individual and social problems which characterize Juvenile delinquency.

⁵ Pate, S and Noreus, B. (2004) *Maine Annual Juvenile Recidivism Report*. Maine Dept of Corrections, Division of Juvenile Services, Muskie School of Public Service, Maine Statistical Analysis Center. at page 50.

Juvenile justice⁶ before the onset of delinquency reflects a desire to provide social Justice for children and young persons with a view to promoting and safeguarding their well-being. To this end, a system of social justice for children and young person's will protect their rights, including those who under five. The European regional preparatory meeting noted that 'Experience with the treatment model over the past several decades, when modern evaluative scientific criminology had begun to assess impacts, had not been encouraging, on the whole. Participants expressed somewhat divergent opinions regarding the success or inappropriateness of the treatment model, especially with respect to institutional treatment. But it was noted that problems of delinquency had proved more persistent, and the solutions less successful, than had been predicted. Report of the European Regional Preparatory Meeting on the Prevention of Crime and the Treatment of Offenders" The African regional meeting noted the following:

"Little, if any, sympathy was expressed for the current controversy in some developed countries centering on the issue of whether the social and rehabilitation approach had or had not endangered the procedural and civil rights of youngsters actually or potentially in conflict with social standards and laws. Africa had a different concern, a concern which sought to achieve social Justice for all and internalized value systems for each young person. Broadly based communal approaches were called for to achieve this far-reaching aim"

Curfew laws vary with respect to the locale affected timeframe, and sanctions. Most restrict minors to their homes or property between the hours of 11 p.m. and 6 a.m., with some jurisdictions allowing exceptions for weekend nights or summer months. Many curfew ordinances provide exemptions for youth who are going to or from a school, religious-, or civic-sponsored event. Youth traveling from places of employment or responding to emergencies often are excluded from curfew provisions as well. Several ordinances allow unrestricted mobility for youth who are married, accompanied by an adult, or traveling with a parent's permission.

⁶ Thomas, D. (May, 2006) *How Does the Juvenile Justice System Measure Up? Technical, assistance to the Juvenile Court Bulletin, May. National Center for Juvenile Justice, Vol 25(4), Pg 486-503.*

In addition, Noreus, B. (2004) says that, some curfew laws⁷ impose more stringent curfew parameters in specific zones of the city, usually in targeted high-crime or commercially important areas. A recent example of this type comes from the city of Austin where, in 1994, the city council took action to limit youth activity in the nightclub district of the city. In that area, the curfew begins at 10p.m. each night, compared with the 11: 30 p.m. curfew for the rest of Austin.

Enforcement efforts also differ from city to city. William Ruefle, then of the University of South Alabama, and Kenneth Mike Reynolds, of the University of New Orleans, found in a recent literature review and survey of existing curfew ordinances that curfew enforcement initiatives are implemented through regular law enforcement and special policing units. The 1994 survey, which polled 77 U.S. police departments in cities with populations of 200,000 or more, indicates that 71 percent of the cities with curfew ordinances used regular law enforcement personnel and resources to implement the cities' curfew initiatives. The remaining police departments frequently used additional personnel to augment regular enforcement, according to the survey. These added officers contributed to periodic sweeps or "zero tolerance" crackdown efforts in which law enforcement personnel were pulled from other assignments for short periods to strongly enforce a curfew ordinance (May, 2006).

Sanctions for curfew violations, which are status offenses for juveniles, also may vary among jurisdictions. Offenders can be fined from \$50 to several hundred dollars or charged with a misdemeanor. Some ordinances include a parental accountability provision, under which parents can be held partially or fully responsible for children's curfew violations. Sanctions against parents may include participation in diversion programs, fines, and, in some jurisdictions, jail time. For example, the 1994 curfew ordinance in Denver, CO, does not mandate a fine be levied against parents whose children violate the city's curfew ordinance. Rather, the law provides for

⁷ Pate, S and Noreus, B. (2004) *Maine Annual Juvenile Recidivism Report*. Maine Dept of Corrections, Division of Juvenile Services, Muskie School of Public Service, Maine Statistical Analysis Center. Page 40.

the assessment of a fine only if the youth and their parents fail to participate in a court-assigned diversion program⁸.

The stated goal of most curfew laws is twofold: to prevent juvenile crime and to protect youth from victimization. According to the Ruefle and Reynolds analysis, those who support juvenile curfews indicate that neighborhoods afflicted with high rates of crime may use curfews as a ‘means to protect non delinquent youth from crime and to deny delinquent youth the opportunity to engage in criminal behavior.’” By keeping youth under the age of 18 off the street, curfews are expected to reduce the incidence of crime among the cohort most likely to offend, according to the Federal Bureau of Investigation’s (FBI’s) 1994 Uniform Crime Report (UCR). Since juvenile perpetrators of crime often take as their victims other youth, it is hoped that rates of youth victimization will drop as well.

Curfews are credited by some with restoring and maintaining order in lower crime neighborhoods, according to the Ruefle and Reynolds analysis. In addition to equipping law enforcement with tools to keep youth off the streets, curfews provide parents with a legitimate, legal basis for restricting the activities of their children. It is easier for parents to place boundaries on their children’s activities, proponents argue, when other youth in the neighborhood are similarly restricted by a specific time to return home.

Critics of curfew ordinances oppose these initiatives on both practical and legal grounds. According to the National Council on Crime and Delinquency (NCCD), curfew enforcement is often ineffective and unnecessarily funnels large numbers of non delinquent youth into a criminal justice system that is already inundated with alleged offenders. In addition, some opponents cite a dearth of empirical evidence supporting the efficacy of curfew legislation. According to the literature review conducted by Ruffle and Reynolds, little or no recent empirical evidence indicates that curfew initiatives do not have an effect on juvenile crime, nor has research addressed the impact of curfews and their enforcement on the criminal justice system as a whole.

⁸ "Thomas, D. (Mqv, 2006) *Hniv Does the Juvenile Justice System Measure Up? Technical Assistance to the Juvenile Court Bulletin May. National Center for Juvenile Justice, Vol 2.5(4), Pg 486-600.*

Gauri Pradhan (2002) opened his address by saying that there are many problems of children and that there is a need to find solutions in socio-economic realities. Tracing history of the Juvenile Justice system he said that in 1899 a group of judges in Illinois had developed the idea that only institutions are not right answer to reform children. He said institutions are not sensitized to meet the needs of children and in reality they harm them. Methods of diversion are very important in reforming children. In conclusion he said that the delegates of the conference should share experiences, learn from each other and also teach each other.

Lone Lindhol⁹ a senior researcher, from Denmark, said that the area of Juvenile Justice attracts high level of attention around the world. However, the problem identified is only tip of the iceberg and more efforts need to be undertaken to deal with the problems associated with the administration of Juvenile Justice. She thanked the organizer for arranging a platform for people from many countries to share their views, and hoped that it would be proved an occasion to develop a strong tie to address the problem and foster cooperation.

Sushil Pyakurel said that the Conference was a culmination of the efforts of both the governments and the civil societies. It is a forum to exchange ideas and solve problems in the field of administration of Juvenile Justice with the help of each other (i.e. the delegates from different countries). He then went on to discuss the establishment of the National Human Rights Commission (NHRC) in Nepal and said that the NHRC will be publishing its report soon and said the report also has findings on the status of juveniles in the country.

Madhav Prasad Acharya gave the vote of thanks. He said that the problem of Juveniles is a complex problem and therefore needs to be addressed in great detail. The Government of Nepal has been undertaking different obligations at the international forum but it is slow in implementing them. In Nepal the Juveniles are treated with impunity and they are most often kept in prison with the adult prisoners. Therefore there is a need to address the problem of Juveniles and develop better standards to deal with them. In addition he said that the Government

⁹ Barnoski, R(1997) *Washington State Juvenile Court Recidivism Estimates: Fiscal Year 1994 Youth*. Olympia: Washington State Institute for Public Policy, P. 93 (June 17, 1996).

should handle the problem wholesomely and understand that investment on education is essential to eradicate the problem. In conclusion he thanked all the dignitaries for giving their valuable time and at the same time thanked all the participants hoping that the Conference would be fruitful.

Three Juveniles that the trial court had improperly interpreted the Federal Juvenile Delinquency Act¹⁰ to require that the proceedings charging three juveniles with hate crimes under federal statutes be closed. The Boston Globe argued for access during the arraignment and during the pre-trial and trial stages. The trial court ruled that the statute mandated that the trial be closed. The First Circuit disagreed and found that the statute states that juvenile proceedings under federal law may be closed. A shift away from rehabilitation and toward punishment in juvenile justice has lead to increased access to juvenile court records and hearings in many states.

In some states, certain crimes can lead to the press being allowed access. In other states, the press may be able to publish information regarding the juvenile even if the media does not have access to court records. Journalists should focus on gaining access to information for which the judge has discretion to grant access.

¹⁰ *McClintock, F. H., Crime in England and Wales London, Heinemann, 1968, page 100.*

CHAPTER TWO

NATIONAL LEGAL REGIME GOVERNING JUVENILE DELINQUENCY IN

UGANDA

2.0 The Constitution¹¹

The constitution, which ranks highest in the hierarchy of laws in Uganda by virtue article 2, is a novel enactment providing for the rights of juvenile. The constitution imposes a duty on parliament to enact laws in the best interest of children¹². In this paper a juvenile is understood to mean a child offender, and a child is a person below the age of eighteen years¹³. The constitution further provides that a child offender who is kept in a lawful custody or detention shall be kept separately from adults. The purpose of this requirement is basically to protect the child offender from being exposed to adult hardcore criminals. This fact was attested to by Mwesigwe Alfred of Namasuuba zone in Makindye parish, who was interviewed by the researcher only twelve days after his release from Luzira prison. Alfred had been rounded up in a jump mounted by city council law enforcement personnel and detained him five months at Upper Bay Prison Luzira along with other juveniles on allegations of being a tax defaulter though no charges were preferred against them they were brought to court of law. His release was only secured by his relatives who confirmed to the prison authorities that John was Alfred sixteen years old.

According to his memories of the situation with adults, he said that to a great extent, prison could easily be a source of all evil in society rather than a correctional or even a rehabilitation institution. His view about prison of a juvenile was nothing less than inculcation of crime and suggested that young offenders should never be confined along with adults to avoid young person's being connected with criminal "reverends" in prison. The testimony of this interviewee supports the constitutional requirement that even when a juvenile has committed a serious offence, his legal interest should be protected adequately. His legal rights are further protected

¹¹ *The of the Republic of Uganda 1995.*

¹² *Ibid Article 34(1).*

¹³ *Children statute Op. cit Article 34(6).*

under the constitution in Article 23 which provides for circumstances under which a person can be deprived of his/her liberty. The salient provision of this article is that a person's liberty can be tampered with only in execution of a lawful order¹⁴ of court, or pursuant to such order. In case a child in question has not attained the age of eighteen, the constitution requires that such a person should only be restrained for the purposes of education or welfare of that person. This constitutional requirement would rule out imprisonment or imposing a harsher sentence to a juvenile offender even if he is found quilt, except if such a sentence is aimed at rehabilitating the child offender or it is basically for his/her welfare¹⁵.

It must be noted, however, that the constitution does not overrule imprisoning or detaining such a child. This would be loophole as it is covered by the provision of Articles 23 (2)¹⁶, which provides that a person arrested, restricted or detained shall be in a place authorized by the law. S. 112 of the children statute and rule 18 of the family and children court rules, 1998 provide for detail of execution of judgments or court orders in respect of children offenders. This provision will be examined in details in this paper.

The constitution further protect the legal rights of a juvenile delinquent by entitling such a person to the inviolable right, if unlawfully detained under unclear or unexplained circumstances. In consonance with the international human rights rules, the constitution outlaws torture, inhuman or degrading treatment or punishment¹⁷. This provision entails that once a child offender is arrested; he/she should be treated humanely, whether he/she is serving an order of court or is pending trial.

However, since the promulgation of the constitution in 1995, a number of laws have been enacted in respect to children's rights generally. These include the children statute, 1996 and the family and children court rules, 1998 which provide for procedures and necessary remedies to applied and enforced by the court in respect to juvenile delinquents. In case of laws which were

¹⁴ Article 23(i) (a), (b) & (c)

¹⁵ Ibid 20. Article 23(i) Ibid 20.

¹⁶ Ibid 20

¹⁷ Article 44 ibid 20

enacted before the promulgation of the constitution there is a constitutional requirement that they be read in consonance with its provision¹⁸.

Most of Uganda's laws are in written form except for customary, which is the only unwritten component. Courts in Uganda are enjoined to apply the written law, common law, doctrine of equity, applied law and customary law under **section¹⁹ of the judicature Act.**"

Rules of equity and common law are applied concurrently, but in case where there is a conflict, or variance between the set of rules with reference; to the same matter, the rules of equity are expected to prevail. Customary law is applicable in Uganda in a qualified form. In order for it to apply; it must not be repugnant to natural justice, equity and good conscience and not incompatible either directly or by necessary implication with law²⁰. **ibid s. 16 (4)**. The body of laws governing juvenile delinquents in Uganda therefore is a complex one being both written and unwritten. The research in this paper discusses those specific laws which govern the day to day lives of juvenile delinquents.

The League of Nations Declaration of the Rights of the child is an old non-binding declaration which asserts that, 'mankind owes to the child the best it has to give,' and declares that it is the duty of all men and women of the world to give to the child the means and necessities for its development. Similarly, the provisions of the children's convention and the African child charter is said to have three principal objectives, namely; to secure for the child the basic needs for subsistence, rounded growth and development, to secure for the child a framework for the child's participation in the making and implementation of decisions which affect the child and to protect the child against all forms of harmful treatment. Those rights intended to secure basic needs for growth and development include the right to education, the right to life, survival and development, the right to the highest attainable standards of health, the right to social security, the right to rest, play, recreation and leisure, and the right to a standard of living conducive to the mental, physical and moral development of the child and the responsibilities and obligations placed on parents and other relatives to secure the best that is possible for the child. Those rights

¹⁸ Article 273 (1) *ibid*

¹⁹ Section 16 of the judicature Act Cap 13. :*Ibid* 5.16(4).

²⁰ *ibid* s. 16 (4)

intended to secure the child's participation; autonomy and independence include the right to express his or her views in respect for all decisions concerning that child and the rights to freedom of expression, thought, religion, conscience, association, privacy and access to information.

2.1 Background to the Enactment of the children statute²¹,

The children statute was enacted approximately one year after the promulgation of constitution. It incorporates most of the normative demands of the constitution in respect to the rights of a juvenile. The salient issues addressed by the statute and the rules made under it, it is that of trial procedure in the family and children courts which was established under the statute, and before the enactment of the statute and the rule hereunder, the trial procedure in the juvenile courts was regulated by the Act²². The relevant procedure was laid down under section 117-156 and thereof which required, inter alia, that when a juvenile appeared before court, the Magistrate would explain to him/her the substance of the offence, in a language understood by the juvenile who would then be asked to plead to the charge. The accused would thereby be asked to confirm these facts; courts would then convict him/her. This would be followed by a social inquiry report upon which the court would base the sentence. If the child denied the charge formal trial would be conducted and the prosecution would be entitled to summon its witnesses to prove its case against the juvenile. The procedure of calling and examining of witnesses was governed by the provision of 12 Act²³. This meant that before a juvenile testified or put to his defence, court have to conduct a *voire dire* in accordance with the provisions of the Act as seen in the case of **KIBBAGENYI ARAP KOLIL V R**²⁴ a child who gives an unworn testimony would not be convicted solely on that testimony.

Another authority on this matter is **WAMBOI KAMAU V R**²⁵ where it was observed that in a matter that comes before Court, which requires a young person to give evidence, that age of that person must be ascertained. These judicial interpretations lay emphasis on the duty of courts and other law enforcement mercenaries in the protection of juvenile delinquencies.

²¹ *Children act cap 59*

²² *Magistrate court act (cap.16)*

²³ *Ibid*

²⁴ (1959) E.A.92

²⁵ (1965) E.A

Another case to look at is the case of **Libyan Arab Ugandan for foreign Trade and Development vs. Adam Vissitandis**²⁶ lord chief Justices Benjamin Odoki pointed out “I think a well established law that excessive intervention in the proceeding by trial judge may amount to a Misconduct justifying the grant of the trial”

2.1.1 The children statute, 1996

The purpose of the statute, as stated in its long title is reform and consolidates the law relating to children, to provide for the care, protection and maintenance of children, to establish a Family and Children Court and to make provision for children charged with offences. This paper is centered on examining the adequacy of legal mechanism for the protection of juveniles. The researcher shall therefore examine mainly those provisions of the statute that relate to the family and children court and those that provide for the mechanism relating to charges against children. It is recognized under this statute that some social and customary practices may be harmful to the children’s welfare. These would include subjecting children, who are alleged to have committed offence to other forms of traditional punishments. According to interviews conducted during the research that was carried out in **Naguru Remand Home**, most parents and guardians of - delinquents children would prefer to satisfy their concerns by personally punishing their children whenever they committed offences at home, or in the neighborhood, while others expressed the view that they prefer to pay compensation to the aggrieved parties rather than their children being taken to court. Certainly, these are some of the social or customary practices which the statute aims at addressing. It is, however, noted that some customary practices aimed at addressing. It is, however noted that some customary practices aimed at correcting the child may be better handled domestically than subjecting the child delinquents to the cumbersome course process.

2.1.2 Convention on the Rights of the Child²⁷

The very first commitment to children’s rights was the United Declaration on the Rights of the Child, known as the “Declaration of Geneva”, which was adopted by the League of Nations in 1924. The Declaration of Geneva was further revised and extended in 1948 and in 1959 led to the LEN Declaration on the Rights of Child, which was adopted unanimously by the General

²⁶ CIVIL APPEAL No.9 of 1985 (unreported)

²⁷ Juvenime elinquency (1989) washington DC adolescence 1986, 20/24 (501x509)

Assembly of the United Nations (20 November 1959). This declaration was expanded and developed, ultimately resulting in the UN Convention on the Rights of the Child, which was unanimously adopted by the United Nations General Assembly on 20 November 1989.

The CRC contains 54 articles and is a comprehensive instrument setting out rights that define universal principles and norms for the status of children under juvenile delinquency. It is the only international human rights treaty which covers the whole spectrum of civil, political, economic, social and cultural rights of children. It includes economic and social rights with the recognition that these are progressively realizable and depend on the resources available to the state party. The CRC offers the highest standards of protection and assistance for minors compared to any other international instrument; For example, protection standards go beyond the usual guarantees of health, education and welfare, to guarantees which relate to the child's individual personality, rights to freedom of expression, religion, association, assembly, and the right to privacy.

The Convention on the Rights of the Child is the first legally binding international instrument to incorporate the full range of human rights' civil, cultural, economic, political and social rights. In 1989, world leaders decided that children needed a special convention just for them because people under 18 years old often need special care and protection that adults do not. The four core principles of the Convention are non-discrimination; devotion to the best interests of the child; the right to life, survival and development; and respect for the views of the child. Every right spelled out in the Convention is inherent to the human dignity and harmonious development of every child. The Convention protects children's rights by setting standards in health care; education; and legal, civil and social services. The principles outlined in the international human rights framework apply both to children and adults. Children are mentioned explicitly in many of the human rights instruments; standards are specifically modified or adapted where the needs and concerns surrounding a right are distinct for children.

2.1.3 United Nations Children's Fund (UNICEF)

Created by the United Nations General Assembly in 1946 to help children after World War II in Europe, UNICEF was first known as the United Nations International Children's Emergency Fund. In 1953, UNICEF became a permanent part of the United Nations system, its task being to help children living in poverty in developing countries. Its name was shortened to the United

Nations Children's Fund, but it retained the acronym "UNICEF," by which it is known to this day.

Leclerc B, (2007) asserted that, UNICEF helps children to get the care and stimulation in the early years of life and encourages families to educate girls as well as boys it strives reduce childhood death and illness and to protect children in the midst of war and natural disaster. UNICEF supports adolescents, wherever they are, in making informed decisions about their own lives, and strives to build a world in which all children live in dignity and security. Working with national governments, NGOs (Non-Governmental Organizations), other United Nations agencies and private-sector partners, UNICEF protects children and their rights by providing services and supplies and by helping shape policy agendas and budgets in the best interests of children.

2.1.4 The family and children court²⁸

This court is established as a novel aspect aimed at the observance and enforcement of juvenile's legal rights. The court is expected to be established in every District and many other lower governments units designated by the chief justice²⁹. The court has to be presided over by a magistrate not below Grade 11³⁰. This court has powers to determine criminal charges against children³¹. It also has jurisdiction to hear and determine all criminal charges against children except offences which attract a death penalty and any offence for which a child is jointly charged with a person over eighteen years of age³².

Where the charges against the child have been admitted or proved against him/her, the court has a discretion, may either discharge for not more than twelve months; binding the child over to be of good behavior for a maximum period of twelve months, compensation, restitution or fine taking into consideration the means of the child so far as they are known to the court. The Court, however, cannot make an order of detention in default of a fine³³.

²⁸ Section 13(i) the children act cap 59

²⁹ The children act cap 59

³⁰ Section 13 (2) ibid

³¹ section 14(1) (a) ibid

³² S.104 ibid.BN

³³ S.94(a)-(g) ibid 27

The court can also make a probation order in accordance with the Act³⁴ (Cap 109) for not more than twelve month. This order is supposed to be made with such conditions as may be recommended and Social Welfare Officer. The probation order however cannot require a child to reside in a remand home.

In case the court decides to impose a punishment of detention on a child, it must abide by the requirement of the statute. A child under sixteen years can only be put under detention for a maximum period of three months³⁵. A child above the age of Sixteen years can only be put under detention for a maximum period of twelve months³⁶ if the offence with which the child is charged attracts a death penalty, a child can only be detained for a maximum period of twelve years³⁷.

The statute defines detention as placement in a centre designated for that purpose by the Minister in circumstances and with such conditions as may be recommended to the court by the Probation and Welfare Officer³⁸.

In case the child has been remanded in custody prior to an order of detention being made in respect of him/her, the period spent on remand is expected to be taken into account when making the order of detention³⁹. Detention is only to be recommended as a last resort and when court is satisfied that a suitable place is readily available where the child is to be detained⁴⁰. The rationale for this requirement is to avoid a child being detained in an adult prison.

The Act requires, further that a child or a person under whose custody he/she is to be together with the order under which he/she is committed. The order is sufficient authority for the detention centre to receive the child and detain him/her. Corporal punishment is outlawed in respect of a child who has either admitted the charges or against whom they have been⁴¹.

³⁴ Probation act (cap 109)

³⁵ S.94(1)(g) ibid 27

³⁶ Ibid27

³⁷ Ibid s.95(a)-(g)

³⁸ Ibid s.94(2)

³⁹ Ibid s.94(3)

⁴⁰ Ibid s.94(4)ibid 27

⁴¹ S.94(9)ibid27

The foundation for the condition of punishment regarding such a child is to ensure that even if he/she has admitted, the charges or they have been proved against him/her; there was a still chance of such a child to be rehabilitated or reform. The statute considers that a child should not be XC society at risk; especially the child commits a serious offence like murder. In public will feel that such a person should be detained for a longer period commensurate with offence⁴² committed.

However, considering the fact that a child below 18 can easily reform and become a good citizen in future and considering the requisite elements of crime, namely, Mensrea and actus reus, which must be proved through a vigorous trial, there is justification for such a child to be detained for a short period. The trial procedure in ordinary court is normally so rigorous involving cross-examination of witnesses. Prosecution must prove beyond reasonable doubt that the accused person actually committed the offence, and that the requisite elements of a criminal offence were actually present at the time the person committed the offence⁴³.

2.1.5 Procedure and sitting of the family and children court

The statute requires that where possible the family and children court sit in a different building from one normally used by other courts⁴⁴. The rationale for this is not given in the statute. However, considering the procedure lay down in the statue, it might, indeed, necessitate such arrangements so put in place. It is anticipated that the court should sit as often possible⁴⁵ and that the proceeding should be held in camera⁴⁶. If the family and children court is to sit in the same building and perhaps the same chambers or courtroom as the ordinary courts, it is likely that those statutory requirements cannot be met, The ordinary courts sitting arrangements would have to be interrupted from time to time and probably, these may not be an ideal environment for holding the trials in camera.

The requirement that the court be held in a different environment from that ordinary in trying other cases, Uganda does not have especially skilled magistrates to handle juvenile cases solely

⁴² Ibid27

⁴³ The case Woolmington Vs R (1935) A.C where the court, inter alia held that prosecution must prove that the accused must have intended to committed the offence at the time in question when it is allege that he committed the offence.

⁴⁴ S.15ibid 27

⁴⁵ S.16(a) ibid 27

⁴⁶ S.16(b)ibid 27

to the exclusion of other cases. This being the case, it appears that the provision of the statute in that regard may not be expected to be achieved even in the near future. This by itself makes the whole legal regime governing the protection of juvenile a sham.

Further considering that a child may not be able to withstand the rigors of examination and cross-examination during trials, the statute requires that those proceedings in the court be as informal as possible and by inquiry rather than by exposing the child to adversarial procedures⁴⁷. In the regard the statute recognizes the need for the protection of the legal rights of juvenile delinquent and considering their age, they deserve a fair trial by undergoing simpler procedures throughout the trial. Such procedures are intended for confidence building in the child who would tell the court the true version of his /her case or defend himself effectively.

In all trials conducted in Family and Children Courts, the statute requires that parents or guardians of the child be present⁴⁸. At least if one of the two is not present, probation and social welfare officer should be present. The purpose of this, according to our interpretation is to give child psychological satisfaction and security against the adverse court atmosphere during the trial, and that those responsible for his/her upbringing are still caring.

The child's legal rights under the statute are guaranteed by requiring that in all proceedings before the court, the child shall have a right to representation⁴⁹. The statute is salient as to whether the legal representation shall be provided by the state. But considering the fact that most children who commit criminal offences come from very poor environment, it is not expected that such children would afford expensive legal services. However, a number of legal Aid Clinics have been established to assist in such cases but unfortunately most of these clinics are confined to urban areas such as Kampala and Jinja whereas the majority of deserving cases are in rural areas which are unattended to. Secondly, these clinics are overwhelmed by the increasing numbers of juvenile delinquents particularly the street children.

⁴⁷ S.16 ©ibid 26

⁴⁸ S.16 (d) ibid26

⁴⁹ S.16(e) ibid 26

Once the court find child guilty it may make an order and in that regard, it must explain to the child affected as to his/her right of appeal ⁵⁰ the procedures through which trials in family and children court go through are spelt out in the Family and children court rules, 1998 discussed later in this paper. In addition to the person who is authorized to be present during the trial of a child, the court may its discretion permit any of the following persons to attend the proceedings, namely; parties to the case before the court, their advocates, witnesses and other persons directly concerned in the case; parents or guardians of the child before the court, a probation and social welfare officer, any other person whom the court authorizes to attend court⁵¹.

The purpose of permitting the presence of only a few persons in court is mainly to ensure that the child does not feel intimidated at all stages during the trial.

In all cases, the family and children court must make an order in respect of child is beneficial to him/her⁵².

2.1.6 Theories of juvenile delinquency control

The control theories in explaining delinquency address both self-control and social control' they have origin in classical criminology. They are to the effect that individuals with low self-control tend to get involved in delinquency especially in situations of low social control.

From the social perspective, the structure of society promotes the exclusion of youth from many types of relationship which exclusion ultimately leads to delinquency (e.g.) employment, marriage etc. exclusion from mainstream legitimate opportunities for economic and social advancement leads to delinquent conduct e.g. of gangs and youth cliques.

There is a direct relationship between theories of delinquency causation and the choice of methods and programs to control it. Understanding this relationship reveals the root of police tendencies to base their actions in the classical school and court, the correctional personnel to use the positive school, i.e. individual treatment, changes in society, punishment or a combination of these strategies.

⁵⁰ S.12 *ibid* 26

⁵¹ S.16(2)*ibid*27

⁵² S.17 *ibid* 27

2.1.7 The justice system in Uganda

It has already been discussed, prior to the 18th century; children did not hold a protected status. It is only in the 18th and 19th centuries that the idea developed, that children should be treated in a special way. During the 19th century in western countries “child saving” institutions were established and eventually the state became heavily involved in reforming delinquents through the juvenile court system

The provisions of the children’s Act and the African child charter is said to have three principals objectives, namely, to secure for the child the basic needs for subsistence and rounded growth and development, to secure for the child a framework for the child’s participation in the making and implementation of decisions which affect the child and to protect the child against all forms of delinquents. Those rights⁵³ intended to secure basic needs for growth and development include the right to education, the right to life, survival and development, the right to the highest attainable standards of health, the right to social security, the right to rest, play, recreation and leisure, and right to a standard of living conducive to the mental, physical and moral development of the child and the responsibilities and obligations placed on parents and other relatives to secure the best that is possible for the child. Those rights intended to secure the child’s participation; autonomy and independence include the right to express his or her views in respect for all decisions concerning that child and the rights to freedom of expression, thought, religion, conscience, association, privacy and access to information. Those intended to secure their physical, mental, moral and spiritual development and protection from harmful practices include: protection against discrimination; the rights to family re-unification and to be brought up by one’s parents or family; the right to be protected against physical and mental violation, injury and abuse, negligent treatment and maltreatment; the right to be protected against all forms of exploitation including sexual abuse and sexual exploitation, economic exploitation and hazardous labor; the right to be protected against illicit narcotic drugs; freedom from torture and cruel and inhuman punishment and treatment; the right to be protected against abduction and illicit transfer and the right to be protected when in difficult circumstances.

In recent years, Uganda’s children have been let down by the systems that should be protecting them. Although their rights are recognized by law, many of the organizations that ought to be

⁵³ S.5(1) (s)-(f) *ibid*27

enforcing these rights are not running. And, when childcare issues are raised at the village level, local councils are consistently weak at handling them. As a result, many of Uganda's children suffer abuse/neglect without anything being done about it. A Department For International Development (DFID)-supported agency is working in Uganda to alert more people to child abuse, and to ensure that action is taken against it. The African Network for Prevention and Protection against Child Abuse and Neglect provides support to abused children, engages with communities to increase awareness, and lobbies for changes in policy. Juvenile delinquency is a growing problem in Uganda. In the past, communities shared the responsibility for bringing up and protecting children. However, this traditional structure has gradually given way to the modern family unit, in which parents or guardians take care of the child's welfare and development. With the watchful eye of the community disappearing, many children have become vulnerable to mistreatment.

2.1.8 Working with delinquent adolescents in Uganda

If the person working with delinquents adolescents is too quick in shutting off normal adolescent expression of verbalization and behavior, this can compound the problems for the delinquent's youngsters. The extensive separation of youth from adults often contributes to peer considerable influence over other youths.

There are two basic strategies for working with adolescents

- (a) Emphasis on rethinking and redefining the place of adolescent in contemporary society, often taking the form of mainstreaming children's right.
- (b) Emphasis on interacting with individual delinquents is an adolescent first and a delinquent second.

The first strategy emphasizes increasing children's rights; the second strategy emphasizes one-to- one interaction with adolescent. At the extreme, is the criminal and treatment model?

Promotion of children's rights is modeled on the belief that adolescent can make judgment as wisely as adults limiting intervention into the lives of youngsters will avoid doing unintended harm. Adolescents should have the right to "learn by doing" some have argued that they should

have the right to challenge parental authority as well. Dealing with delinquents is to result into combination of encouraging nurturance and self-determination.

The second strategy involves counseling. Adolescent though, in general are very difficult to work with. Delinquents present an even greater challenge.

2.1.9 Handling the juvenile delinquents

The legal basis for the juvenile court can be traced back to the concept of parent's patriae

(Parents of the country / father of the nation / the state acting as parents). The professed objectives of the juvenile proceedings at their inception was not to contest a criminal charge but to determine what could be accomplished in the best interest of the child. Several methods for the observance of this principle have been developed.

The Convention on the Rights of the Child contains⁵⁴ articles and is a comprehensive instrument setting out rights that define universal principles and norms for the status of children from being expose to delinquents. It is the only international human rights treaty which covers the whole spectrum of civil, political, economic, social and cultural rights of children. It includes economic and social rights with the recognition that these are progressively realizable and depend on the resources available to the state party. The CRC offers the highest standards of protection and assistance for minors compared to any other international instrument; For example, protection standards go beyond the usual guarantees of health, education and welfare, to guarantees which relate to the child's individual personality, rights to freedom of expression, religion, association, assembly, and the right to privacy.

(a) Caution/Bail

The police are the first major component in the juvenile justice system to deal with the juvenile Delinquents. The police have a great deal of the discretionary powers. Many factors determine whether a youth is to be proceeded or not and whether he/she may eventually end up in the formal juvenile justice system. The decision is usually based on the circumstance surrounding the offence, the nature of the offence itself, and an assessment of the youngster's family situation. The children Act though requires police officers to apply caution and release rather

⁵⁴ *Child rights (1989)*

than arrest and detention as the primary method of dealing with delinquents. The latter should be resorted to only when it is absolutely necessary.

When juvenile is eventually taken to court, Rule 25⁵⁵ require that he/she should be released on bail except where grant of bail is likely to pose a serious danger to the child. In both approaches therefore, there is a clear concerted efforts directed towards the avoidance of keeping juveniles in custody as much as possible.

(b) Custody

The law of arrest is the same for juvenile as it is for adults. A police officer must have probable cause to believe that a suspected juvenile⁵⁶ has committed an offence before he can arrest him/her. Mere suspicion is not enough but even absolute certainty is not required either.

Once taken in custody, the juvenile enjoys the same rights as do adults i.e. notification of relatives, bond, medical attention etc. (see Article 23 of the constitution, 1995).

(c) Search and arrest

The law governing search and seizure is the same for both adults and juveniles. One area of controversy though which pertains to adolescents but not to adults is the right for parents/school authorities to search students and their belongings. S. 36⁵⁷ empower children's courts to issues search and production orders in respect of juveniles.

(d) The juvenile court

Section 13⁵⁸ sets up a court known as the family and children court for every district in Uganda Part 5 of the⁵⁹ provides for the making of supervision and care orders. These are made on application of probation or social welfare officer. A child is placed under supervision of a probation officer while in custody of his/her parents or relatives or by being placed in an approved home care or with a foster parent S. 17⁶⁰ require that such orders be made only where

⁵⁵ *The family and children court rule 1998*

⁵⁶ *The constitution of Uganda 1998*

⁵⁷ *Of the children act.*

⁵⁸ *Of the children's act cap 59*

⁵⁹ *The children's act cap 59*

⁶⁰ *Ibid*

court considers that in doing so it would be beneficial to the child (best interest of the child principle). These orders, under S.21 of the⁶¹, are made where a child is suffering or likely to suffer significant harm attributable to want of care parents or the child being beyond parental control. The case in point is **IN THE MATTER OF MIREMBE SARAH [AN INFANT] MISC. APPLICATION NO. 58 OF 1992 [1992-1993] HCB 187 (Justice ONGOM). HELD**, That the guiding principle case of guardianship is the welfare of the child. The full impact of this principle cases is that the court will be inclined to grant guardianship of an infant to the applicant if to do so will be beneficial to the child. This will be irrespective of the nationality of the applicant. In this case, the child was produced in court and not only looked healthy but also seemed to have taken to the applicant as a child mother. And in the circumstances the welfare of the infant would be greatly promoted by the agent of guardianship to the applicant

2.3.0 Prevention and reversal of delinquency

Prevention efforts rest on the assumption that causes of delinquency, whether biological, sociological or psychological, can be identified and removed. There are generally two major categories of programs; pure prevention and rehabilitation.

(a) Pure prevention

These programs are usually two pronged; directly offering services to individual youths as well as strengthening the capacity of local efforts in communities with high delinquency rates. They combine youth's development strategies with strengthening the social structure of control. These programs though are usually un-coordinated and severely underfunded.

(b) Institutionalization

This takes place where juveniles are placed in remand homes or approved schools. This is a form of rehabilitative prevention. S.3 (2)⁶² of the probation Act empowers courts to order for an offender to reside in an institution approved by the Minister (usually approved homes). The period of residence in such an institution is not to exceed 12 months. Under S.29 of order, the maximum period is 3 years or until the child is 18 years, whenever is the shorter Reformatory schools are designed to keep custody of delinquents below 16 years for purposes of rehabilitation

⁶¹ *Ibid*

⁶² S.19(3) *ibid* 27

rather than punishment while approved homes are for keeping custody of convicted juveniles, for purposes of education in training and deterring them. In the latter case parents are required to make contributions to their up keep.

(c) Probation

This can be implemented in respect of first time, low risk offenders or as an alternative to institutional confinement. It is a tool of rehabilitation prevention. Under section 2 (1)⁶³ However, for offender under 14 years of age, the order is not to be made unless the offenders express is/her willingness to comply with the requirement of the order e.g. residence etc. it is meant to ensure that the offenders remain under supervisor so as to ensure good conduct and prevent a repletion of the same offence or commission and other offences.

S.7⁶⁴ is to the effect that a person sentenced to probation is deemed not to be a criminal offender but if such a person not being under the age of 17 years breaches the terms of probation as a result of which he/she is sentenced on the original offence, on such sentencing he loses protection of this section.

(d) Community service/restitution

The book of Mushanga Mwene⁶⁵ and the Act⁶⁶ permits the sentencing of offenders convicted of minor offences to community service instead of imprisonment. Technically, this Act permits the sentencing of children to community service. This though poses problems with question of child labor. As it is provided under Article 34(4)⁶⁷ which provide that children are entitled to be protected from social or 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 their health or physical, mental, spiritual, moral or social development.

⁶³ *Probation act cap 13*

⁶⁴ *Ibid 40*

⁶⁵ *Crime and deviance page 196*

⁶⁶ *The community service act cap 115*

⁶⁷ *The constitution of the republic of Uganda 1995*

2.3.1 The family and children court rules, 1998

These rules were made pursuant to section 17, 19, 83 and 84⁶⁸ of the children Act, they provide for the necessary details as to procedure laid down in the statute in respect of trial involving children. For instance, the rules provide that the general procedures relating to trials of criminal cases in the magistrates' court apply to the trial of criminal case in the family and children court.

The rules however, modify the procedure applicable in magistrate's court to suit the requirements of a special trial organized for a child. Evidence in the court is not to be given from a witness box. Further, the rules authorize the magistrate to apply any necessary precaution as he/she deems fit during the trial to safeguard the legal interest of the child under trial. This procedure is also to be followed even on appeal.

2.3.2 Jurisdiction and procedure in criminal cases

Rule 24⁶⁹ provides that every case before the court should be handled expeditiously without unnecessary delay and should be conducted from day to day.

Adjournments are only permitted in exceptional circumstances, only short period adjournments are permitted.

Rule 25 provides for bail and the procedure to be followed by the magistrate presiding over the court in granting bail to child. The rules also provide for the application of the provision of S.142⁷⁰ in respect of the summary trial. They further lay down the procedure to be followed in case the presiding magistrate decides to go through a full trial procedure. The court is also expected to promote reconciliation between the complainant and the child. This is done basically to minimize instances of detaining the children in the National Rehabilitation Centre establish under S.97 of the statutes. The probation and social welfare is expected to make a report on the suitability of the places of detention.

⁶⁸ Ibid 27

⁶⁹ Family and children court rules

⁷⁰ Magistrate court act, cap 16

CHAPTER THREE

3.0 PRESENTATION OF FINDINGS

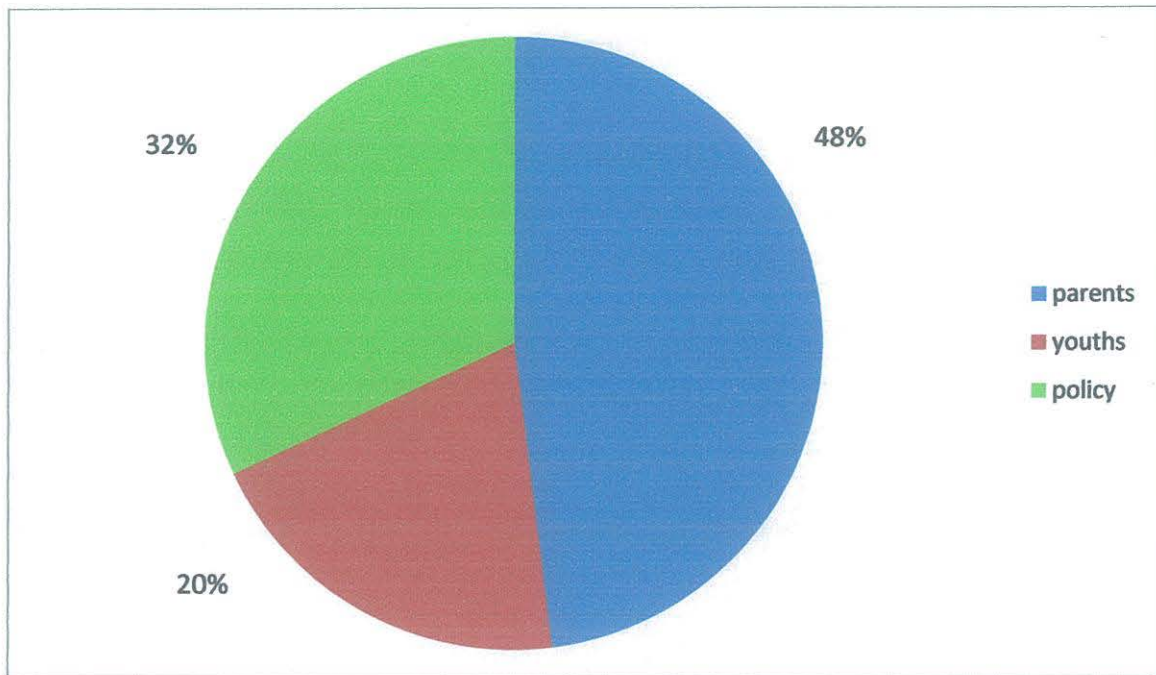
In achieving these findings, the researcher visited the areas where the study was limited to, that is Naguru Remand Home. The researcher left out questionnaires to mainly the literate group. These had guiding questions which the researcher gave to individual respondents to fill. The researcher gave some two days to respondents to study and fill the questionnaires, interaction with the local and non-participatory accompanied by documentary review at offices of the remand home where the study was limited to. During the field survey various issues were found out and these ranged from; the causes of juvenile Delinquency in the post mentioned visited areas, ways how juvenile offenders are handled, the measures that can be put in place to curb juvenile delinquents in Uganda.

3.1 Data Gathering Procedures

The data-filled questionnaires were copied and analyzed by tallying and tabling in frequency polygons while identifying how often certain responses occurred and later evaluation was done. The information was then recorded in terms of percentages. The recorded data was later edited and interpreted which ensured uniformity, legibility and consistency. Also, interview, results were coded on frequency tables which were calculated in terms of percentages and presented in this study as illustrated below.

3.2 SECTION A: BACKGROUND CHARACTERISTICS OF THE RESPONDENTS

Figure 1: Category of Respondents who participated



Source: Primary Data

During the field survey, it was found out that the biggest percentage of respondents were parents as represented by 48% followed by youths who were represented by 32% whereas 20% of the interviewees were policy makers implying that, parents greatly participated in the study as illustrated in figure 1 above.

Gender of respondents

During the field it was found out that, males took a greater percentage in the survey as represented by 82% whereas 18% represented females, implying that, males to a greater extent participated in the study because they are prone to bad habits which expose them to remand homes as portrayed in the figure 2 below.

Figure 2: Gender of respondents

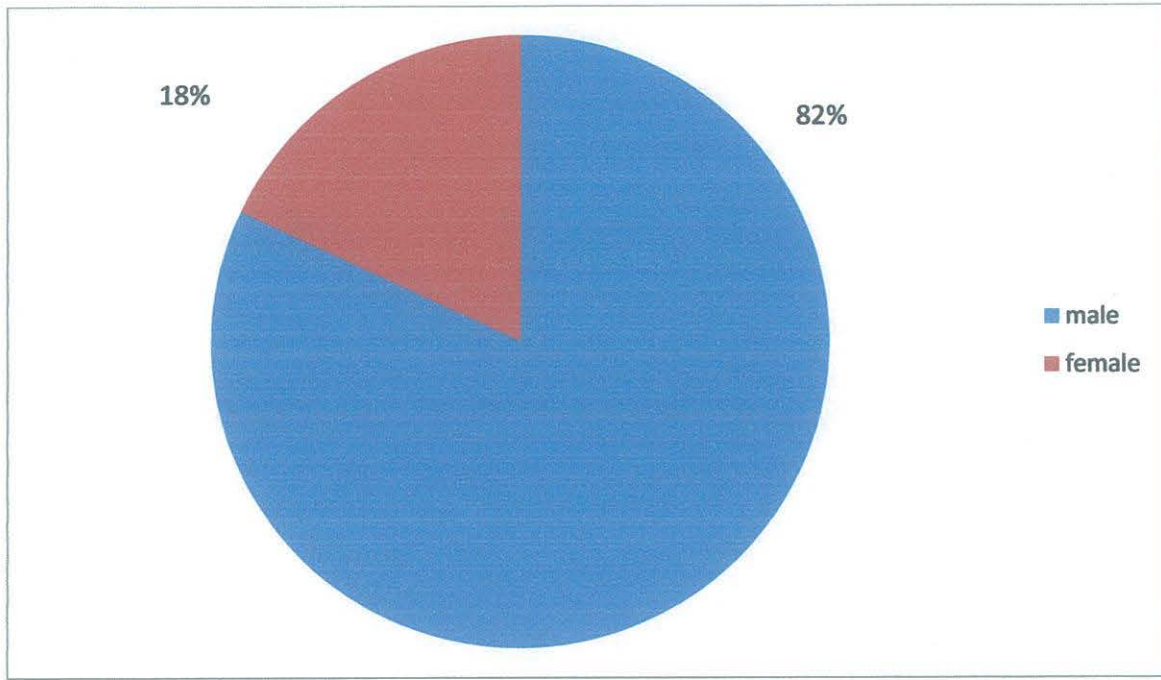
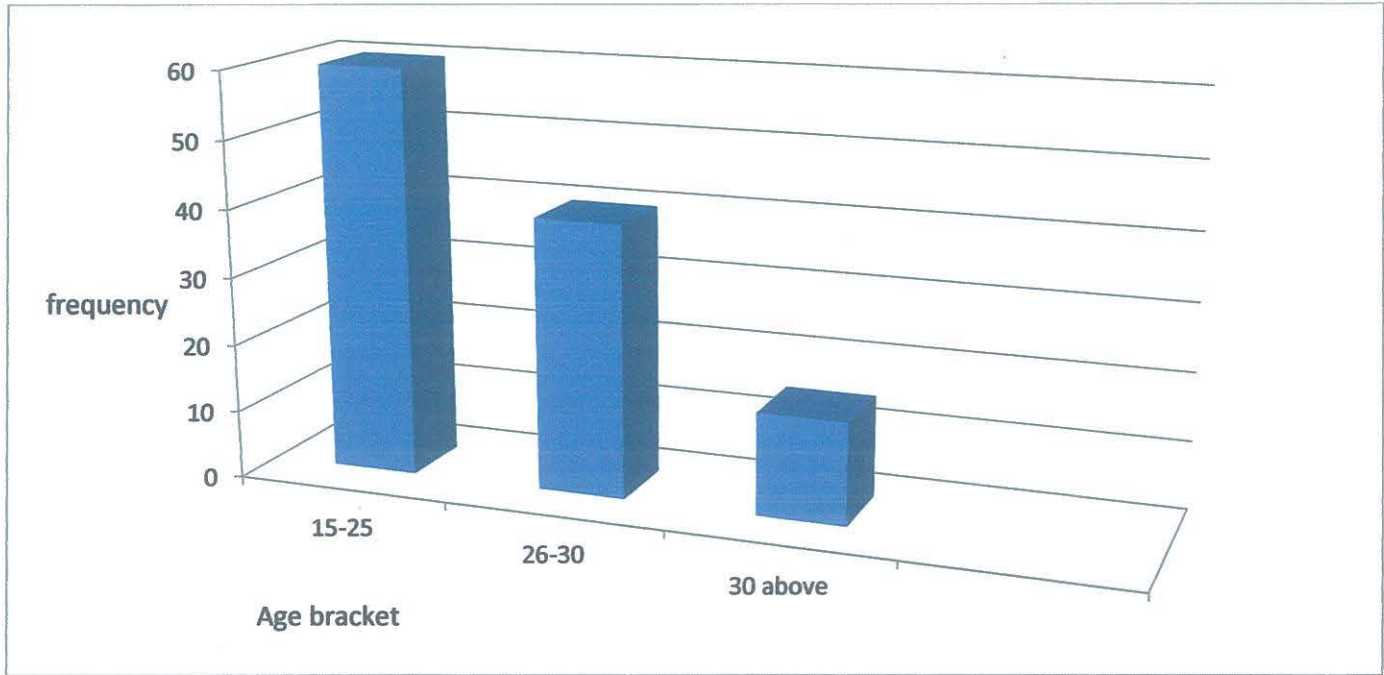


Figure 3: Classification of respondents by age



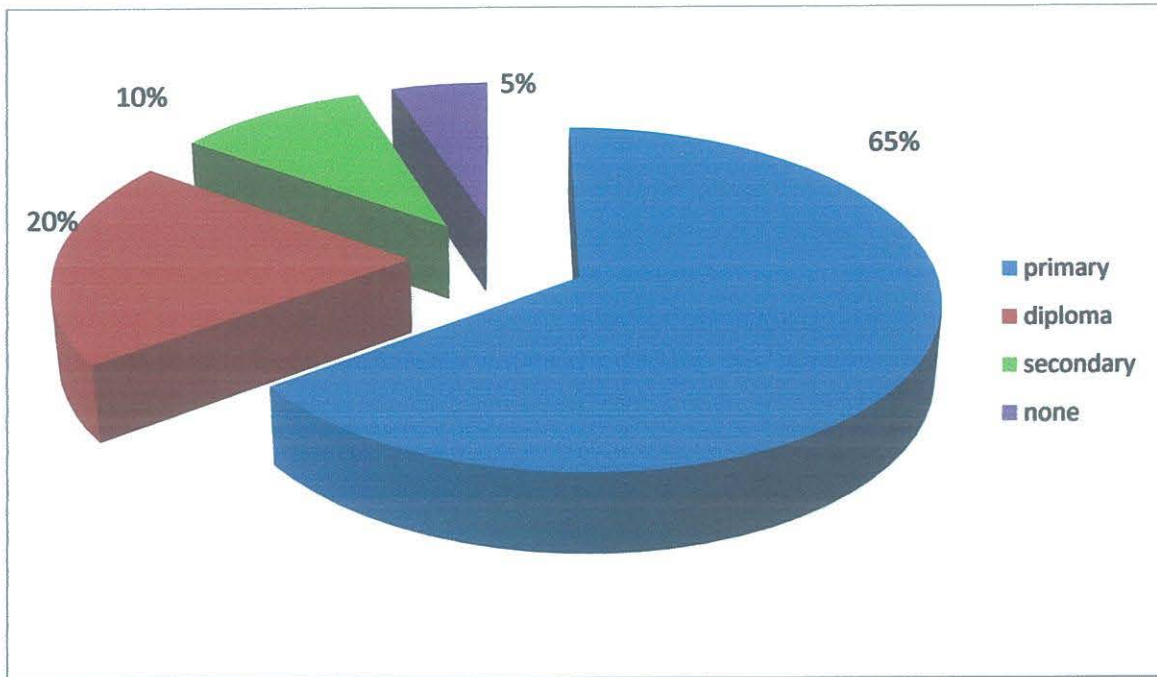
Source: Primary data

Figure 3 shows that the biggest percentage of the interviewees were in the age bracket of 15-25 years as showed by 60% while 40% represents interviewees who were in the age bracket of 26-30 years, 15%of the respondents were in the age bracket of 30 years and above.

Respondents' level of education

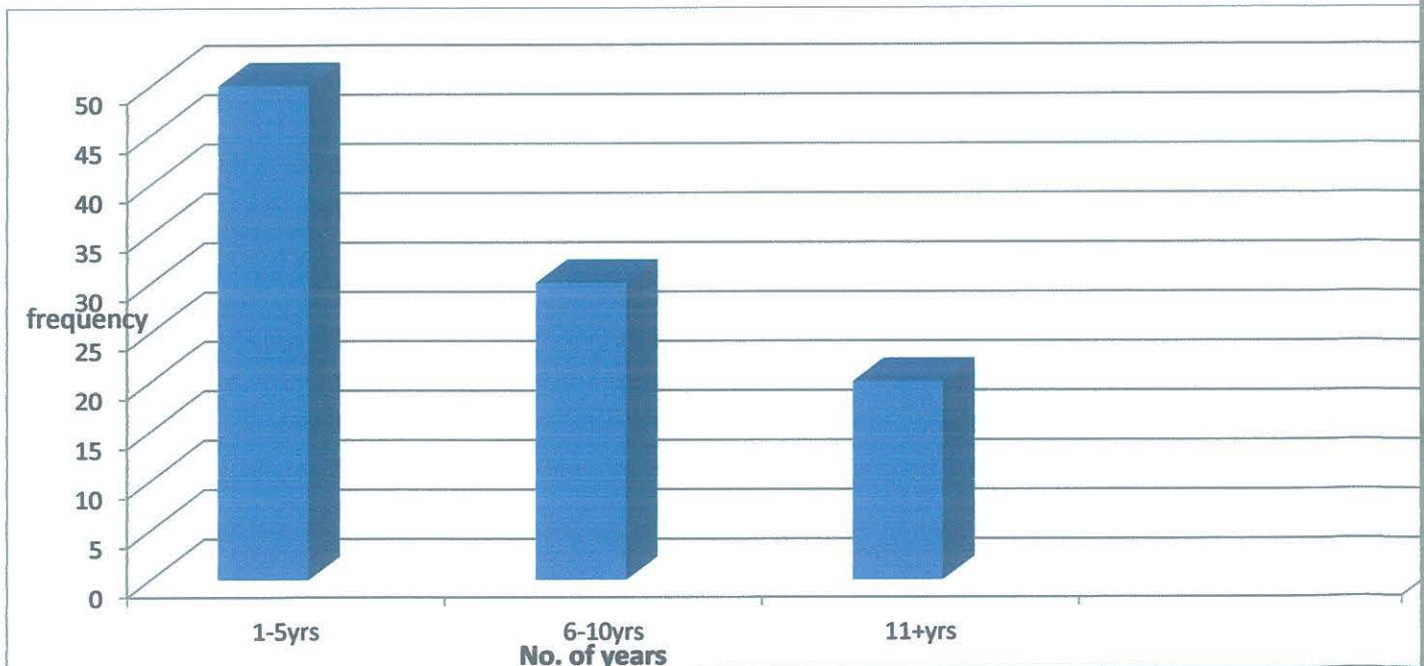
The biggest percentage of respondents were primary drop-outs as it was revealed by 65% of the respondents, then 20% represented respondents who had completed diplomas (administrators) in different fields whereas 10% of the interviewees were secondary school drop-outs, and the least percentage had not attained any level of education as showed by 5% in the figure 4 below.

Figure 4; Respondents' level of education



Source: primary

Figure 5: number of years of service of respondents



Source: Primary Data

From the figure above, it was found out that the biggest percentage of the respondents had been in the home for a period between 1-5 years as represented by 50% whereas 30% shows respondents who had stayed in the remand home for the period between 6-10 years, 20% represents interviewees who had stayed in the home for the period of 11 years and above.

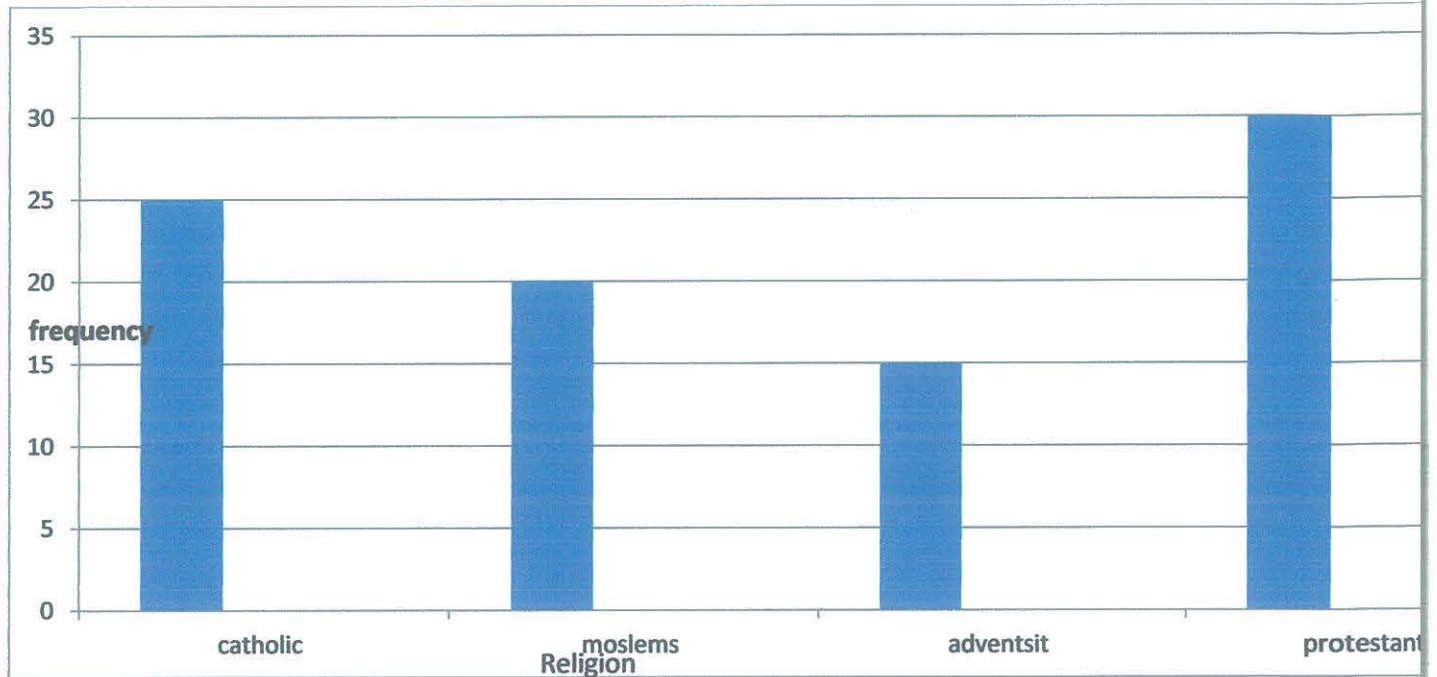
Table 1; Respondents' marital status

Marital status	No of years	Percentage
Married	20	40
Single	18	36
Separated	10	20
Living with partner	02	04
Total	50	100

Source: Primary data

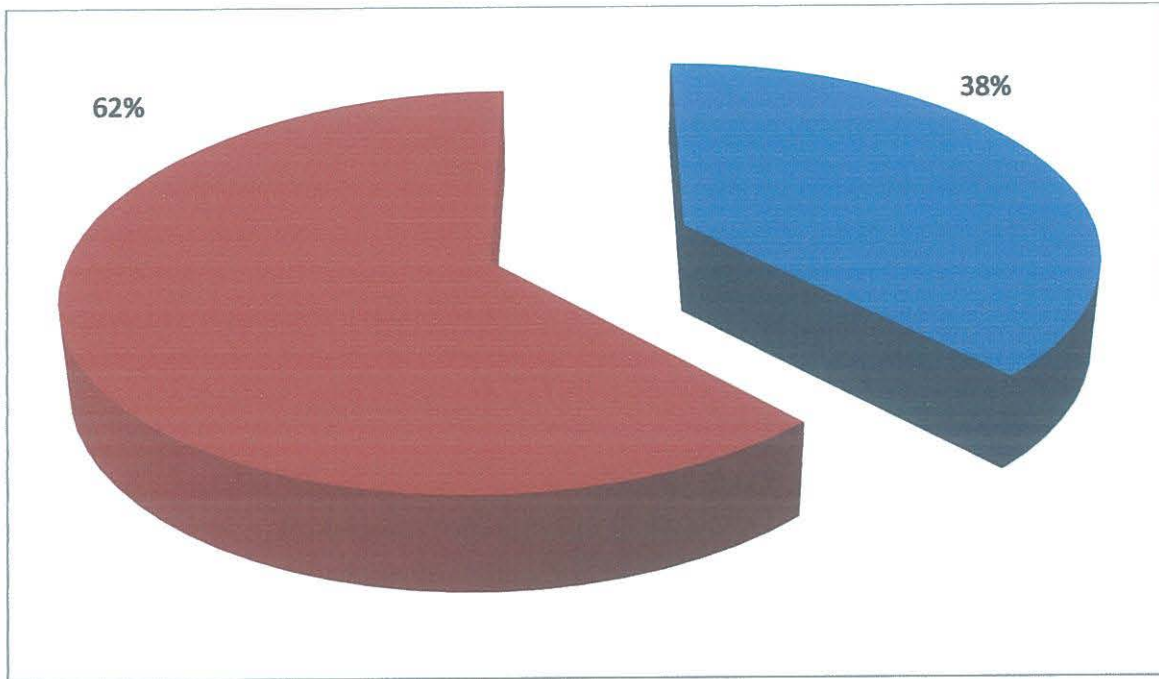
An assessment of the respondents' marital status was as follows; the biggest percentage of the respondents were found to be married as shown by 40% where as 36% of the interviewees were single, 04% of them were living with partners but were not officially married lastly 20% of the respondents were separated from their spouses as illustrated in table I above.

Figure 5: Respondents' religion



During the field study, it was found out that majority of the respondents were Protestants making 30% of the respondents, 20% of the respondents were Moslems and 15% were Adventists and lastly the Roman Catholics which were revealed by 25% of the respondents in figure 5 above.

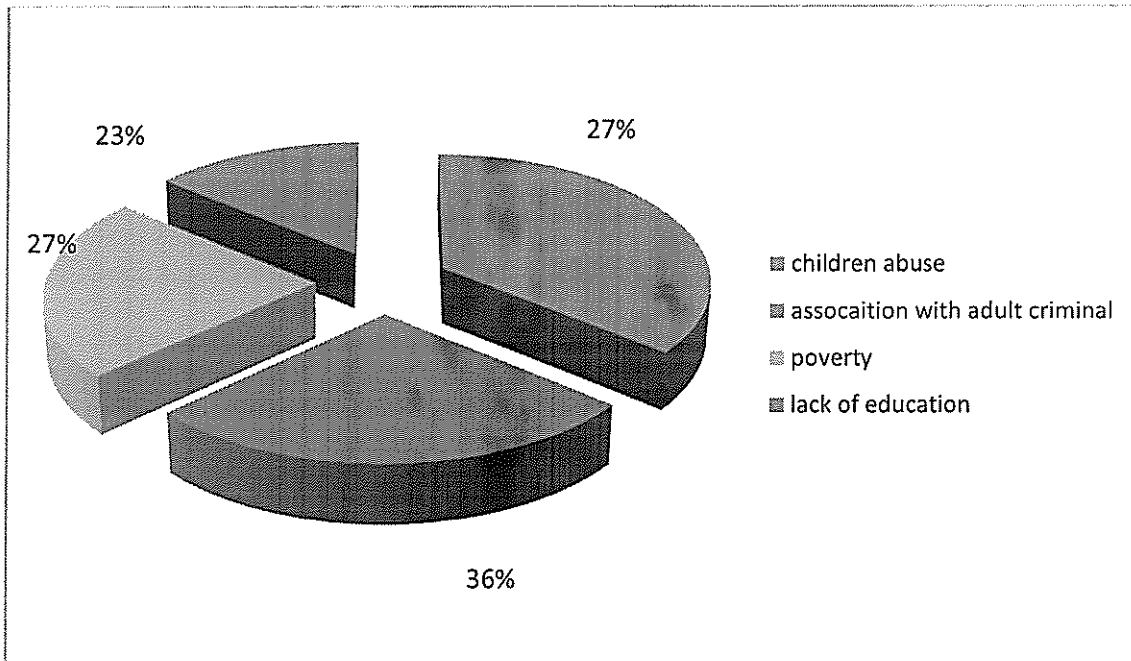
Figure 6; Awareness of Juvenile Delinquency



Source: Primary data

From the above figure, it was found out that the biggest percentage of 62% was aware of the Juvenile Delinquency in the remand home whereas 38% of the respondents surprisingly were not aware of Juvenile Delinquency in the remand home implying that those who were not aware they were put in these homes when they were not informed.

3.3 SECTION B: CAUSES OF JUVENILE DELINQUENCY INCIDENTS



Source: Primary data

3.3.1 Causes of juvenile delinquency in Uganda

Child abuse

From the questionnaires where were able to be answered, child abuse was the front-runner in causing juveniles delinquency in the visited areas. Several juveniles loiter in the areas of and Naguru Remand Home committing petty crimes which comprise of delinquency. As one of child aged 15 years who used to spend his nights on the streets of Kampala volunteered gave information after payment of some money, He said that he comes from Makindye division and he was trued of being punished every night by his alcoholic father, thus ran away from home and found himself at Naguru Remand Home. On being asked his means of survival he replied, “Nze Nkuntula Deelu” which literally means he engages in illegal transaction like pick-pocketing and transacting in illegal substances like marijuana.

Poverty

From the research carried out it was found out that, poverty has greatly contributed to delinquency especially on the girl-child. Poverty has been used as an excuse to engage in prostitution as a means of survival. A Street in Kampala called William Street near sax pub is the place where this business is carried out. After parting with four thousand shillings a group of prostitutes volunteered information. The group consisted of girls below and above 1 year; but all pointed to poverty as the cause of their plight one picked interest in because she looked a juvenile dropped out of school in senior two because the mother couldn't afford school fees. When the father of her child abandoned her, she had no alternative means of survival apart from prostitution which is delinquent behavior. And since our field finding is both based on primary and secondary data it was also discovered in the book of Tibananya Mwene Mushanga⁷¹ where it was commonly believed that poverty causes crime: that a bulk of the petty Thierry, burglaries

⁷¹**Musa Mushanga Crime and Deviance —an introduction to Criminology**

And larcenies are committed by the poor Clinard states that in a society with vast increases in national wealth, the result of increased industrialization, technology and the possibilities of social planning, poverty may be regarded as a form of o deviation

Family factors which have an influence on offending include; the level of parental supervision, the way parents discipline a child, parental conflict or separation, criminal parents or sibling, parent abuse or neglect, and the quality of the parent-child relationship. Children brought up by lone parents are more likely to start offending them those who live with two natural parents, whoever once the attachment a child feels towards their parent(s) and the level of parental supervision are taken into account, children in single parent families are no more likely to offend than others. Conflict between a child's parents is also much more closely linked to offending than being raised by a lone parent, asserts that if a child has low parental supervision they are

⁷¹ Musa mushanga crime and deviance –an introduction to criminology

much more likely to offend. Many children have found a strong correlation between a lack of supervision and offending, and it appears to be the most important family influence on offending.

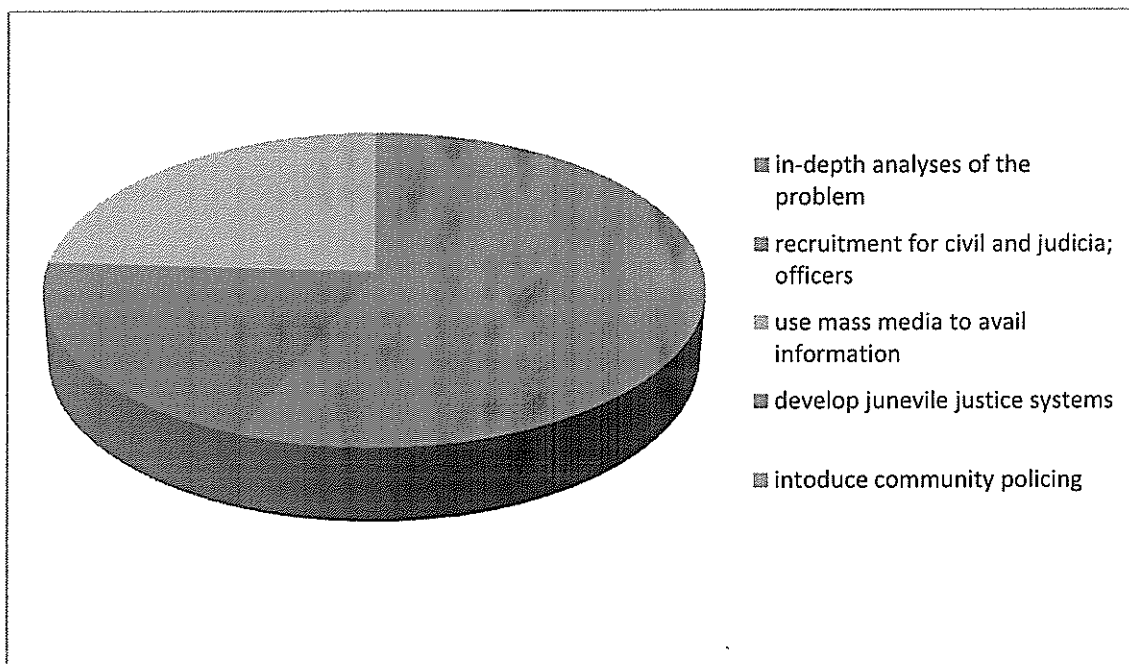
Association with adult criminals

Association as a cause of juvenile delinquency involves interaction between the juvenile and hard core criminals. This was theorized by Professor Edwin Sutherland in his theory of differential association where he says that criminal tendencies are learnt through interaction with criminals in his book *Crime and Deviance behavior*. The policy makers raised the problem of many cinema halls dubbed “Bibanda” and garages as a cause of juvenile delinquency in his area. He said that, young boys both school going and non-school going visit these cinema halls and interact with hard-core criminals who smoke marijuana, chew mairungi and sniff petrol. These adult criminals introduce this delinquent behavior to these young innocent children. He proposed that cinema halls which admit children below 18 years should close down.

Lack of education

This was another cause of juvenile delinquency which was pointed out. Lack of education is two-way that is as a voluntary act of the children and involuntary act the too poverty. It was found out that in 10 juvenile 4 do not go to school, and true to the saying, “An idle mind is the workshop of the devil” these non school going children loiter around the mentioned visited slums looking for what to eat.

3.4 SECTION C: POSSIBLE MEASURES THAT CAN BE PUT IN PLACE TO CURB JUVENILE DELINQUENCY IN UGANDA



Source; Primary data

Delinquency prevention is the broad term for all efforts aimed at preventing youth from becoming involved in criminal or other anti-social, activity, increasingly, governments are recognizing the importance of allocating resources for the prevention of delinquency. Because it is often difficult for nations to provide the fiscal resources necessary for good prevention, organization, communities and governments are working more in collaboration with each other to prevent juvenile delinquency. Prevention services includes activities such as substance abuse education and treatment, family counseling, youth mentoring, parenting education, educational support, and youth sheltering.

Government should institute in-depth analyses of the problem and inventories of programs, services involved in preventive efforts. The government should put in place policies,

programmes and strategies based on prophetic studies to be continuously monitored and carefully evaluated in the course of implementation.

Also, the current government's outlaw on recruitment for civil and judicial officers aggravates the problem of juvenile injustice in Uganda since the children statute was enacted, at least three years ago; no special training programme has been carried out for the implementation of the status provision. The establishment of the family and children court in 1998, therefore, appears to be a feature that Uganda was not adequately prepared to have and has now been rendered redundant.

Family- every society should place a high priority on the needs and well-being of the family and of all its members. Since the family is the central unit responsible for the primary socialization of children, governmental and social efforts to preserve the integrity of the family, including the extended family, should be pursued. The society has a responsibility to assist the family in providing care and protection and in ensuring the physical and mental well-being of children. Adequate arrangements including day-care should be provided.

Education-education system should favour the needy children, in addition to their academic and vocational training activities, devote particular attention; teaching of basic values and developing respect for the child's own cultural identity and patterns, for the social values of the country in which the child's own and for human rights and fundamental freedoms; promotion and development of the personality, talents and mental and physical abilities of young people to their fullest potential; undertaking activities that foster a sense of identity with and of belonging to the school and the community.

Community-community based services and programmes which respond to the special needs, problems interest and concerns of young person and which offer appropriate counseling and guidance to young persons and their families should be developed, or strengthened where they exist.

In such situations where juvenile delinquents are in the influential stages of their physical, emotional and mental development, the community should ensure that such development are not hampered by such provisions in the children statute, 1996 and it should, therefore, be revisited to incorporate this mode of treatment of juvenile delinquents if their interest are to be adequately

protected. Human rights laws must be seen within the entire political, social cultural and economic setting of the country. If the goal of observing juvenile delinquents legal rights is to be observed, then the country's juvenile justice must be tailored to be country's state of economic development. Since there are no universal of legislation appropriate to all countries, each country must formulate its own rights laws, in particular, children laws which reflect its own realities. Mass media- The mass media should be encouraged to ensure that young persons have access to information and material from a diversity of national and international sources. The mass media should be encouraged to portray the positive contribution of young person's to society. The media generally, and the television and film media in particular, should be encouraged to minimize the level of pornography, drugs and violence.

Many countries had developed Juvenile justice systems in order to deal with young offenders. This concept was derived from a belief that the problems of Juvenile delinquency and related problems of youth in irregular situations are not amenable to resolution within the framework of the traditional processes of criminal law. Juvenile Justice Systems, therefore, have been designed to respond to the needs of young offenders. One principal role has been to provide specialized preventive and treatment services for children and young person's as means for "secondary prevention", rehabilitation and improved socialization.

In some countries the concept of Juvenile Justice, as a social service, is perceived as having fallen short of the goals and objectives originally set. Factors such as rapidly increasing numbers of young persons, insufficient resources and aggravated social and economic dislocations have had a devastating effect on the ability and capacity of the juvenile Justice systems to deal effectively with the broad range of individual and social problems which characterize Juvenile delinquency.

The modern trends of community policing the world over require that the community should benefit from the efforts; the efforts of perpetrators of the law in the society. The traditional punishment by incarceration is therefore increasingly discouraged particularly in some cases where the offender is convicted of a crime of a less serious nature. Protagonists of this school of thought argue that it is both decent and rehabilitative to commit a person convicted of a criminal offence to community service in the local area where the offence was allegedly committed. It is further suggested that members of the family of the convicted person should not be denied of

this/her ordinary domestic rights and obligation, especially where such a person is the sole bread winner of the family.

A visit at Naguru Remand Home, it was found out that, it is too small to accommodate escalating number of juvenile offenders, It was found out that the cell which was built to accommodate at most 50 offenders, accommodates over 100 offenders due to lack of enough infrastructures. A warden at the Remand Home said that, on average they review 30 juvenile offenders per day and they have no facilities to accommodate them thus they have to pack them in the small cells available.

The warden further noted that the congestion has led the rise of the problem of homosexuality among the juvenile offenders. This is because; of late many of the offenders are sex-related criminals such as defilement and rape.

It is contended that for a law to adequately address the problem of juvenile delinquents in Uganda, it should be made after exhaustive consultations have been made and funds in place for the necessary infrastructures required to facilitating its enforceability. This virtual significantly absent in the process of law making in Uganda such as the Children Statute which seemingly envisaged a situation whereby government and donor agencies would rapidly come in to save the situation in this field, but all in vain.

Another mistake in the children's statute is the failure to incorporate and consolidate the law governing the treatment of juvenile offender in the army, since it undertakes to provide for all children's rights in Uganda. The National Resistance Army Statute, does not provide for the standards set forth for trial of children, neither does it expressly provide that it has jurisdiction over soldier children who commit criminal offences, but merely defines a juvenile delinquent in its S. 108 as a child soldier who commits an offence under that statute, but does not lay down procedures for the trial and detention of children soldiers. It is evidently clear that the Children Statute is discriminative between ordinary children and soldier children. However, an interview with any army officer in the Uganda People's Defense Forces, formerly National Resistance army revealed that historically children soldiers who committed offences were arrested, detained and tried with adults and there are no special facilities for them, because, according to this source, the Army policy is giant recruitment of children in the Army although they are in fact

have been recruited. As it rightly be observed, the children statute which was enacted after the National Resistance Army Statute, did not address all the issues yet in order for the framework law to adequately address all the issues relating to children delinquents right, it should identify and address all children's rights including those in Sectoral laws like the NRA statute.

The Children Statute attempts to make provisions which are in line with the international normative demands for the enforcement and observance of juvenile legal rights, yet it has failed to keep pace with the social, provision redundant. Since the statute was enacted a number of social-economic changes have been taken place. There is need for the government to take the necessary measures for its implementation to meet the intention for which it was enacted.

CHAPTER FOUR

SUMMARY OF KEY FINDINGS, RECOMMENDATIONS AND CONCLUSION

4.0 Introduction

This chapter mainly deals with summary, conclusion and recommendation related to the juvenile delinquency under the laws of Uganda drawn from the findings and analysis made after conducting the study. Juvenile delinquency aspect was characterized by the causes, effects copying mechanisms in relation to the laws protecting them⁷².

4.1 Summary of Key Findings

Over the past several decades, it has become apparent that juvenile delinquency is a problem on the rise around the world. The problem is a lingering threat for the years to come for the generation of the young adults of today, basing on the field results. There are probably a million beliefs on what actually causes this delinquency among children and teenagers⁷³ but in the end they all seem to be linked back to poor parenting and lack of care by their loved ones. The end to this problem is nowhere in sight, but as a simple suggestion to parents, love those whom you have brought into this world and do not allow them to fall victims to the society that surrounds them.

It is recommended that government should enact stringent laws prohibiting importation of guns to arm children. Instead government should establish more learning centers which can take and absorb all street children to learn various skills through various vocations courses from which they may be oriented to becoming useful future citizens who will positively contribute to the economic and social development of this country.

⁷² Otto, *dissertation on child delinquency, Makerere University, 1997*

⁷³ *Ibid.* Beatrice Obbo in her article contained in the magazine "Uganda's stress children"

In case a juvenile has been found guilty of a criminal offence, detention or custodial sentence should be used only as a last resort.⁷⁴ where other options like community labor can be enforced, and then custodial sentence should be avoided. Where a child has been arrested or custodial sentence has been imposed on the child, he or she should not be detained with adults. Female children should be detained separately from male detainee.

Contrary, government should take immediate intervention steps to avert possible future unhappy incidents such as have occurred in the developed countries where school children killed their schoolmates and teachers by shooting on the school premises. Indeed these atrocities were not committed by street children but it can be argued that since street children are prone to committing any crime, given chance, preventive measures should be put in place. The American and British experience was due to the absence of any prohibitive legislation to restrain children to be possession of firearms. It was reported in the international Newsweek Magazine of April, 1998 that according to the American National Institute of justice, children had free access to guns and nearly 2 million of them own them.

A widespread nationwide guiding principle on the prevention of juvenile delinquency is urgently needed, possibly by bringing together various government bodies, including NGOs and other multi-sectoral institutions such as religious organizations which would play a positive role for moral and spiritual rehabilitation. Such guidelines and programmes would develop strategies towards more positive public attitudes on civil, economic, social and cultural values Mechanism need to be developed for more effective co-ordination for NGOs, government departments, local governments to fully participate in matters relating to prevention of child delinquent.

In order to ensure effectiveness of juvenile justice officers should be given special training in juvenile case management so that during their trials children rights main inviolable as required by the law. Indeed, training of judicial officers requires a lot of financial backing therefore, the government should be prepared to meet these challenges, it the goals forth in the children status are to be realized. Since the subject of child delinquency calls for a national concern, further research should be carried out particularly on the causes of this phenomenon with a view to finding better preventive measures rather than place all hopes in court which should be used

⁷⁴ A paper presented at a public Islamic university sin Uganda, m bale campus on may 30 (1998) in commemoration of 30 years of Ugandan crisis of 1998.

when all other means have exhausted. Issues regarding children delinquents should be addressed and resolved at community level whenever possible. The local community should be given adequate sensitization on children issues, guidance on how to handle juvenile's cases and technical advice whenever required; community sensitization, therefore, should be adopted as major tool in this regard.

Arresting officers should be given special training on interrogation techniques in a humane manner and where possible in the presence of a close relative, guardian or the probation and social welfare officer. In all cases interrogations should be conducted by a person of high moral integrity acting as a person. Intimidation or threats conducted as expeditiously as possible to avoid undue delay.

As regards the protection of the rights of juvenile offenders, Uganda Law Reform Commission should propose a bill to parliament which will impose stringent measures to punish any person who in disregard of the law mistreats children such as beating, molesting or in any way abuses the legal right of the children even when a child commits a crime. Punishment of children delinquents should only be administered in accordance with the law relating to trial of children by the court.

Upon release, a child should immediately be reintegrated into society for moral and social rehabilitation with the assistance of the probation and social welfare officer and other civic leaders. Where a child has no known home to the authorities, such should be sent to a child's home designated for that purpose on the advice and recommendation of Probation and Social Welfare Officers. It is therefore recommended that government should recruit and equip a sufficient number of Probation and Social Welfare Officers throughout the country at local and national level.

4.2 Conclusion

From the study carried out, it was identified that, a lot of research has been carried out on the subject of juvenile delinquency in Uganda. Most of this research has been carried out by social scientists who seek to establish the causes of criminal behavior in children. However, legal research in this field is still inadequate because of this fact, juveniles rights remain to be violated in this country. Attempts by the Ugandan government to realize juvenile, too are hampered by

the international community. Being a developing country, Uganda can not afford to implement the standards set at the international level. Willingness to observe and the enforcement of these standards without a sound economic backing national policy is too idealistic to insure that the desired goal is achieved.

It is noted that there are disparities in pace of making the law and putting in place other mechanism to facilitate the enforcement of this law. This include the government to adequately focus its attention not only at making the law but also at its implementation and enforcement

The law relating to the protection of juvenile delinquents has failed to keep place with modern trends in the social, cultural, economic and political development in Uganda, hence it has remained inadequate. The way forward is to implement the children status and observes the relevant provision of the international instruments regarding the protection of juvenile delinquents.

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