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**CHALLENGES FACED BY CHILDREN DELINQUENTS IN ACCESSING JUSTICE IN
UGANDA**

CASE STUDY: NAGURU REMAND HOME

A dissertation presented to

SCHOOL OF ARTS AND SOCIAL SCIENCES

in partial fulfillment of the requirements for the award of the degree

Master of Arts in Local Governance and Human Rights

UGANDA MARTYRS UNIVERSITY

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October 2015

DEDICATION

To the entire Orech family; Martin, Alice, Teddy, Lucy, Julia, Paul and Emmy. Thank you all for the sacrifices you have made for me especially in relation to my studies. May you all realize that nothing is impossible as long as you have the support of loving family and friends, set your goals, work hard and God will help you achieve them.

ACKNOWLEDGEMENT

I would like to express my sincere thanks to my supervisor Dr. Denis Musinguzi who persistently encouraged me to put more effort in this work, constant advice and also for his patience. In addition to that, he read and corrected every small mistake that added value to this work.

Special thanks go to my family that has significantly contributed towards my studies. You have all been selfless in this regard and I really appreciate that. I am confident that your constant support and advice will propel me to a better future.

I also want to appreciate my classmates who provided me with time, information and positive feedback which also enabled me to continue working on this document as well as endless support and advice.

I appreciate the contribution of my lecturers who provided me with the knowledge to carry out research and write this dissertation.

I wish to thank all the respondents in the community of Naguru Remand Home where the research was conducted especially the remand children and their care takers who took time off their busy schedules to meet with me, share and provide valuable information making this piece of work what it is now.

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ACRONYMS

CAP:	Chapter
ICC:	International Criminal Court
LRA:	Lord's Resistance Army
NGO:	Non-governmental Organization
UN:	United Nations
UNICEF:	United Nations Children's Fund

ABSTRACT

The study was conducted to examine the challenges of children delinquents in accessing justice in Naguru Remand Home which is based in Kampala. It specifically sought to examine the nature of crimes/offences committed by the children delinquents at Naguru Remand Home; examine procedural challenges faced by children delinquents in Naguru Remand Home in the due process of accessing justice; examine how these challenges impact on accessing justice; and to establish strategies for improving children access to justice in Uganda

The study population was of children delinquencies between the ages of nine to seventeen years. Apart from the children, their care takers including: social workers, administrators, counselors, support staff as well parents, lawyers and government officials. These were selected using simple random sampling and purposive sampling methods. Collection of data was done by qualitative methods that saw the researcher using in-depth interviews and focus group discussions to elicit information from the respondents.

A total of 28 children were assessed at Naguru Remand Home. Majority (90%) had not yet accessed justice. This is especially in regard to the fact that there were delays in their being transported to the different courts for the hearing of their cases. All (100%) had significant psychosocial needs presenting as difficulty with their primary support, economic, social environment, or educational systems.

The children delinquents in Naguru Remand Home urgently need to access justice. Most of them actually want to return to school as they have been on remand for too long sometimes stretching to periods of up to one year instead of the statutory 6 months. The government through the Ministry of Gender, Labour and Social Development needs to intervene especially in the procedural process of enabling these children access justice by for instance ensuring that there is transport for the children to be taken to court for their court sessions. Further the government needs to also intervene through the Ministry of Justice in ensuring that the children have legal representation. The challenges affecting the access to justice by children delinquents need to be addressed as a matter of urgency.

CHAPTER ONE

GENERAL INTRODUCTION

1.0 Introduction

This study focuses on the challenges of children delinquencies in accessing justice upon being remanded at Naguru Remand Home. Children delinquents are those who have contravened or disobeyed the law. They are therefore eligible to face justice. This is because these children have engaged in a number of criminal activities for example stealing, killing, fighting, rape among others and have been remanded. A child according to section 2 of the Children Act Chapter 59 of Uganda's laws is a person below the age of eighteen years.

Delinquency is defined as the quality or state of being delinquent; a tendency towards behaviour that is not in accordance with accepted social standards or with the law; having a tendency to exhibit socially unacceptable behaviour (Robert M. Regoli and John D. Hewitt, 1991/2000). Juvenile delinquency is conduct by a juvenile characterized by antisocial behaviour that is beyond parental control and therefore subject to legal action (Merriam-Webster dictionary, 2015). That is, they are minors, usually defined as being between the ages of 10 and 18 who have committed some act that violates the law.

Most legal systems prescribe specific procedures for dealing with juveniles, such as juvenile detention centers and courts. A juvenile delinquent in the United States is a person who is typically under the age of seventeen and commits an act that otherwise would have been charged as a crime if they were an adult. Depending on the type and severity of the offence committed, it is possible for persons under eighteen to be charged and tried as adults (Seigel, Larry: 2006). With the above explanation therefore, this research delves into finding out the challenges of

children delinquencies in accessing justice right from the time they are remanded at Naguru remand home, Kampala District to accessing justice in the Courts of Law.

1.1 Background of Study

The term justice is associated with equity, equality, human rights, fairness, respect, integrity, trust, empowerment, dignity, kindness, appreciation, people development, community development, contribution, dialogue, democracy, participation and also with values like responsibility, care, empathy, social intelligence, intuition, sensitivity, service, sharing, generosity, volunteerism, compassion, selflessness and positive impact on society (Holtz B. C, 2009).

Justice has been defined as protecting rights and punishing wrongs using fairness according to the Law dictionary. It is on this bench mark that this research targets access to justice by children delinquents in Naguru Remand Home. There is no specific definition of what constitutes or amounts to “access to justice” in international instruments or standards. The definition provided by the United Nations Development Programme defines access to justice as, “the ability of people to seek and obtain a remedy through formal and informal institutions of justice, and in conformity with human rights standards.”

According to the Report by the United Nations High Commissioner for Human Rights on Access to Justice for Children in 2013, access to justice was referred to as, “the ability to obtain a just and timely remedy for violations of rights as put forth in national and international norms and standards, including the Convention on the Rights of the Child.” As per this report, the concept of access to justice for children requires the legal empowerment of all children. Children should be able to access relevant information and effective remedies to claim their rights, including legal and other services, child rights education, counseling or advice, and support from

knowledgeable adults. Moreover it must be noted that access to justice for children requires taking into account children's evolving maturity and understanding when exercising their rights.

Access to justice has, thus, two dimensions: procedural access (having a fair hearing before a tribunal) and also substantive justice (to receive a fair and just remedy for a violation of one's rights). Important to note is that protection of rights must continue through all stages of the legal process, from the time of reporting the crime, to following the grant of a remedy by the court to make certain that it is enforced. (TT.Bella, O.Atilola and O.O. Omigbodun, 2009).

Access to justice for delinquents who have participated in gross human rights violations during war or armed conflict has also been provided for in a number of international instruments and these include compensation, rehabilitation and support among others. These range from the Basic Principles to Guidelines on the Right to Remedy and Compensation of Victims of Gross Violations of International Human Law and Serious Violations of International Humanitarian Law of 2005. In Uganda this includes children who were abducted and recruited into the Lord's Resistance Army (L.R.A) during the insurgency in the North that lasted 20 years. However, despite the existence of the above provisions, there are still a number of challenges that have made justice elusive to these children delinquents as well. That is, whilst those in favor of traditional justice see peace as a prerequisite for justice, those in favor of the International Criminal Court see justice as a prerequisite for peace and this has an influence on children delinquencies in accessing justice in Naguru, Kampala city Uganda (Tuell, J.A 2002)

Social justice means that people are enabled to realize their potential to contribute their knowledge, talents and capacities and that all such contributions are valued. Social justice is the broadest category of justice with dimensions such as equity of opportunities and equality of all human beings, with special emphasis given to equity in gender roles (Peterson C, 2004). Social

justice exists when all people share a common humanity and therefore have a right to equitable treatment, support for their human rights and a fair allocation of community resources. It is hinged on the premise that everyone has the same indefensible claim to a fully adequate scheme of equal basic liberties and that social and economic inequalities are to satisfy conditions of fair equality of opportunities and to greatly benefit the least advantaged members of society (Rawls, 2003). Social justice is concerned with the way resources are allocated to people by social institutions (Miller, 1979). In relation to this study, social justice is important as it aids in actually curbing delinquent behaviour early. If there is access to education, health care and even the judicial process to mention but a few, then the high numbers of delinquent behaviour would significantly reduce. This would reduce incidents of committal of offences by delinquents in the first place as a way to cope with living in the society and having their needs taken care of.

Children caught up in delinquent behavior have either been remanded for theft, assault, murder or for fighting among themselves to mention but a few (Marianne Moore, 2010). Boys are the majority as compared to girls in regard to delinquent behaviour. Compared to boys, the girls involved in commission of crime are those working as maids or struggle with tramped up charges by their bosses. The environment in which children are exposed to leads them into committing crime, for example orphans to children left with house helps who have very little or no guidance at all regarding what is right and wrong. Drug abuse and alcoholism, broken marriages and single parents contribute to delinquent behaviour for the sake of survival. Other delinquents engage in delinquent behaviour because they are not in school due to lack of fees or no desire at all to study due to peer pressure. Further others are involved in casual activities to earn a living for instance, pottering, digging, slashing among other related casual activities which hardly pay enough to meet their daily basic needs.

As the connection between child maltreatment and future crime and delinquency is established, the challenge to policymakers, professionals, and the community at large is to design the most effective responses (Wisdom C.A 1995). The responses can be seated in the various prevention and intervention programs that are familiar to the child welfare and juvenile justice systems. Critical to this challenge is the embrace of common goals and common responsibility to interrupt the trajectory of juvenile and criminal offending that seems to be the destiny for at least some of these victims of child abuse and neglect (National Child Abuse and Neglect Data System, 2001). The link between maltreatment and delinquent behaviour cannot be ruled out entirely because delinquents are mainly children in difficult circumstances at homes, broken families that are forced to engage in delinquent behaviour like pick pocketing, stealing food stuff among many others just to survive and many of these children are 18 years and below. In addition to that children caught up in delinquent behaviour are from Northern Uganda. Most of these children having escaped the after math of the Lord's Resistance Army civil war that lasted for twenty years returned home and were forced to deal with broken homes and poverty. Though many moved to urban areas like Kampala, survival meant engaging in delinquent behaviour like theft or assault to mention a few. Other children delinquents are from villages, having come to the city to survive only to engage in delinquent behaviour to do so.

In Uganda, various laws have been put in place to protect children delinquencies in the society from a number of challenges and abuses as the Constitution has made it clear that every child is entitled to care and protection. This is especially emphasized in the Constitution of the Republic of Uganda, 1995 as per article 34 which entails the rights of children in general. Other laws have been put in place specifically targeting the well being of children like the Children Act, cap 59.

Uganda being a signatory to the UN Convention on the Rights of the Child, 1990 (CRC), adds on it the responsibility to protect the rights of children and meet internationally accepted and set

standards in this regard. The Children Act chapter 59 of the laws of Uganda is not only an act to reform and consolidate the law relating to children but also to make provision for children charged with offences and other connected purposes. In fact this Act as per section 2 defines a child to mean a person below the age of 18 years. This is critical because this is the age bracket under which children delinquents fall.

The welfare principle and the children's rights for instance set out in the First Schedule to the Children Act Cap 59 shall be the guiding principles in making any decision based on this Act. A child is entitled to live with his or her parents or guardians. However as per the same Act, where a competent authority determines in accordance with the laws and procedures applicable that it is in the best interests of the child to separate him or her from his or her parents or parent, the best substitute care available shall be provided for the child. This explains why as per section 91(1) of the Children Act, court may make an order remanding or committing a delinquent child in the custody of a remand home.

Subject to section 3 of the same Act, rule 1 of the first schedule to the Children's Act is to the effect that the welfare principle shall be the guiding factor for that competent authority. It states that whenever the state, a court, a local authority or any person determines any question with respect to the upbringing of a child, the child's welfare shall be of paramount consideration. In the decided case of **Nakaggwa vs Kiggundu (1978) HCB 310**, Court recognised the welfare of the child. It defined welfare to mean, "circumstances affecting the well being and upbringing of the child". However it is critical to note that being a child does not eliminate responsibility. In fact as per section 88 of the Children Act of Uganda, the minimum age of criminal responsibility shall be 12 years; this explains why children in Naguru Remand Home are from the ages of 9 to

17 years. This means that at these ages they have to take up responsibility for their actions including delinquent behaviour.

Important to note is that children were formerly held for defilement, now referred to as child to child sex because the law did not favor boys. In fact this is clearly spelt out in the Penal Code Act Cap120, section 129 A (2) which is to the effect that where a sexual act as described in section 129 (7) (a) and (b) of the same Act is committed by a male child and a female child upon each other when each is not below the age of twelve years, each of the offenders shall be dealt with as required by Part X of the Children Act Cap 59. This means where children between the ages of 12 to 17 consent to have sex, this falls within the bracket of delinquent behaviour for which they will be remanded.

The Government of Uganda is a signatory to a number of International instruments and these include; UN Convention on the Rights of the Child, 1990 (CRC), The African Union Charter on the Rights and welfare of the child,1999, The Palermo Protocol to Prevent, Suppress and Punish Trafficking in persons especially Women and Children Supplementing the UN Convention against Trans-national Organized Crime, 2000, The Optional Protocol to the Convention on the Rights of the Child on the Sale of children, Child Prostitution and Child Pornography, 2002 and the Optional Protocol to the Convention on the Rights of the Child in the Involvement of Children in Armed Conflict, 2000. All these emphasize the importance of taking appropriate measures and strategies to promote and protect the rights and welfare of the children. In fact being a signatory to the UN Convention on the Rights of the Child, led Uganda to domesticate it into the Children Act which commenced in 1997.

Thus the government is an important key player in ensuring that the access of children delinquents to justice is met by ensuring that the internationally set standards of the same are

adhered to. The research thus sets to investigate the challenges children delinquents face in accessing Justice when they are caught up on the wrong side of the law with a case study of Naguru Remand Home.

1.2 Statement of Problem

There are an increasing number of children delinquents in Uganda today. This is because the factors leading to children delinquency are varied. Children delinquents are vulnerable individuals in society. However many children delinquents are violently beaten, ill-treated and sometimes killed when they commit crimes or offences. Since they are minors, they are usually detained in remand homes, including Naguru Remand Home. For those that are eventually remanded, they come face to face with the dilemma of accessing justice. Not only is the justice system slow because of backlog of cases in the juvenile justice system but other reasons explain this, the result of which is that these challenges prevent so many children delinquencies from accessing justice. These children have disobeyed the law and have committed either misdemeanors or felonies against the state. They include but are not limited to theft, assault, murder, rape and burglary.

The state has an obligation on its part to protect its citizens and thus children who commit crimes are strictly liable to prosecution by the state. These are children below 18 years and mainly from different situations such as poor homes, broken families, conflict of war to mention but a few who engage in a number of criminal activities for survival for example, pick pocketing, stealing, assault and murder among many others. However, children delinquents still have a right to access justice which can be in the form of legal representation, bail, information regarding their cases and even attending their court sessions.

However on ground, the reality is far from this. Children have been remanded beyond the statutory limit of 3 to 6 months while many have no information in relation to their cases. Worse still their entitlement to legal representation has not been met by the government. A visit to Naguru Remand Home explains these as the reasons why the children are frustrated with the juvenile justice system in Uganda. This has led to overcrowding in the facility originally meant for a much smaller number of children of just 45. This has led to an overwhelmed administration at Naguru Remand Home. Beyond this is the government's role in ensuring that children delinquencies access justice through procedural facilitation which is not being met like providing the children with free legal representation, finances to the remand home to ensure that children are transported to court in time for their court sessions. Therefore, the research is set to examine the challenges of children delinquents in accessing justice in Uganda and come up with strategies to improve on the situation.

1.3 Objectives of the Study

1.3.1 General Objectives of the Study

The main objective of the study is to examine the challenges of children delinquents in accessing Justice in Uganda at Naguru Remand Home.

1.3.2 Objectives of the Study

- i. To examine the nature of crimes or offences committed by children delinquents at Naguru Remand Home.
- ii. To examine the procedural challenges faced by children delinquents in Naguru Remand Home in accessing justice.

- iii. To examine how procedural challenges faced by children delinquents in accessing justice impact on them.
- iv. To establish strategies for improving access to justice by children delinquents in Naguru Remand Home.

1.3.3 Research Questions

- i. What is the nature of crimes or offences committed by children delinquents at Naguru Remand Home?
- ii. What are the procedural challenges in accessing justice by children delinquents at Naguru remand home?
- iii. How do procedural challenges faced by children delinquents in accessing justice impact on them?
- iv. What are the strategies for improving access to justice by children delinquents in Naguru Remand Home?

1.4 Scope of Study

1.4.1 Geographical Scope

The study is carried out in Naguru Remand Home, Kampala. Naguru is located in Nakawa Division, in the Northeastern part of the city. It is bordered by Ntinda to the East, Nakawa to the Southeast, Namuwongo to the south, Kololo to the Southwest, Kamwokya to the West, Bukoto to the Northwest and Kigoowa to the North. Its location is approximately 4.5 kilometers Northeast of Kampala's central business district.

1.4.2 Content Scope

The study is focused on examining the challenges of children delinquents in accessing Justice in Uganda. The researcher will focus on children delinquents; what it means and the challenges children delinquents face in accessing justice in relation to the provisions which exist for this. The researcher will also focus on some of the ways in which key players like government can intervene to ensure that children delinquents better access justice due to them.

1.4.3 Time Scope

The research study therefore is focused on the period from 2000 to date and will target all categories of respondents most especially children as well as adults, administrators and care takers of the children. The period 2000 to date was chosen because of the recent child escalating high numbers of children delinquents being remanded at Naguru remand home.

1.5 Justification of the Study

This study is relevant in view of the challenges juvenile delinquents face in accessing justice. It is clear that international instruments like Convention on the Rights of the Child, 1990 (CRC), The African Union Charter on the Rights and welfare of the child, 1999 to mention a few, as well as national laws of Uganda spell out the right to legal representation, bail, fast and speedy hearing and rehabilitation of delinquents. However the reality on ground is far from what the legal provisions are on paper. This is because children delinquents are facing various challenges in accessing justice. This has often led to long periods of remand from the statutory period of 3 or 6 months as provided for under section 91(5) (a) and (b) of the Children Act stretching to a year or more in the remand home. Further there is failure by the children to attend their court sessions on time or even at all to mention but a few. Why is this the case and yet the procedural laws are in place at an international and national level? More to this, the children

delinquents have to deal with overcrowding at Naguru remand home, thereby halting their education since studies are not conducted at the facility as well as isolation from their families. If they were able to access justice as provided for by the relevant laws, many would either be released or committed for rehabilitation as soon as possible. Not only would this be a positive effect of accessing justice but would also decongest the already overcrowded remand home. This would also enable the children enjoy their other rights like education, health to mention but a few.

This study therefore aims at investigating what challenges children delinquencies face in accessing justice by giving them as well as the administration at Naguru remand home and other respondents an opportunity to give their side to what these challenges on ground actually are. In fact when the children are given an opportunity to be heard or share their experiences, it generates valuable information to the study that also contributes to their empowerment and development.

Further this study will give a deeper insight and understanding into the juvenile justice system in Uganda as well as what role the government has to play in order for children delinquents at Naguru remand home to access justice.

This study will document information and give recommendations that can be used to sensitize the public, Non-Governmental Organizations and Government on the need to not only tackle child delinquency at the community and family level but also the need for these children to better access justice efficiently and expeditiously when caught on the wrong side of the law.

1.6 Significance of the Study

The study will help in empowering the children delinquents to access justice as not only does it offer them a deeper insight into their rights. This is because questions on whether they have

access to free legal representation, bail or attended court session will be put to them. This will inevitably force the children to demand these rights to enable them access justice.

The study will help in improving the status of children to access justice who are remanded not only in Naguru Remand Home but also in other remand homes across the country. This is important as it is highly likely that the challenges faced by the children at Naguru remand home in accessing justice are being experienced by other children in remand homes across the country. This will act as an eye opener to key players like parents and guardians of the children delinquents, judicial officers, government and administrators in the remand homes to the urgency for them to play their part in ensuring that the children access justice.

The study will also give a deeper insight into the procedural elements especially on the judicial system in Uganda in relation to juveniles. This is important in as far as the right to free legal representation paid for by the state is concerned, that is, do the children delinquents have access to lawyers paid for by the state or are they forced to hire their own lawyers? If so, can all the children afford this expense? It will also look into the right to a fast and speedy hearing as provided for by article 28(1) of the Constitution of the Republic of Uganda. In fact section 99(1) of the Children Act is to the effect that every case relating to a child delinquent shall be handled expeditiously and without reasonable delay.

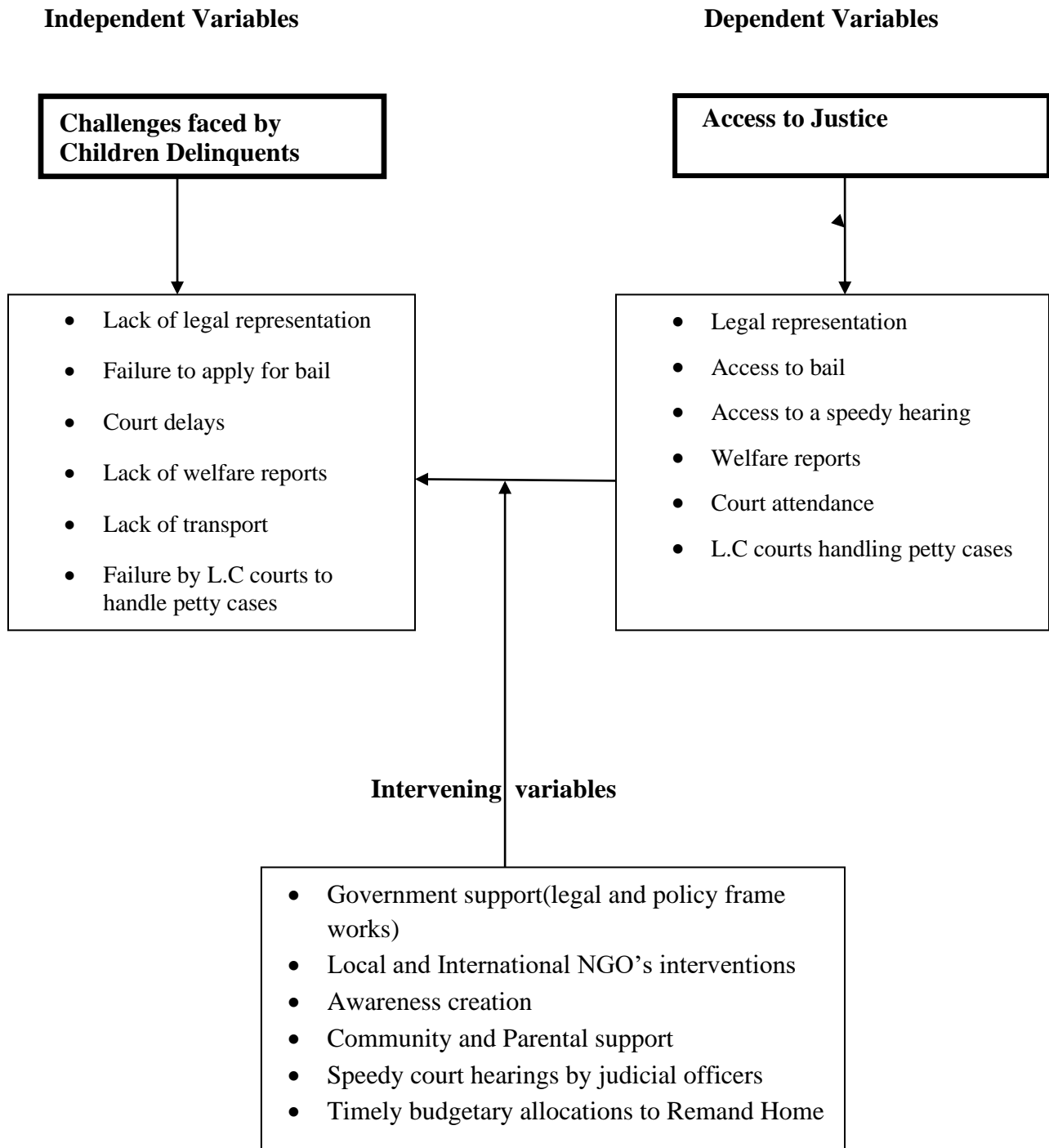
The study is therefore significant as it will draw attention to the above.

1.7 Conceptual Framework

A conceptual framework refers to the way ideas are organized to achieve a research project's purpose (Shields, Patricia and Rangarjan, N. 2013). According to Miles and Huberman (1994), "A conceptual framework explains, either graphically or in narrative form, the main things to be studied – the key factors, constructs or variables – and the presumed relationships among them."

The researcher relied on a conceptual framework as a tentative theory of this case study in order to graphically explain what the study is investigating. This is done by showing the relationship between the independent and dependent variables. An independent variable refers to what a researcher has control over. An independent variable refers to what you measure and is affected during the investigation. As per this study the independent variable is the challenges faced by children delinquents in accessing justice. The definition provided by the United Nations Development Programme defines access to justice as, “the ability of people to seek and obtain a remedy through formal and informal institutions of justice, and in conformity with human rights standards.” The dependent variable on the other hand is what will be affected during the investigation. That is, it responds to the independent variable. Access to justice as per this investigation is a dependent variable in that it exists through formal institutions and in conformity with human rights standards set both internationally and nationally. Access to justice as per these provisions for children delinquents includes and is not limited to; legal representation, bail and a speedy hearing. When a child delinquent has access to these provisions in any juvenile justice system, then justice is seen to be done. Access to justice will therefore be affected by the challenges faced by children delinquents in accessing justice.

Figure 1: Conceptual Framework showing the interaction of variables



The figure above shows the challenges faced by children delinquents in accessing justice. It further shows the ways in which children delinquents would ideally access justice, for instance through legal representation, access to bail to mention but a few. Therefore to enable the children

to access justice, the intervening variables are crucial to ensure that they do so. An intervening variable facilitates a better understanding of the relationship between the independent and dependent variables when the two variables appear not to have any connection. This is because it helps to explain why or how the independent variable affects the dependent variable. That is, the intervening variables in this case show for instance that government support (legal and policy frame works), awareness creation, speedy court hearings by judicial officers and timely budgetary allocations to Naguru Remand Home are all ways through which children delinquents can better access justice. If these intervening variables are adhered to by the different stakeholders, then challenges faced by children delinquents in accessing justice will be overcome thereby enabling them to access justice. This inevitably creates a situation whereby children delinquents can access justice as prescribed by the international instruments and national provisions enshrined in for instance the Children Act of Uganda cap 59, the 1995 Republic of Uganda Constitution to mention but a few. Therefore, to come up with better ways and polices of overcoming the challenges faced by children delinquents, Naguru Remand Home will be the focus of the case study. This is because there is need for serious research to be done so as to examine the challenges faced by the children delinquents in accessing justice, in order to find ways of how the different stakeholders can play their part thereby enabling the children to access justice as provided for in international instruments as well as national provisions.

CHAPTER TWO

LITERATURE REVIEW

2.0 Introduction

This section reviews previously concluded studies and documentations that are in existence. It attempts to explain what child delinquency is in detail. It explores the nature of crimes/offences committed by children delinquents, the procedural challenges they face in accessing justice and how this impacts on them. The literature in this chapter will render contribution to the validity and completion of the research, design and implementation of the conceptual framework. Furthermore, the section of the study also clearly shows information that has been written by other researchers regarding children delinquents in accessing justice especially the challenges they face in the process.

2.1 Child Delinquency

Delinquency is defined as the quality or state of being delinquent; a tendency towards behaviour that is not in accordance with accepted social standards or with the law; having a tendency to exhibit socially unacceptable behaviour (Robert M. Regoli and John D. Hewitt, 1991/2000).

It must be noted that this is a universal trend that is apparent globally and is not limited to just one region. The concept of juvenile delinquency is a modern one. (Robert H Lauer and Jeanette C Lauer, 2001). Until the late 19th century, juvenile offenders were regarded as incapable of certain crimes or were treated as adults in the criminal justice system. However according to Platt (1969), this concept began to change in the 19th century when a group of reformers set out to establish the juvenile court system in the United States of America. As a result, juveniles were treated differently from adults and certain behaviour that was once ignored or handled in an informal way came under the jurisdiction of a government agency. Thus the concept of

delinquency was invented in America in the 19th century. In America the first juvenile court was established in 1899 in Illinois.

According to the U.S Department of Justice (1999), the data then showed that the rates of serious crime fluctuated over time but declined throughout the nineties. However recent rates of violent and property crimes were enormously higher than those of a few decades ago.

In Latin America, juvenile delinquency is increasing in almost every country. Here juvenile delinquency is a rational choice in which the youth decide between legal and criminal activities and their choices are shaped by their past and present (Ignacio Munyo, 2013). In Uruguay for instance, a lenient juvenile crime law passed in 2004 and a rewarding cocaine industry has led to high rates of delinquent behaviour that is characterized by violence including murder, rape to mention a few.

In China the number of young offenders has doubled in 10 years, leading to a serious problem in the country (BBC News). Children delinquents have formed gangs and groups often engaging in crime without any forethought or responsibility. These included theft, assault and rape, but also new categories of crime linked to fraud and the internet. In a 2010 national survey, 16% of juvenile offenders were arrested for reape, a 42% increase from a decade before, and 12% were arrested for aggravated assault, a 69% rise (Juvenile Crime, The Economist, 2013). Relevant statistics show that 10% of the country's penal offenders are juveniles (New Practices for Juvenile Delinquency Cases in China, Xinhua News Agency, 2003).

Children delinquency in South Africa is prevalent. Although the country mainly relied on four main statutes to deal with criminal procedures, probation services, child care and correctional services, its way of handling child delinquency was deemed inappropriate. As a result many of these statutes have either been or are being amended in line with the provisions of the

Convention on the Rights of the Child particularly articles 2,3,37 and 40, many of which have also been entrenched in South Africa's new constitution and its Bill of Rights. They are further being amended with reference to international standards for dealing with children in conflict with the law and juvenile delinquency such as the Beijing Rules, the UN Rules for the Protection of Juveniles Deprived of their Liberty, the Riyadh Guidelines and the African Charter on the Rights and Welfare of the Child. However the situation is not improving despite these efforts. Alarming, the imprisonment of children in the 7-14 age groups, many for economic offences, has risen by 400 percent and accounts for by far the greatest imprisonment increase among all age groups (UNICEF Funding Proposal on Children in Conflict with the Law, September 1997).

In Uganda, child delinquency is prevalent in our society today. This is realised by the increase in the number of delinquents remanded not only in Naguru Remand Home but in other remand homes across the country including in Gulu, Fort Portal and Mbale. The children delinquents have been remanded for murder, assault, and theft as well as child to child sex among others. Noteworthy is the fact that the commonest form of delinquent behaviour is child to child sex in Naguru remand home (Marianne Moore, 2010). The number of girls remanded for delinquent behaviour is much smaller though as compared to boys. This is attributed to the fact that boys are more likely than girls to take risks while girls will think twice before engaging in delinquent behavior.

Uganda is a signatory of the UN Convention on the Rights of Children and this explains the coming into force of the Children Act cap 59. Its provisions on children meet the internationally accepted standards of dealing with children including delinquents. According to section 2 of the Children Act of Uganda, a child is a person below the age of 18 years. This does not excuse delinquent behaviour and as such children delinquents who commit offences and crimes are detained in remand homes in order to face the law. As per section 91 (5) (a) and (b) of the

Children Act, a child shall not be remanded for more than 6 months in the case of an offence punishable by death or 3 months in the case of another offence. Important to note is the fact that globally, young people who are delinquent or are at risk of becoming so often live in difficult circumstances. Children who for various reasons-including parental alcoholism, poverty, family breakdown and abuse are at greatest risk of becoming delinquent. Others at risk are orphans who may lack basic necessities and are forced to engage in delinquent behaviour to survive. It is estimated that just between 1992 to 2000, the number of children in difficult circumstances had risen from 80 million to 150 million. Thus though this study does not aim at investigating the causes of children delinquency, it is worth noting in order to explain the sudden surge in delinquent behaviour worldwide.

2.2 Nature of Crimes/offences committed by Children Delinquents

An offence is a breach of a law or rule which constitutes an illegal act whereas a crime is an action or omission which constitutes an offence and is punishable by law (Oxford Law Dictionary). The nature of offences or crimes committed by children delinquents vary across the globe. This is based on the factors that cause them to commit such crimes or offences in the first place.

In the United States of America, during the late 1980's and early 1990's, the nature of offences committed by juveniles changed. Juvenile crime grew more serious and violent, the rate of offending by females increased disproportionately, youth began entering the juvenile justice system at younger ages, and gang involvement became more prevalent. Nonetheless, a relatively small percentage of juveniles are arrested for violent crimes. In 1995, the rate was 500 per 100,000, or less than one-half of 1% of the juvenile population. Moreover, the juvenile arrest rate for murder declined in 1994 and 1995 (Sandra. S. Stone, 1997). The common nature of offences

in the U.S currently include theft, vandalism, alcohol offences especially underage drinking and disorderly conduct.

The nature of crimes in Latin America generally tends to be more violent. Such crimes include and are not limited to murder, rape to mention but a few. In Uruguay for instance, delinquent behaviour tends to be more violent. This is mainly attributed to a lenient juvenile law passed in 2004 and a flourishing drug industry in the region that generally encourages juveniles to choose delinquency over the consequences of facing the law (Ignacio Munyo, 2013). This is because the returns or profits from participating in crimes are quite high, reducing a child's capacity to project the future (Ignacio Munyo, 2013). A child is most likely therefore to commit a crime or offence by engaging in delinquent behaviour regardless of whether he/she is caught up by the law.

In Germany the nature of offences rotated more around theft. In fact according to (Jörg-Martin Jehle, 2009), theft accounted for 2,561 691 of the crimes committed by children delinquents whereas homicides actually were the least committed at 3,356.

In the United Kingdom on the other hand, the main type of offences committed by delinquents in 2012/2013 were; violence against the person, including, common assault at 21%, theft and handling at 19% and criminal damage at 19% (Youth Justice Statistics 2012/13 England and Wales, 2012/2013). Further, there were 1,384 proven sexual offences associated with juveniles, which accounted for less than 2% of all offences.

In Africa, the nature of crime varies across the different countries. The president of the Ivory Coast Supreme Court was reported to have stated in 1968 that, "the more a country develops, the more crime increases. There is a relationship between the economic development of a country

and the struggle against crime." The offence committed most often by juveniles in Africa is theft (Patric Igbinovia, 1988). In the Ivory Coast (Abidjan), it has been reported that theft is most common, "We especially find theft in markets, stores, and in cars; the stealing of motorbikes and pick pocketing. There is also a proliferation of petty extortion: youths offer to "watch" an automobile, threatening the owner that if he refuses they will let the air out of his tyres" (Cusson, 1972; p. 50).

In South Africa, the nature of delinquent behaviour is more violent, including offences like, murder, rape and even armed robbery. Theft is prevalent as well accounting for an increase of 400% among the age group of 7-14 years (UNICEF Funding Proposal on Children in Conflict with the Law, September 1997). The overwhelming majority of children arrested for such crimes happened to be black children as compared to other races in the country. This is in regard to the country's past racial discriminative system of apartheid that has led mostly the black Africans to lead a life of poverty. (Admassu Tadesse, UNICEF, 1997).

In Nigeria, children delinquents are more inclined to operate under gangs. Out of every 10 boys there, 6 belong to a gang. Gang culture is typically related with violence (Aluko Opeyemi Idowu, 2014). Theft is more prevalent of all the offences committed. It is interesting to note that the children delinquents are well organised and commit various offences including; theft by pick pocketing, vandalism, murder, rape to mention a few. Girls too are a part of these gangs and are organised into prostitution rings. Suffice to note is that desperate and ambitious politicians also readily take advantage of this organised system to their advantage during elections leading the children to engage in delinquent behaviour on their behalf. The prominent political gangs in which children delinquents belong include, 'ECOMOG' in Borno, Area Boys in Lagos and Kauraye in Kaduna and Katsina; all of which operate in the states of the North East and North

West geo-political zones of Nigeria since the re-introduction of electoral democracy in 1999 (Kushee JD, 2008). This further leads the children further into the ambit of the law due to their delinquent behaviour.

In Uganda the nature of crime or offences committed by children delinquents tends towards economic gain. As a result, children on remand across the remand homes are in for theft and burglary. Many of them are taken advantage of by adults who use them during armed robberies and burglaries. Children can easily climb over fences, break easily into homes and thus are perfect allies for these crimes. However delinquent behaviour also tends to shift towards child to child sex (Marianne Moore, 2010). This is because boys were formerly held for defilement but later this was changed to child to child sex because the law did not favor them. In fact this is clearly spelt out in the Penal Code Act Cap120, section 129 A (2) which is to the effect that where a sexual act as described in section 129 (7) of the same Act is committed by a male child and a female child upon each other when each is not below the age of twelve years, each of the offenders shall be dealt with as required by Part X of the Children Act Cap 59. As a result majority of children delinquents in remand homes across the country are remanded for child to child sex. According to the Police Annual Reports of 2008 and 2009, the nature of crimes committed by children delinquents in Uganda were; child to child sex, theft, assault, breakings, robberies, drug abuse and killings.

In conclusion, it is evident that the nature of crimes and offences committed by children delinquents vary across the globe. Hindsight can be given that there are causes as to why children engage in delinquent behaviour. These include need for economic empowerment, peer pressure, lack of parental guidance and education and being taken advantage of by adults to commit crimes just to mention a few. Delinquency is defined as the quality or state of being delinquent; a tendency towards behaviour that is not in accordance with accepted social

standards or with the law; having a tendency to exhibit socially unacceptable behaviour (Robert M. Regoli and John D. Hewitt, 1991/2000). Despite the fact that the nature of crimes committed by delinquents varies from region to region, it still remains delinquent behaviour as seen above.

2.3 Procedural challenges faced by children in accessing justice

In a bid to curb delinquent behaviour, countries across the world have managed to engage the legal system to deal with this ever increasing trend in our societies today. Internationally accepted standards have been set especially through conventions of the United Nations to which signatory countries must comply with by domesticating such laws and provisions nationally especially through Acts approved of and passed by the different parliaments in those countries. Others include the African Charter on the Rights and Welfare of the Child, the Beijing Rules to mention a few which act as a guide line to countries on how best to construct procedural processes that ensure that children delinquents access justice. However there still remain challenges faced by children delinquents in accessing justice globally. This is mainly attributed to the procedures involved in accessing justice not being followed. The United States of America has an established system through which children delinquents can access justice. This involves children delinquents being tried in juvenile courts, usually informally (Lawrence, 2008). That is, without legal representation so that a judge can form an opinion based on interaction with the child delinquent and his/her history. The end result is usually incarceration if found guilty for not longer than 2 years. However due to increase in violent crime, some children may be tried as adults in ordinary courts.

In the United States of America procedural challenges have limited children delinquents there from accessing justice. This is evident in the Omar Khadr case which involved a juvenile aged just 15 years being detained in Guantanamo Bay in Cuba for 10 years for war crimes committed

in Afghanistan in 2002 (Daniel Schwartz,2012). A body of international treaty law and standards establish fundamental norms when dealing with alleged juvenile offenders including but not limited to the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child and the Beijing Rules. However the United States failed to uphold these internationally accepted standards in the case of Omar Khadr. His length of detention was more than five years; he was deprived of legal assistance, education and the chance to be detained under the juvenile system.

Moreover both United States and international law requires governments to provide children (persons under the age of 18) with special safeguards and care, including legal protection appropriate to their age. While children should be held accountable for their crimes, international law requires that they be treated in a manner that takes into account their particular vulnerability and relative culpability as children, and focuses primarily on rehabilitation and reintegration (Human Rights Watch, 2007). All these were procedural errors which hindered Omar Khadr the opportunity to access justice as a child delinquent. This case gives an added insight into the flaws or errors within the juvenile justice system in America thereby showing that children delinquents there face the same challenges as experienced by Omar Khadr in accessing justice.

For the case of Latin America where child delinquency is high, the procedural systems of accessing justice are actually limited leading to failure by delinquents to access justice. Despite the fact that some of the Latin America countries are signatories to the UN Convention on the Rights of Children, many are hesitant to practically put into effect the internationally accepted standards set therein. During the last ten years, nearly all Latin American countries have taken greater or lesser steps to incorporate these new approaches to juvenile justice into their legal orders, with Mexico, Columbia, Argentina, Chile and Uruguay remaining the furthest behind

(UNICEF, 2006). The juvenile system in Latin America has for the most part been largely punitive and retributive involving violence. Despite reform, this violence occurs from police as well who are meant to protect the children. According to the Committee on Rights of Child which examined the rights of Uruguay under convention on children in armed conflict and sale of children on 25th January, 2015, the police does not seem to respect the law prohibiting violence against children in detention. Further alternative sentences were not used enough. The juvenile justice system seemed to focus more on repression which ultimately leads to overcrowding in juvenile prisons. There is further no limitation on the time during which children in conflict with the law could be held in pre-trial detention. Further there is a general reluctance in some of the Latin American countries to take seriously the obligations spelt out in the international provisions regarding juvenile justice. Uruguay is such an example considering that its law on juveniles is seen as lax. This has led to a high rise in the number of children delinquents there. However, the procedural avenues to access justice cannot offer the children delinquents with impunity. As such the children delinquents do not desire to access justice at all.

In Kenya, before children delinquents can be tried for any offence or crime, there is an expectation to receive legal aid where the court deems it necessary, and that the legal aid should be granted under a system set out and paid for by funds allocated by parliament (Ken Nyaundi, Legal Opinion case no. 116). Legal aid cements the expectations of fair procedures meant to ensure a fair system set out and paid for by funds allocated by parliament. However on ground the reality is far from this. Children are often convicted of crimes without a satisfactory adversarial system to show whether they are guilty or not or whether they have any defences or mitigating factors. That is, they lack legal representation which would guide them through trial.

Further, in many instances, children are first taken to ordinary Courts to take plea before being referred to Children's Courts. The result of this is that children are mixed with adult offenders which violate section 18(3) Children's Act and Rule 6 Child Offender Rules of Kenya. This is against internationally set standards. Separation of children delinquents from adults is to protect them from exploitation, abuse and negative influences by adults; and to ensure that the detention of children is affected in facilities that cater to their special needs (Innocenti Digest).

In Uganda the procedural challenges have also hindered access of justice by children delinquents. Three levels of courts can administer juvenile justice and these include; Local Council Courts, Family and Children Courts and the High Court. Due to lack of training on the law and juvenile justice, most Local Councils refer the children to remand homes (Marianne Moore, 2010). The Family and Children Court is established under the Children Act Cap 59. It has the authority to hear and determine most criminal charges against children delinquents except those of a capital nature. However there are often delays of hearings and added to this is the fact that many children face trials without legal representation.

Further the fact that there are delays in court hearings means that children delinquents are denied justice and are thus forced to spend longer periods of time in the remand home than the statutory time frame of 3 or 6 months provided by the Children Act.

In conclusion, the procedural challenges faced by children delinquents in accessing justice are a global phenomenon. This includes in developed countries as well which are viewed as the epitome of having effective juvenile legal systems in place. On the contrary though, this is not so. Therefore the procedural challenges greatly inhibit the children delinquents from accessing justice which goes against the internationally accepted set standards provided by among others, the Convention on the Rights of Children, Beijing Rules to mention a few.

2.4 Impact of procedural challenges in accessing justice

The impact of the procedural challenges in the United States as cited under Omar Khadr's case above is that in some instances children delinquents may never have the opportunity to request for their cases to be transferred to a specialized juvenile justice system or the consideration of a non-judicial disposition. He was never afforded access to specially-trained judges or prosecutors with expertise in juvenile justice standards or the particular needs and rights of alleged juvenile offenders. No consideration was given to his rehabilitation or eventual reintegration into society. This has inevitably denied him justice. This therefore begs the question, how can a modern system of justice that is deemed to be highly developed fail those it is meant to protect especially children? The answer lies in the fact that if due procedural arms of accessing justice are not followed then justice will be denied to even children delinquents whom such procedures are meant to benefit and protect.

The impact of procedural challenges faced by children delinquents in Latin America in accessing justice means that the system may never change to help them. This is because failure by Latin American countries to incorporate new approaches to juvenile justice into their legal orders means that more children delinquents are at risk of not accessing justice to the required international standards (Committee on Rights of Child examining the rights of Uruguay under convention on children in armed conflict and sale of children on 25th January, 2015). Moreover these are provided for by the Convention on the Rights of Children to which countries like Mexico and Uruguay are signatories to. This means that even though the provisions for children to access justice are on paper, the reality on ground is that such justice may not be accessed by the children delinquents at all. Further the result of a violent juvenile system is that the children delinquents all together avoid accessing justice in fear of even more violence from those they believe are meant to protect them, for instance, the police. This impacts negatively on the

children delinquents who are forced to accept what the judicial system hands them, especially punishments whether they are guilty or not of the alleged crimes.

In Kenya, the impact of procedural challenges faced by children delinquents in accessing justice is that the lack of legal representation has hindered their chances of receiving justice (Ken Nyaundi, Legal Opinion case no. 116). This is because children delinquents who appear in court often have their cases dismissed because they do not have sufficient legal knowledge of the evidence they must provide to prove their cases. This has led to some of the children delinquents being placed in an approved home when not guilty of the crimes they have been alleged to have committed.

The impact of mixing children delinquents with adult offenders when they are to take plea in ordinary courts is that the children are likely to develop hardened habits of criminality from them. As a result the chances of the children engaging in delinquent behaviour again is high thus limiting reduction of delinquency altogether. Some of these children face an open risk of sexual abuse especially boys who may be sodomised by adult offenders causing serious health and psychological effects including repeat of the same to other children.

In Uganda, the impact of the procedural challenges faced by children delinquents in accessing justice is that it slows the process of accessing justice. This is because petty offences that could have been dealt with by the Local Council Courts are again pushed to Family and Children Courts which are already clogged with a backlog of cases. This forces many children delinquents to stay on remand for more than the statutory 3 or 6 months provided by section 91(5) (a) and (b) of the Children Act of Uganda, inevitably contributing to overcrowding in the remand home.

Lack of legal representation impacts on children delinquents accessing justice in that they lack legal guidance on the best approach to their cases. As a result they may fail to raise defences or

mitigating factors before being sentenced. This also means that the children delinquents lack guidance on their right to bail as provided for in section 90(1) of the Children Act of Uganda. Many children without legal representation have also pleaded guilty to offences they did not commit due to failure to understand legal terminologies while in court. On a weighing scale this means that such trials are conducted unfairly leading to failure to access justice.

In conclusion therefore, procedural challenges faced by children delinquents in accessing justice inevitably deny them justice. This is seen in a broad aspect considering other parts of the world which purportedly have entrenched juvenile systems in place. However failure by children delinquents to access these procedural processes leads them to come short of the benefits of justice which would otherwise be open to them whether they are in the developing or modern world. In the end justice is still denied either way.

2.5 The Role of the Government

The government has an important role to play in ensuring that children delinquents get access to justice.

The Ministry of Gender, Labour and Social Development is responsible for children delinquents in Uganda. As such Naguru Remand Home falls under its ambit. The Ministry has the responsibility of taking care of all children on remand including at Naguru, Mbale, Fort Portal and Gulu Remand homes. In relation to Naguru Remand Home where this study is focused, the Ministry is responsible for financing Naguru Remand Home to enable it provide food, clothing, medical care and transportation of children delinquents to court as well as family tracing to mention in case a delinquent is released by court but a few.

The judicial process is key in ensuring that the children delinquents access justice. The Courts and judicial officers fall within this ambit. Government has a role of providing the children with free legal representation. Court registrars usually assign cases to law firms to handle as pro bono services for the sake of public good for which such lawyers do not expect any pay from their clients. Further government should support Non Governmental Organizations that provide legal aid to children delinquents and represent them in Court. These include Uganda Law Society and Uganda Christian Lawyers to mention but a few.

The government has a role to play in ensuring that cases of children delinquents are handled expeditiously especially in Courts of law. This is important so that children can enjoy other rights after being released or rehabilitated in particular continuing with their education.

The role of government cannot therefore be underestimated as above to ensure that children delinquents access justice.

Conclusion

Literature review shows that delinquency is a global phenomenon. The writings of other scholars that have studied this area are important in putting into perspective the nature of crimes committed by children delinquents and the challenges they face in accessing justice. This can be related to the challenges faced by children delinquents in Naguru remand home, in order to determine how best justice can be afforded to them. The role of key players especially government cannot be ignored in this regard. Literature of other scholars therefore enables the researcher to critically look at ways in which children delinquency in other regions of the world is dealt with. This is crucial to come up with a clear understanding of the challenges faced by the children delinquents at Naguru Remand Home in Uganda and how they can be dealt with in the local context.

CHAPTER THREE

RESEARCH METHODOLOGY

3.0 Introduction

Research methodology refers to a systematic way of solving a problem. It is the procedure by which a researcher goes about his/her work of describing, explaining and predicting phenomena in order to gain knowledge (S. Rajasekar, P. Philominathan and V. Chinnathambi, 2013). This section therefore presents the research design, area and population of the study, sample size and sample selection techniques, sources of data, data collection methods, data quality control, data analysis, ethical considerations and limitations of the study. These are meant to describe and explain the investigation undertaken by the researcher at Naguru remand home to find out the challenges faced by children delinquents in accessing justice

3.1 Study Design

This refers to the procedure under which a research is carried out. That is, it ensures that the evidence obtained from the research enables us to answer the initial question of the purpose of carrying out the research in the first place. The study was a case study design so as to focus on a particular element from which to get in depth knowledge. This method of study is especially useful for trying to test theoretical models by using them in real situations. That is, it narrows down a very broad field of research into one very easily researchable topic.

It was descriptive and exploratory. The research designs were selected to enable the researcher come up with a clear & deeper understanding of child delinquencies and their current challenges in accessing justice. The main aim of descriptive research is to provide an accurate and valid representation of the factors or variables that pertain or are relevant to the research question.

A descriptive research was appropriate because it can provide information about the naturally occurring behaviour, attitudes or other characteristics of a particular group. That is, it seeks to provide an accurate description of observations of phenomena. It also involves interaction with groups of people. This enabled the researcher to interact with the respondents through interviews which was necessary for collecting data. The explorative research on the other hand is meant to identify the boundaries of the environment in which the problems, opportunities or situations of interest are likely to reside and to identify the salient factors or variables that might be found there and be of relevance to the research (Brian van Wyk). The objective of exploratory research is to identify key issues and variables. To achieve this end, focus group discussions with the parents and guardians of the children delinquents were conducted by the researcher. This brought about deeper insights and better understanding of how child delinquencies are having challenges accessing justice.

The study predominantly employed qualitative methods of data collection and analysis so as to come up with qualitative (descriptive) data. It involves the interpretation of data, whereby the researcher analyses cases, usually few in number, in their social and cultural context over a specific period of time, and may develop grounded theories that emphasise tracing the process and sequence of events in specific settings (Holloway, 1997). The researcher employed qualitative methods of data collection in order to get an in depth understanding of the challenges faced by children delinquents in Naguru Remand Home in accessing justice from the different respondents especially the children. This was effectively to enable the researcher reach a comprehensive understanding of these particular challenges (Allen Rubin and Earl Babbie, 2010).

3.2 Area of Study

Study area refers to the total area handled by the researcher in relation to the most appropriate tools used to collect data. The study was carried out in Naguru Remand Home being a good valuable ground with children delinquents. Further the researcher wanted to involve an up-close, in-depth and detailed examination of the respondents as well as their related contextual conditions.

It must be noted that other respondents are from outside Naguru remand home but are based there due to the nature of their work, for instance, the administrators, support staff and security personnel. Naguru is located in Nakawa Division, in the Northeastern part of the city. Naguru is an urban area located close to the middle of the city thus explains why there are high delinquency rates in the area. This is mainly because the children delinquents engage in delinquent behaviour like theft, in order to survive in the city. Moreover the economic status of majority of the urban population is poor explaining the ever increasing rates of delinquents in Naguru remand home.

3.3 Study Population

This refers to the total number of people in a given area handled by the researcher. It gives a clear understanding of the population as per the objectives of the study for example, educated, illiterates, working class, children, adults among many other descriptions. The study population for this research was comprised mainly of children delinquents at Naguru Remand Home. These are the children who are caught up by the law due to their delinquent behaviour in society and as such are remanded. When the researcher went to conduct the research, there were 135 male children delinquents and 15 female. The population further included the administrators of

Naguru Remand Home who are among others, the In-charge, manager and counselors and 10 were selected.

The parents and guardians of the children were part of the study population and included the relatives or friends of the children who come to visit or meet the children at the remand home. A total of 10 were selected. Further the security personnel were also a part of the study population and include police officers. A total of 3 police officers from Ntinda police station were eventually selected.

The study population also included judicial officers. This is because state attorneys prosecute the children for the crimes and offences they have committed on behalf of the state. Further lawyers representing the children usually on state brief or as part of pro bono services are meant to defend them. A total of 4 judicial officers were selected. Thus information from both sides was relevant to this research as it gave a clearer picture of the juvenile justice system in Uganda as well as shed more light on the challenges experienced by children in accessing justice.

Government officials were also included in the research population in order to highlight on the relevance of government in ensuring that children delinquents are able to actually access justice as provided for by the law. These mainly included officials from the Ministry of Gender, Labour and Social Development and totaled to 4.

The researcher selected the respondents based on the purpose of the study that is to find out the challenges faced by children in accessing justice. The respondents therefore included; the children delinquents and administrators who were all available at the remand home. The children delinquents are remanded while the administrators work in the remand home. Administrators included the In-charge, manager, counselors, nurses, security and social workers.

The security personnel (police) were also selected since they sometimes arrest children delinquents. Further since the law does not allow for children to be detained with adults, the police take them to Naguru remand home for safe custody. Judicial officers (state attorneys and lawyers on state brief or pro bono) were selected since they prosecute and represent the children delinquents in court respectively.

Further government officials from the Ministry of Gender, Labour and Social Development were also selected. This is because it is the line ministry which deals directly with children delinquents and oversees activities of the remand home.

3.4 Sampling Techniques and Sample size

3.4.1 Sampling Technique

Sampling refers to a fraction or group of people, objects or items that are taken out of a larger population for measurement. The sample should be representative of the population that the researcher can generalize the findings from the research sample to the population as a whole.

The purpose of sampling is to enable the researcher draw conclusions about populations by directly observing only a portion of the population.

The techniques employed by the researcher were simple random and purposive sampling methods. Simple random method refers to sampling where a sample of size n drawn from a population of size N in such a way that every possible sample of size n has the same chance of being selected (Edward O. Garton). In this case, n would refer to the children delinquents on whom this method was used. Each individual is chosen randomly and entirely by chance, such that each individual has the same probability of being chosen at any stage during the sampling process, and each subset of k individuals has the same probability of being chosen for the sample

as any other subset of k individuals (Yates, Daniel S, David S. Moore and Daren S. Starnes, 2008). This therefore means that every child delinquent at Naguru remand home stood a chance of being selected or studied for the research.

Purposive sampling also called judgment sampling, is the deliberate choice of an informant due to the qualities the informant possesses (Dolores C. Tongco, 2007). It is when a researcher chooses specific people within the population to use for a particular study or research project. The researcher used purposive sampling method specifically in regard to the selection of certain respondents like the administrators at the remand home, judicial officers, government officials and parents and guardians of the children delinquents.

3.4.2 Sampling size

The sample size was 60 respondents. These included the respondents selected specifically for investigations into the research to be carried out. The number in each category was selected to enable the researcher elicit as much information as possible from the respondents. Further the researcher was also mindful of the need to get reliable and valid information so as to get a true picture of the reality on ground according to the respondents.

Table 1: Sampling Technique and Sample Size

The techniques used to select the respondents were by simple random and purposive sampling methods.

Population	Sampling Technique	Sample size	Data Collection Technique
1. Children delinquents	Simple random method	28	In depth interviews
2. Administrators	Purposive simple random	10	In depth interviews
3. Security	Purposive simple random	03	In depth interviews
4. Judicial Officers	Purposive simple random	04	In depth interviews

5. Government officials	Purposive simple random	05	In depth interviews
6. Parents	Purposive sample random	10	Focus group discussions

The table above shows categorization of respondents that were interviewed during the research. That is, the children were the majority of respondents interviewed (28). This was followed by the administrators of the remand home (10), the security personnel (3), judicial officers (4) and government officials (4). The table above also shows the categorization of parents and guardians (10) of the children delinquents who formed part of the focus group discussions as a method of collecting data. They were the only ones on whom this method of data collection was used on

3.5 Methods of Data Collection

Two basic data sources required for research studies have been secondary and primary. These were employed by the researcher in this case study. Primary data collection requires the researcher to venture into the field where the study is to take place; armed with the relevant instruments - questionnaire, interview schedules or arranged meetings with the selected population - to solicit the necessary information. Data collected assist the researcher to answer the research questions and address the research problem (Nana Adu-Pipim Boaduo, 2010). Data was collected through various methods; in-depth interview, focus group discussions and reviewing of secondary data.

3.5.1 Focus Group Discussions

Focus group discussions were also used by the researcher to collect data. This refers to dynamic group discussions used to collect information (Margaret C. Harrell, Melissa A. Bradley, 2009).

A focus group discussion was a good way to gather the parents and guardians of the children delinquents since they had a similar background or experience in regard to the fact that their

children were in Naguru Remand Home which was the specific topic of interest. The group of parents and guardians were guided by the researcher who introduced the topics for discussion and helped the group to participate in a lively and natural discussion amongst themselves. The purpose of this methodology is to make sure that the information collected is not biased by the researcher. Further that it is a true representation of participants' feelings and beliefs and is reproducible if another researcher conducted the same focus group.

3.5.2 Interviews

In-depth interviews were used by the researcher to collect data from the respondents. In depth interviews involve not only asking questions, but the systematic recording and documenting of responses coupled with intense probing for deeper meaning and understanding of the responses. Thus, in-depth interviewing often requires repeated interview sessions with the target audience under study. The goal of the interview is to deeply explore the respondent's point of view, feelings and perspectives. An in-depth interview includes mainly individual or one on one interview. The respondents were interviewed individually by the researcher. This was relevant in that the respondents were able to comment on their own experiences rather than giving generalizations.

This method of data collection was used specifically on the children delinquents, administrators, judicial officers, security personnel and government officials. It must be noted that in relation to the children delinquents, the researcher had originally wanted to use focus group discussions to collect data from them but the administrators at the remand home refused this. The reason given was to protect the privacy of each individual child and also to encourage them to open up to the researcher which they may fail to do in front of their friends.

3.5.3 Reviewing of Secondary Data

Secondary data is the data that has already been collected and recorded by someone else and is readily available from other sources (Tran Thi Ut, 2013). Secondary data collection helps the researcher to provide relevant background to the study and are, in most cases, available for retrieval from recorded sources (Nana Adu-Pipim Boaduo, 2010). The purpose was mainly to extract the relevant information from other sources and previous studies as well as to use fact findings of descriptive information to support the research.

Secondary data sources included literature reviews, case studies, published texts, articles, journals, reports and statistics. The researcher reviewed legal documents as well including the Constitution of the republic of Uganda, Acts, Rules and international instruments. The researcher further relied on newspapers and internet sources.

3.6 Data Analysis

The researcher transcribed the data and summarized them thematically. The transcribed information was analyzed by developing themes from the emerging issues based on research objectives. Analysis was done on the basis of research questions of the study and other forms of categorization were to discern various patterns emerging from the data. The process involved looking at the emerging patterns and themes, clustering or sorting the information and finding relationships were followed. This was relevant in enabling the researcher to identify patterns of meaning across data collected in order to provide answers to the research areas being addressed.

3.7 Data Quality Control

Data quality control was first of all crucial in ensuring the reliability and validity of the information to be collected in the field. The main determinant lay mainly on whether the responses were consistent and related to the kind of data being collected. It was therefore

important to filter out irrelevancies in order to be able to come up with the true reality on ground. In order to ensure validity it is important that several questions are asked before embarking on the actual investigation (Uwe Flick, 2008).

Questionnaire and interview guides were pre-tested. The purpose of the pre-testing was to form appropriate questions that the selected respondents would understand and also to allow the researcher to familiarize the terminologies to be used during data collection from the different respondents. Pre-testing exercise was to enable the researcher to identify question ambiguity and response categories, interview instructions and also provide the insight into the level of understanding of both the respondents and the researcher. Additionally, the pre-testing exercise was to give the researcher some insights of how the interviews should be conducted.

3.8 Ethical Considerations

There are many ethical issues in relation to research when dealing with respondents like confidentiality, dignity, benefit-to-risk ration and informed consent (R Behi, M Nolan, 1994).

Since the issue of access to justice is vital in Uganda, the study was conducted with a lot of care and responsibility to the community being studied. The researcher thus introduced the broad objective of the study, that is, to find out the challenges faced by children delinquents in accessing justice to all the respondents. Due diligence dictated that the researcher first obtained the consent of the respondents before carrying out any data collection. This enabled them to respond willingly to either interviews or focus group discussions.

Respondents were assured of confidentiality and anonymity throughout the study. That is, their responses would not lead whoever read the research to determine the identity of any of the respondents individually. Further the researcher ensured that they would remain anonymous, that is, their names would not be mentioned at any point of compiling the data.

In addition to that, the researcher was actively and freely interacting with the respondents to build their confidence so as to elicit necessary information pertinent to carrying out data collection.

3.9 Limitations of the Study

Financial constraints including transport costs to and from the field as well as to motivate the respondents to give adequate information. The researcher therefore had to elicit funds to meet the transport costs to the field as well as need to motivate the respondents.

Poor time management was a limitation on the part of the respondents as most of them were engaged in their daily routine duties especially performing work obligations. The researcher therefore had to wait for them to first conclude these activities before conducting interviews.

Failure to adhere to the arranged meetings by the respondents especially the staff at Naguru Remand Home who were sometimes in the field or engaged in taking care of the children delinquents.

However all the above challenges were overcome through patience and giving all the respondents ample time so as to acquire all the necessary information.

CHAPTER FOUR

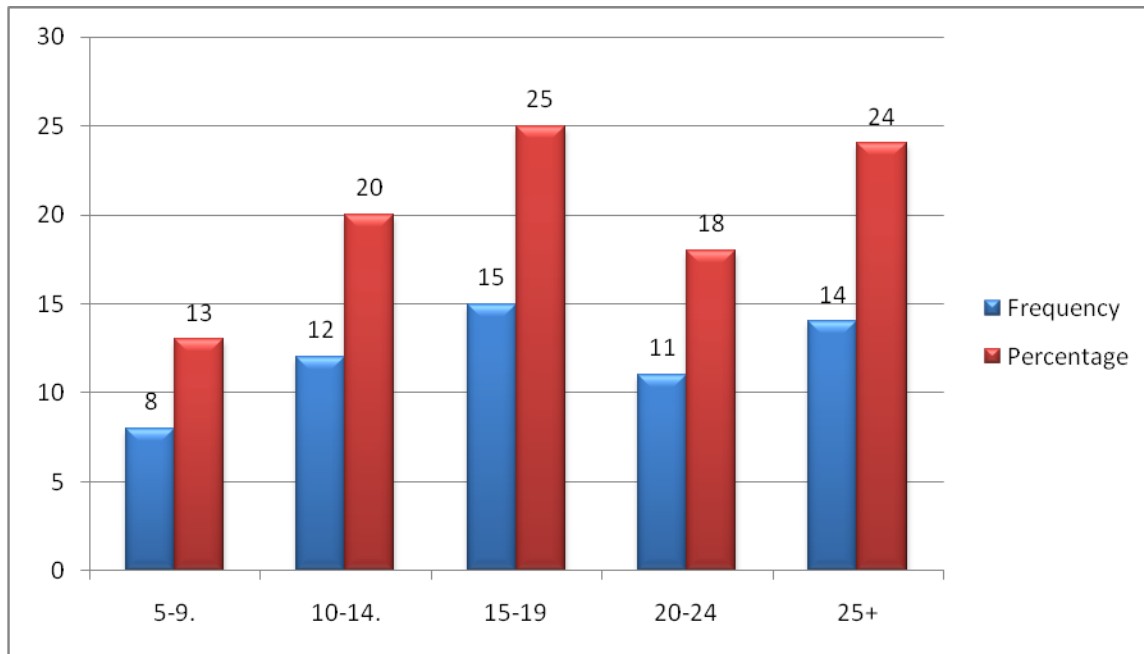
DATA PRESENTATION, ANALYSIS & INTERPRETATION

4.0 Introduction

This chapter is concerned with the presentation of the field findings with a main focus on the challenges of children delinquencies in accessing justice in Uganda with a case study of Naguru Remand Home. The findings of the study have been listed and analyzed according to children and adults/staff as the main focus of the research. The findings of the study were discussed mainly as qualitative as much of the data involved describing the experience of the different respondents. However less of the quantitative data was used in regards to the demographic findings. The researcher's main focus was on the challenges of children delinquencies in accessing justice in Uganda and the ways through which these challenges can be managed with Naguru Remand Home as a case study.

4.1 The Demographic Findings of the Study

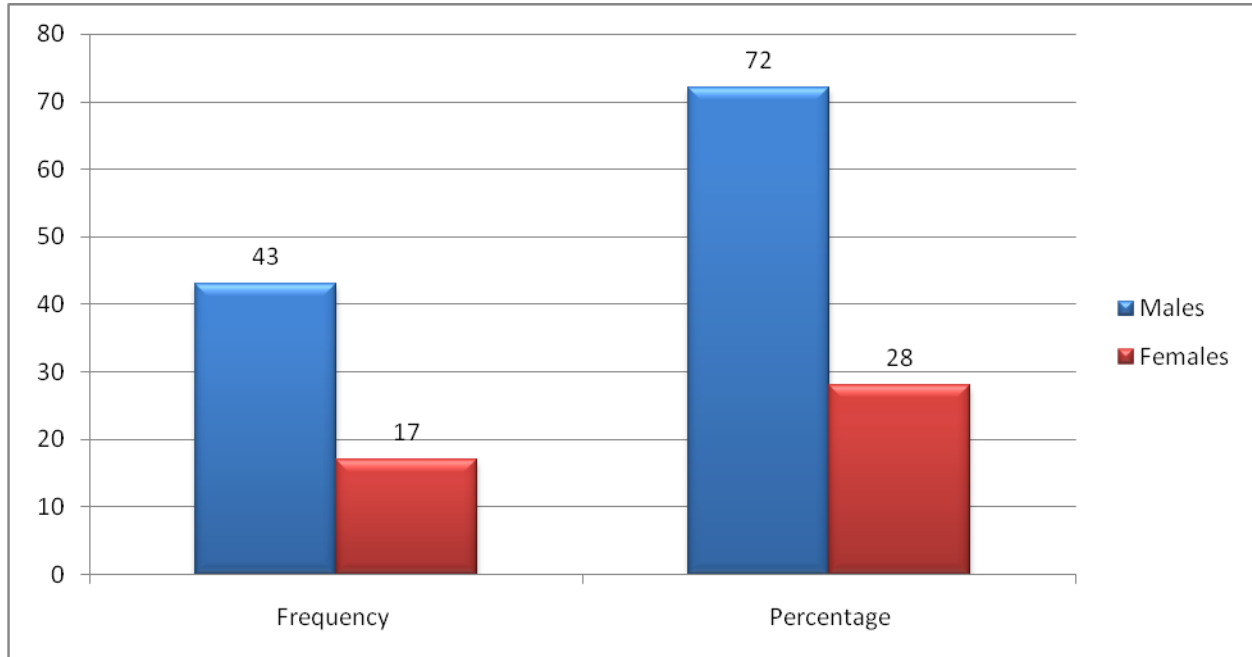
Figure 2: Age of the Respondents



Source: Field Work research

In figure (2) the findings of the study show the age of the respondents who participated in the research. From the table above, it was observed that the highest number of children delinquents who were interviewed during the research aged between 12-17 years. This is justifiable to the research as children delinquents were the main focus of the research and were remanded at Naguru Remand Home. This was followed by the other respondents of over 18 years who included; administrators, government officials, security personnel as well as parents and guardians of the children delinquents.

Figure 3: Sex of the Children Delinquents



Source: Field Work research

In figure 3, it was observed that the highest number of the children delinquents who were interviewed during the research were males with 72% as compared to 28% of the respondents who were females. Most of the children delinquents at Naguru Remand Home are males compared to females who are fewer in number.

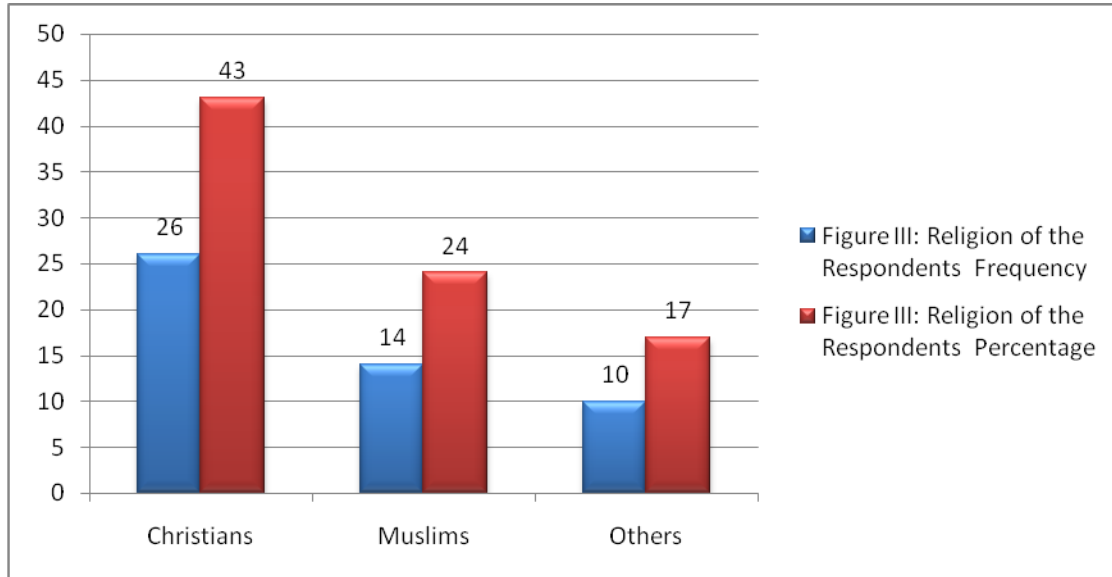
Figure 4: Marital Status of the Respondents



Source: Field Work research

Figure 4 shows the marital status of the respondents who participated in the study at Naguru remand home. As shown in the figure above, it was observed that the highest number of the respondents who were interviewed during the research were single with a percentage of 53%. This was followed by 30% of the respondents who were married and 17% in other forms of relationships like cohabiting, divorced, separated among others. In fact, Majority of the children delinquents interviewed stated that their parents are either divorced or separated. This explains why children from broken homes due to divorce or separation are most likely to develop delinquent behaviour. In addition to that, most of the staff at Naguru Remand Home are married. As a result, they have a lot of experience and understanding of children delinquents which is a great positive to how they are dealt with in the Remand Home.

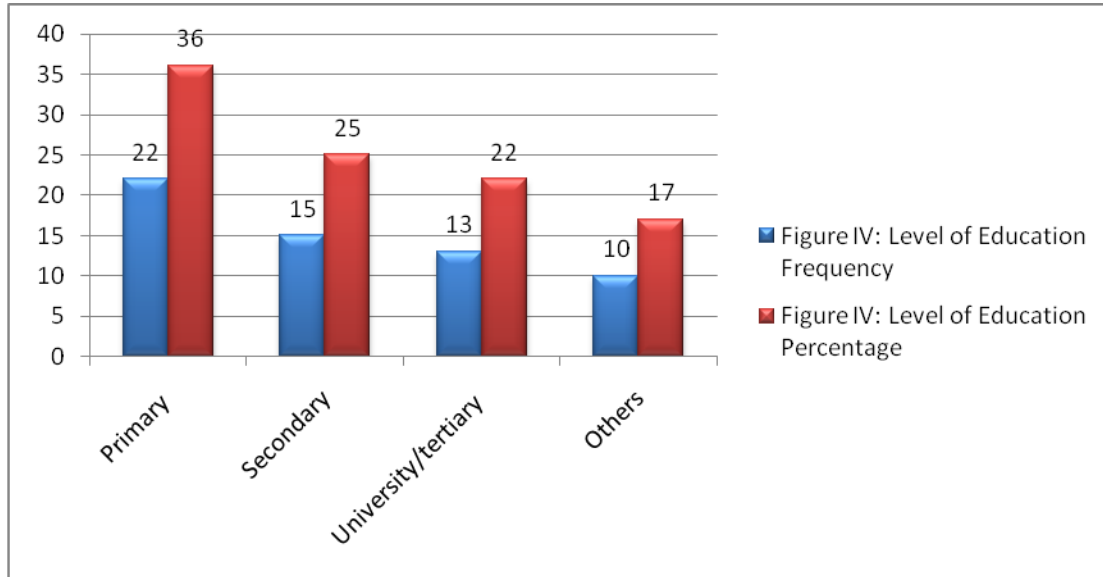
Figure 5: Religion of Respondents



Source: Field Work research

In figure 5, it was observed that the highest number of respondents who participated in the research were Christians with a percentage population of 43% followed by Muslims representing 24% of the population. This was vital to the research as the children delinquents turned to God more upon being remanded and were remorseful for their delinquent behaviour. This was crucial in that this meant that they were likely to avoid delinquent behaviour upon eventual release from the Remand Home.

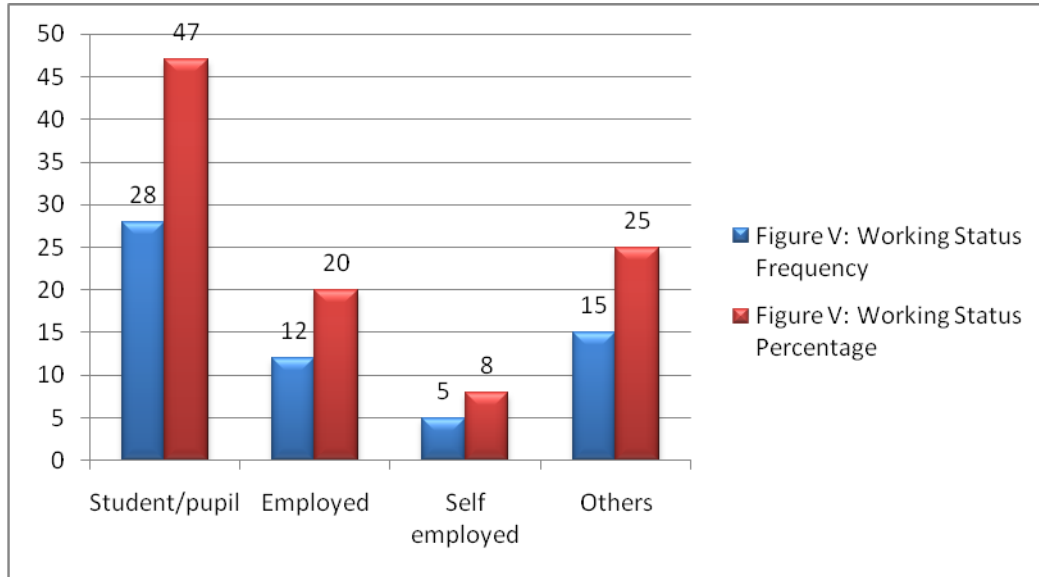
Figure 6: Level of Education



Source: Field Work research

In figure 6, it was observed that the highest number of the children delinquents who were interviewed during the research had primary education, that is to say 36%. This was followed by those with secondary education at 25%. Further 24% had university/tertiary qualifications and 17% of the respondents had other levels of education like diplomas and these included the administrators at the Remand Home, judicial officers, government officials and some parents. Most of the children have dropped out of school and those with a high level of education are in senior five.

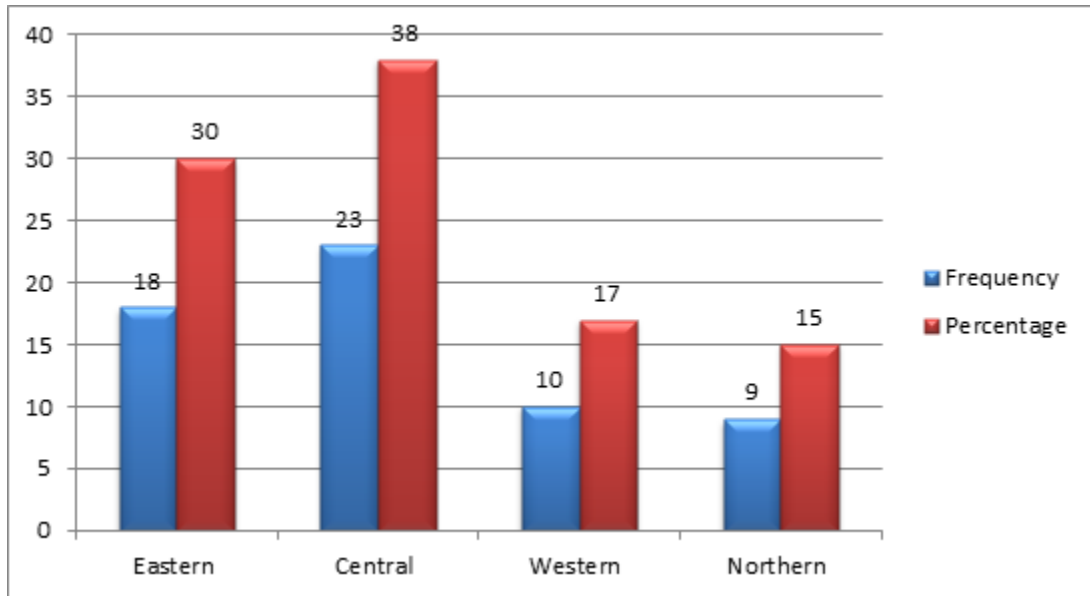
Figure 7: Working Status



Source: Field Work research

According to figure 7, it was observed that the highest number of the children delinquents who were interviewed during the research were students/pupils with a percentage of 47%. This was followed by 25% of the respondents who were engaged in other activities such as voluntary work, target work among many other forms of businesses like parents and lawyers. In addition to that, only 20% of the respondents interviewed during the research were employed and these were mainly staff and residential individuals and only 8% were self-employed. The researcher noted that parents who had businesses or employment had little or no time at all for their children and this resulted in delinquent behaviour.

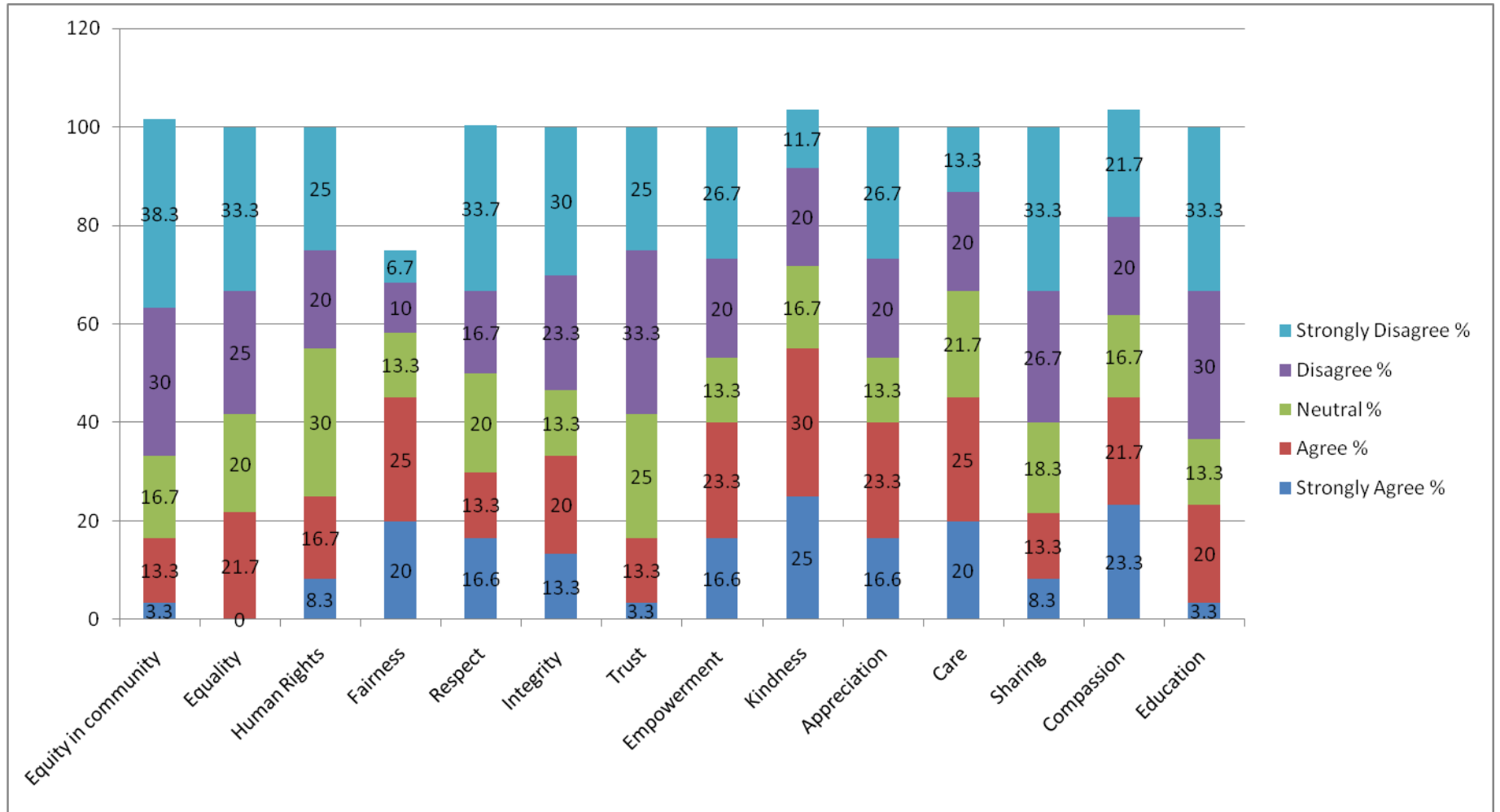
Figure 8: Origin/Location of the Respondents



Source: Field Work research

In figure 8, the findings of the study show that the highest number of children delinquents who participated in this research were from central region that is to say 38%, followed by 30% from the eastern Uganda, 17% and 15% from western and northern respectively. This means that the highest number of children delinquencies is from central Uganda as it is an urban area and is prone to delinquent behaviour mainly for the need to survive in the city leading to offences like theft.

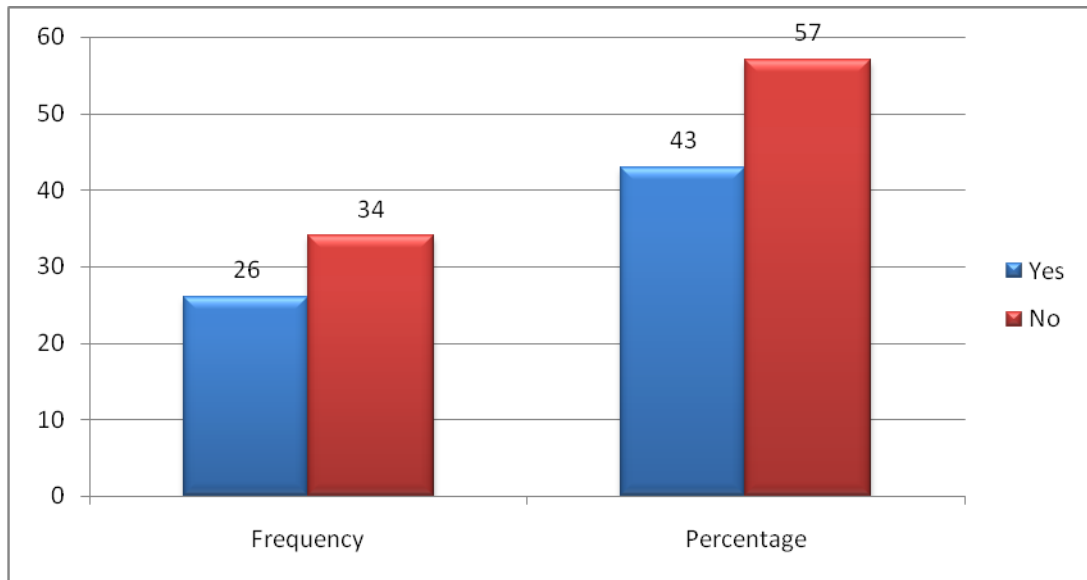
Figure 9 Access to fair Social Treatment/Justice in the Community



Source: Field work research, 2015

From the compound bar graph above, it was noted that access to justice by children delinquents was biased as illustrated by respondent's responses on strong disagreement. The respondents strongly disagree to children getting access to justice as above.

Figure 10: Living with family members in your home



Source: Field work research

In figure 10, the findings of the study show that majority of the children delinquents who were interviewed during the research did not live with their close family members, as per the bar graph above. 57% of the respondents were staying on their own as compared to 34% of the respondents who were staying with their close family members. This explains the children who are orphans as well as children who have come to urban areas like Kampala in search for a better life as well as children living with friends on their own. This is justifiable to the research as many of the children delinquents who stay on their own thus lack enough proper child upbringing and support that would be provided by parents. This makes it easy for them to engage in delinquent behaviour among many other activities.

4.2 The Nature of Crimes/Offences committed by Children delinquencies in Naguru

Remand Home

Under this section, we are representing findings in relation to objective 1 of the study. It was meant to establish the nature of crimes committed by the children delinquents in Naguru Remand Home. The respondents were asked to give their views regarding the nature of crimes or offences committed by children delinquencies in Naguru Remand Home. From the findings of the study, it was discovered that there were various offences/crimes committed by the children delinquents hence their remand. The researcher therefore categorized these offences and crimes as below;

Sexual offences were the most predominant category of offences committed by the children delinquents in Naguru Remand Home. Majority of the children delinquents have been remanded for child to child sex contrary to section 129 A (1) (b) of the Penal Code Act of Uganda. This applies to both boys and girls. In fact during the interviews conducted, it was common for a boy to point out the girl with whom he was arrested for the offence. One respondent aged 17 years was remanded for aggravated defilement for defiling a girl aged 8 years.

During the research activity, it was noted that a number of children delinquencies had engaged in early sex on several occasions leading to pregnancy thus dropping out at school. In fact the researcher encountered two girls who were pregnant aged just 14 and 16 years who were remanded for child to child sex. This has been a great challenge for the parents. One parent during the focus group discussion stated that,

Such early pregnancies are not only a disappointment but also a burden to us parents because we are the ones most likely to take on the responsibility of taking care of these babies. This is because most times the boys or men responsible deny the task at hand. (Naguru Remand Home, 13th May, 2015)

The children delinquents on the other hand stated that their parents do not give them sex education. One boy interviewed by the researcher stated,

We lack sex education and guidance which is essential for any adolescent of eight years and above. Because of that, some of the children delinquencies in Naguru Remand Home have engaged in a number of sexual activities leading to early pregnancies and transmission of diseases. (Naguru Remand Home, 5th May, 2015)

Therefore, child to child sex among children delinquencies in Naguru Remand Home with its related effects has been identified as one of the serious offences done due to the high number of children delinquents remanded for the same. In fact one of the state attorneys interviewed stated that, “child to child sex is one of the commonest offences for which children delinquents find themselves in conflict with the law.” (Kampala, 2nd June, 2015)

From the findings of the study, rape as a sexual offence was also encountered by the researcher. Rape contravenes section 123 of the Penal Code Act of Uganda. It is to the effect that any person who has unlawful carnal knowledge of a woman or girl without her consent or if consent is obtained using threats or intimidation of any kind or by fear of bodily harm or by false representation commits a felony termed rape. This was however to a less extent compared to child to child sex. One boy was encountered who was remanded for rape of a girl. He stated in an interview that the act was done due to peer pressure by his friends who all participated in the rape. During the study, it was noted that rape has adverse effects on not only the victims but the perpetrator as well. This is because the boy interviewed exhibited signs of stress as a result of psychological torture due to the incident. This also led to expulsion from school for such behaviour, in order to protect other children as well from becoming victims.

Theft offences are also another common category of offences common at the remand home. Theft is a contravention of section 254 (1) of the Penal Code Act of Uganda. It is to the effect that any person who fraudulently and without any claim of right takes anything capable of being stolen or fraudulently converts to the use of any person other than the general or special owner thereof anything capable of being stolen, is said to steal that thing. This was predominant among the boys although the researcher interviewed one girl who was remanded for the same. The children delinquents who were remanded for theft claimed to have stolen mostly money from close people around them including family members and friends. Others also stole items like phones and laptops.

From the findings of the study, the respondents who were interviewed during the research noted that theft is one of the commonest or key reasons for children delinquencies in Naguru Remand Home. According to the police interviewed,

Children delinquents at an early age have continuously engaged in theft/ stealing from both inside and outside their homes for example items like money, phones, utensils, clothes, wallets and household items among other different items which is not expected of a child. (Ntinda Police Station, (30th May, 2015)

Some of the children delinquents noted that they learn a number of these activities from some individuals in the community including from their parents and guardians.

The findings also show that some of the children delinquents admitted to theft with the reason that they needed money to meet their basic needs, while others were lured into it by their peers. This is backed up by earlier findings of (Patric Igbiovina, 1988) that the offence committed most often by juveniles in Africa is theft.

Further it is in agreement that the offence of theft which is also common at the remand home is prevalent among the children delinquents, as noted by one of the state attorneys interviewed who stated,

Most of the files I have handled in regard to children delinquents have mostly been those involving theft. It is so rampant among children delinquents that it is crucial for something to be done to curb the vice of delinquency early. Most children steal laptops, phones and money. (Kampala, 2nd June, 2015)

It was noted by the researcher that the children delinquents engage in theft mainly because they want to survive. One boy stated that, “I took the money because I was very hungry and wanted to buy something to eat.” (Naguru Remand Home, 5th May, 2015)

Under offences of theft, the researcher also noted that there was child stealing. This is contrary to section 159 (1) of the Penal Code Act of Uganda which is to the effect that any person who, with intent to deprive any parent, guardian or other person who has the lawful care or charge of a child under the age of 14 years of the possession of such child, forcibly or fraudulently or entices and takes away the child or receives or harbours such a child well knowing that it has been enticed or detained commits a felony and is liable to imprisonment for 7 years. The researcher encountered 2 girls who had been remanded for this offence at Naguru Remand Home. During an interview, one of them stated,

I was looking after a friend's baby at her home as she had gone to the salon. I moved out briefly when the baby was asleep. On my return, I found the baby missing. When I informed my friend about this, she called the police who arrested and remanded me here at Naguru remand home. I don't know who took the baby (Naguru Remand Home, 6th May, 2015).

Further under the category of theft, the researcher also interviewed children delinquents who had been remanded for robbery. This contravenes section 285 of the Penal Code Act of Uganda which is to the effect that any person who steals anything and at or immediately after the time of stealing it uses or threatens to use actual violence to any person or property in order to obtain or

retain the thing stolen or to prevent or overcome resistance to its being stolen or retained commits the felony termed robbery. The children delinquents remanded for robbery were either coerced or forced into the act by elders or adults as one of the respondents noted in an interview that;

It was late in the evening when I was coming from my uncle's place and met a clique of men who told me they would give me plenty of money as long as I accessed a building in the neighbourhood through a window. They further threatened to kill me in case of any resistance given. I had no alternative but to accept the task under their guidance. They even gave me a hammer to hit anyone who tried to stop me. However some people in the community saw us and the men I was with managed to escape leaving me behind and that is how I was arrested and remanded here (Naguru Remand Home, 5th May, 2015).

Assault offences are another category of offences committed by the children delinquents at Naguru remand home. This is against section 235 of the Penal Code Act of Uganda which is to the effect that any person who unlawfully assaults another commits a misdemeanor, and if not committed in circumstances for which a greater punishment is provided, is liable to imprisonment for a year. However where assault occasioning actual bodily harm is committed, such a person is liable to imprisonment for 5 years according to section 236 of the Penal Code Act of Uganda.

From the findings of the study, a lawyer who was interviewed from Uganda Christian Lawyers Fraternity noted that,

A number of children delinquencies in Naguru Remand Home have engaged in serious offences such as fighting and beating their fellows using dangerous instruments like knives, machetes, metallic instruments among many others. Many of these children have caused serious damage or injuries to others like wounding, bleeding and deep cuts sometimes needing hospitalization over nothing. (Kampala, 25th May, 2015)

One of the children delinquents interviewed during the study noted that;

My friend who I found already on remand cut the other terribly during a fight using a sharp pocket knife and has done the same to several other children without remorse or desire for reconciliation. By the time he was expelled from school, he had badly beaten up around seven pupils without any good reason. (Naguru Remand Home, 6th May, 2015)

The researcher noted that the children remanded for this offence stated that they did not know that it was an offence to engage in fighting. The boys among whom this offence was predominant stated that fighting among boys is a normal process of growing up and boosts their ego.

The researcher however disagrees with this notion because not only is assault an offence under the Penal Code Act of Uganda but it can cause serious injuries and sometimes even death to the victims. Besides, behaviour of fighting or beating up others is usually discouraged in communities to protect lives of others.

Homicides are another category of crimes also committed by the children delinquents at Naguru Remand Home. The researcher encountered children who had been remanded for murder contrary to section 188 of the Penal Code Act of Uganda. It is to the effect that any person who of malice aforethought causes the death of another person by an unlawful act or omission commits murder. One child stated that,

I was ordered to commit the act by an adult in whose care I was at the time. It was never my wish to kill those people. In fact I am tormented by it. After killing them, I was arrested by the police as I attempted to escape from the home. I do not know where the man who ordered me to kill those people is. He promised me that my reward would be great. I don't know where he is now. I am all alone; my family is disappointed in me. (Naguru Remand Home, 7th May, 2015)

Three other children remanded for murder stated that they did not commit the act but were arrested mistakenly by the police. One of them stated,

All I know is that the man had been lynched by a mob for theft. However we didn't participate in this because we were at the lake fetching water by that time. A police officer saw us returning and ordered us to carry the injured man into the police vehicle. By that time the man was already dead. After wards, we were arrested and remanded here. We didn't kill him. (Naguru Remand Home 6th May, 2015)

The researcher agrees with the respondents that murder though not expected at all from children does occur as delinquent behaviour. In fact one parent broke down in tears during the focus group discussion and stated that, "I raised my son to value life only to discover that he was arrested for the murder of two people." (Naguru Remand Home, 13th May, 2015)

Children delinquents are influenced by adults to commit murder on their behalf as explained by the police at Ntinda police station who sometimes arrest them for the crime. Although children at a certain age know right from wrong, the researcher noted that most times their hands are tied. Out of fear for any repercussion, children commit murder to impress adults even when they know that it is wrong. They however believe that their actions will not have any consequence which is a misconception on their part considering the fact that they end up on remand due to murder.

Terrorism is also another category of offences committed by the children delinquents at Naguru Remand Home. According to section 26 (1) of the Penal Code Act of Uganda, any person who engages in or carries out acts of terrorism commits an offence and is liable to imprisonment for life. From the findings of the study, many respondents who were interviewed during the research noted that the children delinquencies who had been recently remanded for the same were taking

part in training programs or activities by terrorist groups in Uganda. These children delinquents have been identified as a big threat or problem within the community and have been remanded until there is an observable improvement or change in their actions. One child respondent who admitted to being a part of the terrorist outfits in Uganda in an interview stated,

I was taken to the camp by my father. I still cannot tell the exact location of the place since we were driven there at night. We got military training and were told that our reward would be great if we defeated the current regime. I can cock and fire a gun and even load bullets. The police who arrested me told me to do these things to prove that I was a part of the terrorist group. I did so perfectly and in short time. However life in the camp was difficult. There was limited food and girls were raped by the older men. I am worried about my friends who are still there. I hope they survive and escape. (Naguru Remand Home, 6th May, 2015)

Therefore training of children by terrorists to commit terrorist activities has led to delinquent behaviour by children delinquents remanded in Naguru Remand Home. One of the administrators at the Remand Home in an interview stated,

The police are working on ground using information given to them by the children delinquents to investigate their claims and hopefully arrest the members of such training camps. This will help to reduce on the number of children delinquents being remanded for terrorism. (Naguru Remand Home, 12th May, 2015)

In final analysis, the children delinquencies in Naguru Remand Home have committed a number of offences or criminal activities and there is need for serious intervention so as to have their current issues or status well addressed. The child delinquent is a subject of law and is required to accept responsibility for what he has done. This is straight from the time he/she commits an offence, is detained and remanded up to when court proceedings take place. A child delinquent cannot therefore escape from his/her responsibility just because he/she is a child. The nature of crimes/offences committed by children delinquents vary as seen above. It is therefore crucial that

social care is necessary to deal with the psychological impact of these offences on the children as well as reaction from the community.

The areas of agreement from these findings are that majority of the children interviewed had no idea that their actions would have consequences. It is only upon being remanded that this realization dawned on them. This is especially true for the sexual offences in that most of the respondents thought that they could not be arrested for engaging in sexual activities with their “boyfriend” or “girlfriend”. This is a challenge because it means that more children are likely to become delinquents based on the fact that they are ignorant about the legal repercussions of their actions. This often leads them to be remanded over offences that they did not know existed in the first place as seen with for instance child to child sex or assault. The boys believe that fighting is part of growing up and it boosts their ego yet this is assault. They only realised the gravity of their actions upon remand.

It is also in agreement that the children commit these offences out of peer pressure as well as a need to survive. Further other children are influenced by drugs. From the findings of the study, the children delinquents who participated in the research highlighted that drug abuse is activity they engage in which later influences or leads them into other criminal activities or actions. Such drugs include; marijuana, nicotine, mira (mirungi,), weed as well as dinking waragi, among many other forms alcohol or drug abuse. This is used for “dutch-courage” or as an enhancement before some of the offences like rape, robbery are committed.

From the findings, the most dominant categories of offences are sexual offences. Findings by (Marianne Moore, 2010), show that the most prevalent offence committed by children delinquents is child to child sex followed closely by theft. This is characterized by the high

number of children delinquents remanded for these offences in Naguru Remand Home. The least dominant category of offences is homicide. This is characterized by the fewer number of children delinquents remanded for murder compared to other offences. According to one of the administrators who was interviewed at the Remand Home,

Various crimes/offences are committed by the children delinquents at the Remand Home. Child to child sex and theft are the most common offences for which the children are remanded. This is due to the high numbers of children delinquents who have been remanded here for these particular offences. (Naguru Remand Home, 12th May, 2015)

This is also supported by the police interviewed at Ntinda Police station who stated the same. That is, most of the children they arrested committed child to child sex and theft most. However other offences as discussed above were also committed by children delinquents in Naguru Remand Home.

4.3 The procedural challenges faced by children delinquents in accessing justice

Under this section, we are representing findings in relation to objective 2 of the study. It was meant to establish the procedural challenges faced by children delinquents in accessing justice in Naguru Remand Home.

The findings on the procedural challenges faced by the children delinquents at Naguru Remand Home start from as early as before they are even remanded. The Children's Act provides for a Village Executive Committee Court, that is, a Local Council Court to deal with delinquent behaviour as spelt out in section 92 of the Children Act of Uganda. This includes matters of a civil and criminal nature. In case of failure to handle such a case, then can a child be remanded. However failure by the children to access justice from Naguru Remand Home is limited due to the fact that cases that could have been dealt with at the Local Council Court level means many

children are remanded at Naguru Remand Home. This is a challenge for them because Family and Children Court, High Court and Magistrates Courts already have backlog of cases. Therefore the chances of a child who has been remanded for, say, pick pocketing appearing in court as soon as he/she is remanded are quite slim. This explains why the children delinquents have been remanded for more than the statutory period of 3 or 6 months as stated in section 91 (5) (a) and (b) of the Children Act. Certain offences can be dealt with at a Local Council Court level so as to meet the challenges children delinquents will face in the Remand Home in accessing justice for petty offences.

Further, while the Convention on the Rights of the Child stresses that imprisonment of a child shall be used only as a measure of last resort and for the shortest appropriate period of time, many children have been rounded up simply for being a nuisance or perceived as a threat. Article 40 of the Convention on the Rights of the Child is to the effect that a child should not be placed in prison or detained except as a last resort. Moreover, most of them have not been tried and yet are being held for months and in some cases years, often without access to courts from where they can get justice. One child delinquent interviewed at the remand home stated,

I have been here for 8 months now on charges of theft of a friend's laptop. I did not steal it but admit to dropping it on the floor by mistake and after that it got spoilt. I told my friend that I would fix it. My mother even took it to town for repair. However my friend later accused me of stealing his laptop. I was arrested by police and brought here. His laptop is still being fixed and will be returned. I am in senior five and my friends are already at school. I may have to repeat if my case is not handled soon.
(Naguru Remand Home, 5th May, 2015)

As seen from such an incidence, there was no need to remand the boy. Such a case would have easily been handled by the Local Council Court in his community. Remanding such a boy puts him at a disadvantage because he has been in the remand home for 8 months without access to

justice, yet at the Local Council Court level, the case could have been resolved at a much shorter time. Due to lack of training on the law and juvenile justice, most Local Councils refer the children to Remand Homes (Marianne Moore, 2010). This presents a challenge for the children delinquents at Naguru Remand Home to access justice in the juvenile Court system which is already overwhelmed with a backlog of cases. Moreover Local Council courts are empowered under section 92 (4) of the Children Act to make an order for any reliefs in respect of a child against whom the offence is proved and this includes: reconciliation, compensation, restitution, apology or caution. Such orders are also part of justice which children in Naguru remand home have failed to access.

The Family and Children Court is established under the Children Act Cap 59. It has the authority to hear and determine most criminal charges against children delinquents except those of a capital nature which are handled by the High Court. According to the administrators at the Remand Home, the procedure is that once a child is remanded, a probation and welfare officer must write a report as per section 95 (1) of the Children Act before court can make any order relating to the child. Such a report as per section 95 (2) of the Children Act shall include among other things, the social and family background, circumstances in which the child is living and the conditions under which the offence was committed. However according to one of the administrators interviewed at the Remand Home,

The probation and child welfare officers attached to the Ministry of Gender, Labour and Social Development were shifted to Kampala City Council Authority and at division level. In the past they could visit the home and children delinquents and write reports about them. These reports were then produced in Courts whenever we would take the children delinquents there. However the probation and welfare officers no longer come to the Remand Home because they

now work under Kampala City Council Authority. (Naguru Remand Home, 12th May, 2015)

As a result, they rarely come to the Remand Home to visit the children or write reports about them as their work is now based at the division level. This presents a challenge to the administrators who must produce the children delinquents in court with these reports. This means that the state prosecutors easily have an upper hand in prosecuting such children because a report of the probation and welfare officer acts as a mitigating factor for the children delinquents in court. One of the lawyers interviewed at Uganda Christian Lawyers Fraternity stated,

Without it, such a child is seen by the Magistrate or Judge as a nuisance who must be put away for rehabilitation on the insistence of a state attorney. This does not help a child delinquent who has overwhelming evidence against him for committing an offence or crime yet could have changed in behaviour during the time spent at the Remand Home. (Kampala, 25th May, 2015)

It was also discovered by the researcher that the Ministry of Gender, Labour and Social Development gave the administrators at the Remand Home the authority to write the reports so that their cases can be handled expeditiously by the courts. One of the administrators interviewed at the Remand Home stated,

This is an overwhelming task for us as administrators since we already have other obligations. Thus we may not be able to write as many reports as probation and welfare officers would. This is a procedural challenge to the children delinquents at Naguru Remand Home because without a report from the probation and welfare officer, their cases cannot be proceeded with in the Courts of Law. (Naguru Remand Home, 12th May, 2015)

The researcher also found that lack of legal representation is a procedural challenge faced by children delinquents at Naguru remand home. According to section 16 (1) (e) of the Children Act, a child delinquent is entitled to legal representation. In fact article 40 of the Convention on

the Rights of a Child is to the effect that a child has a right to a fair hearing, legal help and legal representation. Since the children are prosecuted by the state, this means that they are defendants. A defendant has a right to legal representation paid for by the state. In practice, not only do court registrars assign lawyers in private practice the mandate to represent such children in Courts of Law but lawyers have the obligation to offer free legal service as pro bono. Moreover Non Governmental Organisations like Legal Aid, Uganda Christian Lawyers Fraternity offer the same to these children. However according to a lawyer interviewed at Uganda Christian Lawyers Fraternity,

The challenge is that the number of children in all the remand homes in the country is overwhelming. Moreover, lawyers offering pro bono services are few as most are geared to make profit yet the children delinquents do not have financial ability to pay for legal representation. Further the Non Governmental Organisations are also overwhelmed by the high numbers of children delinquents in the country. This becomes a procedural challenge for the children delinquents who often times find themselves without access to a lawyer. (Kampala, 30th May, 2015)

As a result, they are not represented in court and sometimes those that plead guilty are sentenced by court in a bid to save time and do away with backlog of cases. Further due to the high numbers, most children do not even have any rapport with the lawyers representing them especially to find out more about their cases. The researcher witnessed this in Nabweru Chief Magistrate's Court on 8th June, 2015 at Nabweru, where a lawyer from one of the Non Governmental Organisations simply showed up in court on behalf of the children but had not even met with them prior to that court session to find out more about their cases and to prepare them for the court session. The lawyer had come to apply for an adjournment before the Chief Magistrate, after which, she left without still meeting with the children delinquents to find out

more details about their cases. Without proper legal representation, the children delinquents have no hope of ever leaving the remand home.

The researcher also found that due to lack of legal representation, the children stay on remand for long periods of time. As a result the researcher found that some children delinquents pay for private legal representation instead of relying on the state. One child respondent who was interviewed stated, “My uncle hired a lawyer to represent me in court. The lawyer came here and I told him about my case. I will be returning to court for the hearing. I am just waiting for the date.” (Naguru Remand Home, 7th May, 2015)

According to the child delinquents, she had spent only one month in the remand home and had an advantage over her colleagues in that due to the fact that she had a private lawyer her case was being handled expeditiously compared to other children who have to wait for months on end for legal representation from the state. This presents a challenge to the rest who cannot afford to hire private lawyers. In fact the majority of the children delinquents are relying on the state to provide them with lawyers to represent them in court (Simon Musasizi, 2014). According to Justice Steven Kavuma, some 36% of Ugandans cannot afford hiring services of advocates. Ultimately this includes the children delinquents at Naguru Remand Home who face a procedural challenge in accessing legal representation to which they are entitled.

From the findings, procedurally, the children are supposed to access court as a means of attaining justice. In fact at the Remand Home, lists showing dates of court appearances for the children delinquents are pinned on the notice board as was observed by the researcher. The children delinquents are usually excited by this list because to them it means a chance to finally leave the Remand Home since their cases will finally be heard in court from where most hope to be

sentenced or released if found not guilty for the offence or crime for which they were remanded. However, this is usually short lived because of lack of fuel on the part of the remand home to transport them to the different courts. Usually the children are transported to courts within Kampala like Makindye, Nabweru, Kasangati Courts as well as High Court in Kampala. However for children delinquents with cases out of Kampala like Entebbe or Jinja, there is little chance of attending those sessions. This is a procedural challenge because it inhibits the children from actually attending their court sessions from where they can get justice. This would include dismissal of their cases or getting a sentence from which they can get rehabilitation and thereafter be able to return back to their daily routine. Moreover this would definitely lead to a decongestion at the remand home.

Respondents who were interviewed during the research noted that the lack of fuel and vehicles to transport children delinquents to Courts of Law has been a problem affecting their right to access to justice. This has greatly hindered the performance of many rehabilitation centers and remand homes with Naguru Remand Home inclusive. It was revealed by the administrators interviewed that sometimes children delinquents overstay in the Remand Home due to this issue.

Therefore failure to attend court sessions due to lack of fuel was noted to be one of the procedural challenges affecting children delinquents in Naguru Remand Home.

Findings from the research further show that the children delinquents have a procedural challenge of failure to apply for bail. According to section 90 (1) (a) and (b) of the Children Act of Uganda, a child may apply for bail on a court bond on his/her own recognisance or with sureties preferably his/her parents or guardian and unless there is serious danger, the court may not release the child. It was noted by the researcher that the children delinquents have never even

applied for bail. According to some respondents particularly the administrators at the Remand Home and state attorneys, some of the children do not have parents who would ensure that they attend court. However those with parents or guardians have never accessed this right. One of the lawyers interviewed at Uganda Christian Lawyer's Fraternity stated that

Bail is meant to give an individual liberty for some time until he/she is needed back in Court. Further this would enable the children delinquents not only better prepare for their cases but also give them a chance to continue with their education which is usually halted for the period of time they are on remand. (Kampala, 25th May, 2015)

The findings of the research further showed that court delays contribute to a procedural challenge for the children delinquents. Sometimes court sessions are adjourned by the Magistrates and Judges themselves leading to a delay for the children delinquents. It is said that, "justice delayed is justice denied." Moreover rule 20 of the Beijing Rules states that "Each case shall from the outset be handled expeditiously without unnecessary delay." Morestill, article 40(2) (iii) of the Convention on the rights of the Child states that any child in conflict with the law shall, "...have the matter determined without delay by a competent, independent and impartial authority."

Court delays also occur where some children delinquents are charged with adults and their cases can only be heard in the Magistrates Court or High Court. According to section 103 and 104 of the Children Act, a child jointly charged with a person over 18 years may be tried in a magistrate's court or High Court for an offence for which the Magistrates Court or High Court has jurisdiction respectively. One of the state attorneys interviewed stated that,

This means that such a session can only take place at the same time when the adult also appears in court. If he/she does not, then the child delinquent will have to attend only when such an adult is available in court. This is a challenge

because it means that the child cannot access justice until such a time.
(Kampala, 2nd June, 2015)

The researcher found that court delays are also common in instances where the complainants/victims/witnesses to help in prosecution of the children delinquents are absent. One of the state attorneys interviewed further stated that,

When a complainant, witness or victim is not in court, the prosecution usually will adjourn the matter to a later date for hearing when they will be available. This delays the access to justice by the children delinquents which is ultimately a disadvantage to them. However a matter cannot be proceeded with unless the complainant, witness or victim is in court. (Kampala, 2nd June, 2015)

In conclusion, the researcher found that the law especially the Children Act as well as international provisions like the Convention on the Rights of the Child, Beijing Rules to mention but a few provide clear and precise procedures to be followed in accessing justice by children delinquents in Uganda. However it is apparent that the children delinquents still face challenges in having access to these provisions. As a result this leads to a denial of justice to them ultimately meaning that they will most definitely spend longer periods of time at the remand home.

4.4 The impact of procedural challenges in accessing justice on the children delinquents

Under this section, we are representing findings in relation to objective 3 of the study. It was meant to establish the impact of procedural challenges in accessing justice on the children delinquents in Naguru Remand Home. The procedural challenges discussed above have a negative impact on the access to justice by the children delinquents. These are discussed below;

Findings on the impact of the failure by the Local Council Courts to handle what would be termed as “petty offences” is that this creates backlog of cases in the juvenile justice system.

This means that the chances of the children delinquents actually accessing courts of law is limited considering that there is an already existing back log of cases. The courts would rather handle “serious offences/crimes” in a bid to rehabilitate such children at Kampigirisa rehabilitation centre. A lawyer interviewed at Uganda Christian Lawyers Fraternity stated, “This therefore means that the children will spend longer periods of time at the Remand Home than the statutory period of 3 or 6 months provided by the Children Act.” (Kampala, 25th May, 2015)

The impact of failure by the welfare and probation officers to make reports on the children delinquents means that the children delinquents will have to spend longer periods of time at the remand home than the statutory time of 3 or 6 months provided in the Children’s Act leading to a backlog of cases in the juvenile court system. This leads to stress on the children who complained that they were tired of long periods of stay at the remand home. According to the administrators interviewed at the Remand Home stated that, “This explains why the children sometimes end up escaping from the Remand Home as well.” (Naguru Remand Home, 12th May, 2015).

Further this also puts them at a disadvantage in accessing justice in Courts of Law because without such a report, the Judge or Magistrate is biased against such a child as he/she is seen as unruly or a nuisance in the community. A lawyer interviewed at Uganda Christian Lawyers Fraternity stated that,

Due to lack of a welfare report, the full punishment of the law may be handed to a child delinquent as a means for rehabilitation due to lack of an incentive to show that the child’s behaviour has improved while on remand. Moreover the state attorneys are eager to have such children delinquents prosecuted with or without the report in a bid to win cases.

The researcher found that lack of legal representation impacts on the children delinquents in that they fail to have a fair trial in the courts of law. The meaning of legal representation is such that the child can be defended for the crime or offence he/she has allegedly committed. This is important as the researcher came across many children delinquents who claimed that they did not commit the offences for which they were remanded. Moreover the court proceedings take place using legal terminologies and jaggons. As a result, the children delinquents especially those who have pleaded guilty may fail to understand what is taking place throughout the sessions placing them at a disadvantage because they lack legal representation.

Further the researcher also found that lack of legal representation led many children to plead guilty so that they can be sentenced as soon as possible by the Magistrate or Judge. This was based on the fact that they were fed up with their cases dragging and the desire to leave the remand home. They hoped that a sentence meant that they could serve it and then be able to return to their daily routines especially attending school which they missed.

Lack of legal representation impacted on the children in the sense that it led to a back log of cases. This is because the Magistrates and Judges in the Family and Children's court, Magistrate's Court and High Court adjourned cases of children who were not represented. This also meant more time on remand for such children delinquents as well as overcrowding at the remand home. Moreover most children were already stressed and frustrated at being remanded for long periods of time and wanted to leave. One child delinquent interviewed stated,

My case has been adjourned twice now because I do not have a lawyer. I am tired of being remanded and want to go back home. I am also missing school and may fail to catch up with my friends. The case was adjourned to next month so I still have to keep around. I have been in the Remand Home for 8 months now. (Naguru Remand Home, 6th May, 2015)

Thus the researcher found that lack of legal representation impacted negatively on the children in that it hindered their access to courts of law as most Magistrates and Judges preferred to proceed with the complainant and the defendant represented. This is on the basis for the need to conduct a fair trial. Trial will not be fair if the children delinquents are not represented by a lawyer.

The impact of the children failing to attend court sessions due to lack of fuel is that the children fail to get justice at all in the first place. The researcher spoke to one such child delinquent who stated,

I have been here since October, 2014 and I have never been produced in court. I see my name on the list but know that I will not be taken to Iganga Court. Children with cases within Kampala are the ones who have a chance of attending Court. I was in senior three when I got remanded. Right now my friends are in senior four. Moreover I want my case to be heard once and for all because I want to go back to school. The administrators tell me that there is no fuel to transport us to Iganga Court to attend our court sessions there. (Naguru Remand Home, 7th May, 2015)

The researcher found that failure for a child to attend a Court session due to lack of fuel on the part of the Remand Home impacts on the children delinquents in that it creates a backlog of cases because if a child does not appear in Court, then his/her case must be adjourned to a future date to give him/her time to prepare and be available. Moreover the administrators at the Remand Home cannot do much. When interviewed, one of them stated,

Our hands are also tied. We have to wait for budgetary allocations from the Ministry of Gender, Labour and Social Development. Sometimes we are given little money yet we also must feed these children as well as treat and provide for them other necessities like clothes and soap. As a result the money sent may not be enough to buy fuel to transport the children to the different Courts in and out of Kampala. (Naguru Remand Home, 12th May, 2015)

The researcher found that failure to attend court sessions by the children delinquents due to lack of fuel to transport them to Court impacts on the children in that since the cases will be adjourned, this automatically means that they have to stay on remand. This goes against the statutory 3 or 6 months provided for by section 91 (5) of the Children Act. Ultimately this leads to overcrowding at the remand home which is already overwhelmed with big numbers. One of the children delinquents interviewed stressed that,

I have overstayed at the Remand Home and have never had any opportunity of a Court hearing moreover I was falsely accused. I am still waiting for Court action or some kind of response from the administrators in regards to my case. I feel so stressed because I have been here for too long. I want to go back to school but I am held up in this remand home. (Naguru Remand Home, 7th May, 2015)

The researcher found that the impact of failure by the children to apply for bail hindered their right to liberty as is its main intention. The children therefore fail to access other rights like; education, health, to mention but a few. One child delinquent interviewed stated that,

If I had a way of returning to school in the mean time as I wait to be produced in court, I would take that opportunity and definitely appear in court when my case comes up for hearing. Besides, I never committed the offence for which I was remanded yet now I am missing school. (Naguru Remand Home, 5th May, 2015).

This would best be done procedurally through bail. Further the impact of failure to apply for bail is that it contributes to overcrowding at the remand home thereby overwhelming the administrators at the Remand Home and leading to more stress and frustration for the children.

The impact of court delays on children delinquents in accessing justice is that the statutory period for remand is ultimately not observed. This leads to the children delinquents being remanded for longer than 3 or 6 months as provided by the Children Act making their stay at the

remand home illegal yet with no solution. One administrator interviewed at the Remand Home stated,

It is frustrating to take the children to Court only for their cases to be adjourned because the judicial officers are absent or a witness is not in court. This has led some of the children delinquents to stay on remand for more than the statutory period of 6 months. The impact on the children delinquents is that they understandably get frustrated with the juvenile justice system. (Naguru Remand Home, 12th May, 2015)

This has also led to overcrowding at the remand home as well as stress and psychological torture faced by the children delinquents since they become frustrated with the slow pace of the juvenile justice system.

In conclusion therefore, the impact of procedural challenges faced by children delinquents in accessing justice inevitably denies them justice. This is seen in a broad aspect considering other parts of the world which purportedly have entrenched juvenile systems in place. However failure by children delinquents to access these procedural avenues leads them to come short of the benefits of justice which would otherwise be open to them as per the international and national provisions on the same. In end justice is still denied either way.

4.5 Strategies for improving access to justice by children delinquents in Naguru Remand Home

Under this section, we are representing findings in relation to objective 4 of the study. This objective was meant to find out what strategies are necessary for improving access to justice by children delinquents in Naguru Remand Home. These are discussed below;

From the findings, the researcher noted that the respondents agreed that there is need for effective training of the Local Council Courts to handle offences of both a civil and capital nature committed by children delinquents. This is important as it will enable many children delinquents to access justice from the grass root level instead of waiting for it on remand. Moreover this may not effectively take place as soon as a child is remanded due to technicalities and other challenges facing the remand home like lack of fuel. If justice is administered by the Local Council Courts, in regards to certain offences, then there will be no need for the children to be remanded. According to one of the lawyers interviewed at Uganda Christian Lawyers Fraternity,

The Local Council courts are empowered under section 92 (4) of the Children Act to make an order for any reliefs in respect of a child against whom the offence is proved and this includes: reconciliation, compensation, restitution, apology or caution. This is a representation of justice which children delinquents can access for certain offences that do not need for them to be remanded. (Kampala, 25th May, 2015)

From the findings, the researcher noted that a strategy to improve the access to justice by children delinquents is by the Ministry of Gender, Labour and Social Development engaging or working hand in hand with the Kampala City Council Authority. There is a need for allocation of more probation and Welfare officers currently under Kampala City Council Authority to Naguru Remand Home. This is crucial in ensuring that welfare reports that relate to the children delinquents are written so that they can be taken to court. One of the government officials interviewed at the Ministry of Gender, Labour and Social Development stated that, “It is currently a challenge for the administrators to write this report plus perform their other obligations because it limits the number of children for whom reports can be written.” (Kampala, 10th June, 2015)

Further many respondents noted that the government should focus on increasing more access to lawyers in Naguru remand home for the children delinquents to have legal representation. This will enable the children delinquents to better understand the nature of the offences they have committed. This will also enable them receive legal guidance when in court. Majority of the children delinquents have no idea of the gravity of the offences they have committed or why they are in the remand home in the first place. More lawyers need to take on representing these children in courts of law on state brief as a way of giving back to society. One of the government officials interviewed at the Ministry of Gender, Labour and Social Development stated that,

“The Non Governmental Organisations need to come to the aid of the children by representing them in Courts of Law. More still the children have a right to legal representation so the government must afford them lawyers to ensure fair trial in Courts of Law. Legal representation will enable the children access justice and so decongest the Remand Home in the process.” (Kampala, 10th June, 2015)

The respondents further observed that the Ministry of Finance should release budgetary allocations to the Ministry of Gender, Labour and Social Development on time. This will ensure that Naguru Remand Home is allocated funds to effectively administer the home. This is a strategy identified by the government officials at the Ministry of Gender, Labour and Social Development especially in regard to availability of fuel so that the children delinquents are transported to the different courts in and out of Kampala for their court sessions. This will ensure timely access to justice by the children in the courts of law.

Bail is a crucial procedure of justice. One of the lawyers interviewed at Uganda Christian Lawyers Fraternity noted that,

A strategy is that the children whose parents can readily commit to ensuring that their children attend their court sessions should be granted bail with stringent conditions, for instance, a cash bond. This would ensure that children delinquents who may skip bail do not do so. (Kampala, 25th May, 2015)

The children delinquents stated that they have a right to bail but are not given an opportunity to apply for it. Thus would wish to exercise this right in courts of law. This would actually help to decongest the remand home. However chances for bail are slim considering some children delinquents may not have sureties to ensure that they attend further court proceedings. This was mainly noted by the administrators and state attorneys. One state attorney interviewed emphasised that,

Children delinquents who skip bail may be difficult to arrest again leading to a miscarriage of justice to the complainants and victims of their offences/crimes. This would be a denial of justice to victims of delinquent behaviour considering the fact that such children delinquents would have walked Scott free from the full force of the law. Moreover some children delinquents have committed offences like rape or caused grievous bodily injuries to their victims due to assault. (Kampala, 2nd June, 2015)

Judicial officers must be urged by the government to dispense timely justice. This is in essence to stop court delays. Courts should have and follow time limits within which to handle cases of children delinquents in order to eliminate the backlog of cases. Further justice delayed is justice denied so the judicial officers must restrict absenteeism from the courts of law as well. A lawyer interviewed at Uganda Christian Lawyers Fraternity stated that, "...this leads to unnecessary adjournment of cases ultimately affecting the period of time spent on remand by the children delinquents." (Kampala, 30th May, 2015)

From the findings of the study, many children noted that there should be more education about the law in relation to criminal acts committed for better resolution of complaints. There are few Acts in the Remand Home so as to enable the children delinquents gain more knowledge on the nature of offences they have committed. More over the children delinquents were eager to have further information relating to the nature of the offences they had committed. The government through the Ministry of Gender, Labour and Social Development must allocate funds to provide legal material in the remand home like especially national laws and international instruments. According to one of the administrators interviewed at the Remand Home,

This would also aid the need for education and instruction of the children delinquents at the Remand Home. Further the continuity of education of the children delinquents, most of who were studying is lacking in the Remand Home. Thus provision of international and national legal instruments like Acts and other legal material would curb this challenge. (Naguru Remand Home, 12th June, 2015)

The parents noted that the government needs to do more at community level to curb the vice of delinquency early. The government should engage the community through community leaders, the police and parents to guide them on their responsibility in raising children; this is also important in schools where children engaged in delinquent behaviour can be identified and counseled early to reform and improve on their behaviour. In fact the parents noted that they have a role to play by ensuring that they discipline as well as guide their children early before they spiral out of control leading to remand due to delinquent behaviour. One of the parents stated during the focus group discussion that,

We as parents need to play our role in raising our children. This would aid in reducing in children delinquency which is on the rise. I was so caught up doing business and left my son in the hands of a maid and now he has ended up in the Remand Home for theft. Had I been around, I would have at least monitored his behaviour early and disciplined him. (Naguru Remand Home, 13th May, 2015)

4.6 Conclusion

International and national provisions of the law relating to access to justice by children delinquents are clear on how the same can be realised. However this is only good on paper. This is because the children delinquents in Naguru Remand Home face an uphill task in accessing this justice. As a result many are left frustrated by the juvenile justice system in Uganda. Moreover the government too has a role to play in ensuring that this justice is dispensed with through the Ministry of Gender, Labour and Social Development, judicial officers and the Courts of law. A lot still needs to be done to ensure that children delinquencies actually access justice on ground otherwise the international and national provisions like the Convention on the Rights of the Child, Beijing Rules, Riyadh Guidelines, The Children Act cap 59 to mention a few will do little to ensure this. The strategies above if implemented will go a long way in bringing about the much needed change to ensuring that children delinquents in Uganda as a whole access justice to which the legal provisions assure them of having a right to.

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.0 Introduction

This chapter of the study is concerned with the summary, conclusion and recommendations as per the findings of the study. The section mainly focuses on the final write up from the findings of the study about the challenges of children delinquencies in accessing justice in Uganda focusing on Naguru Remand Home as a case study. In addition to that, the researcher made recommendations to the government, community and the policy makers on the ways through which children delinquencies can be supported on the issue of access to justice.

5.1 Summary

The findings of the study show that the children delinquents at Naguru Remand Home face challenges in accessing justice. The children delinquents have committed various offences/crimes including but not limited to child to child sex, theft, assault, robbery, murder to mention but a few. As a result of such actions children delinquents have been remanded at Naguru Remand Home as they await trial in Courts of Law.

However in order to access justice, certain procedures should be followed so as to realise the same. The researcher found that several procedural challenges actually inhibit or prevent children delinquents from actually accessing justice. These include; an ineffective Local Council Court system, lack of welfare and probation officers at the remand home to make welfare reports which are necessary in court, lack of legal representation, financial challenges at the Remand Home in regard to lack of fuel to transport children to Courts of Law, failure by the children delinquents to apply for bail and court delays.

As a result of the above mentioned procedural challenges this has negatively impacted on the opportunities for the children delinquents to access justice. The ultimate impact is that the children are denied justice due to these challenges. This is due to the fact that their hands are tied in accessing justice. This has led many of them to spend longer periods of time at the Remand Home which is already overcrowded. Many have lost hope and pleaded guilty to crimes they did not commit due to lack of legal representation that could have guided them in the court process. Others have been denied a chance to continue with their education due to failure to apply for bail. Financial challenges faced by the Remand Home has resulted in the children delinquents missing court hearings and sessions due to lack of fuel to transport them to courts of law. Further court delays have been as a result of absenteeism by judicial officers and prolonged court processes which prevented the children delinquents from accessing justice.

However despite all these procedural challenges and their impact on children delinquents accessing justice, there are strategies that can improve on the situation. These strategies are mainly directed at key players especially government, judicial officers, administrators of the Remand Home and parents and guardians of the children delinquents to play their roles. In doing so, a lot will change for the children delinquents in accessing justice to which they too are entitled as children.

5.2 Conclusion

The main aim of this study was to examine the challenges of children delinquents in accessing justice in Naguru Remand Home which is based in Kampala.

According to the objectives of the study, the key issues of the findings are that indeed children delinquents in Naguru Remand Home face challenges in accessing justice in Naguru Remand

Home. As a result, the researcher engaged a cross section of respondents including the children delinquents and administrators at the remand home, security personnel, Ministry officials, parents and guardians of the children delinquents and judicial officers. This was in a bid to come up with a clear understanding of what takes place on ground in regard to challenges faced in accessing justice by the children delinquents. This has been identified mainly procedurally in that the procedures that are legally in place through provisional international and national laws cannot be accessed by the children. The impact of this is that the children as an end result cannot access this justice leading to delays in court hearings, longer periods on remand, lack of legal representation to mention but a few. The researcher therefore by interacting with and engaging the different respondents came up with strategies through which the access to justice by children delinquents in Naguru remand home can be accessed.

5.3 Recommendations

The researcher noted that the respondents agreed that there is need for the Local Council Courts to be effectively trained to handle offences of both a civil and capital nature committed by children delinquents. This is important as it will enable many children delinquents to access justice from the grass root level instead of waiting for it on remand. Moreover this may not effectively take place as soon as a child delinquent is remanded due to technicalities and other challenges facing the Remand Home like lack of fuel to transfer children delinquents to Court. If justice is administered by the Local Council Courts, in regards to certain offences, then there will be no need for the children delinquents who have committed petty offences to be remanded. Moreover Local Council courts are empowered under section 92 (4) of the Children Act to make an order for any reliefs in respect of a child against whom the offence is proved and this includes: reconciliation, compensation, restitution, apology or caution. This is a representation of

justice which children delinquents can access for certain offences that do not need for them to be remanded.

From the findings, the researcher noted there is need for the Ministry of Gender, Labour and Social Development to engage Kampala City Council Authority. There is a need for allocation of more probation and welfare officers currently under Kampala City Council Authority to Naguru Remand Home. This is crucial in ensuring that welfare reports that relate to the children delinquents are written so that they can be taken to Court. It is currently a challenge for the administrators to write this report plus perform their other obligations because it limits the number of children for whom reports can be written.

The government should focus on increasing more access to lawyers in Naguru Remand Home for the children delinquents to have legal representation. This will enable the children delinquents to better understand the nature of the offences they have committed. This will also enable them receive legal guidance when in court. Majority of the children delinquents have no idea of the gravity of the offences they have committed or why they are in the Remand Home in the first place. More lawyers need to take on representing these children in Courts of Law on state brief as a way of giving back to society. Furthermore Non Governmental Organisations need to come to the aid of the children by representing them in Courts of Law. More still the children have a right to legal representation so the government must afford them lawyers to ensure fair trial in Courts of law.

The researcher recommends that the Ministry of Finance should release budgetary allocations to the Ministry of Gender, Labour and Social Development on time. This will ensure that Naguru Remand Home is allocated funds to effectively administer the home. This is in especially in

regard to availability of fuel so that the children delinquents are transported to the different courts in and out of Kampala for their Court sessions. This will ensure timely access to justice by the children in the Courts of law.

Bail is a crucial procedure of justice. The researcher recommends that the children whose parents can readily commit to ensuring that their children attend their court sessions should be granted bail with stringent conditions, for instance, a cash bond. This would ensure that children delinquents who may skip bail do not do so. Many of the children delinquents stated that they have a right to bail but are not given an opportunity to apply for it. Thus would wish to exercise this right in courts of law. This would actually help to decongest the remand home as well as ensure that the children continue with their education for instance.

Judicial officers must be urged by the government to dispense timely justice. This is in essence to stop Court delays. Courts should have and follow time limits within which to handle cases of children delinquents in order to eliminate the backlog of cases. Further justice delayed is justice denied so the judicial officers must restrict absenteeism from the Courts of Law. This leads to unnecessary adjournment of cases ultimately affecting the period of time spent on remand by the children delinquents.

The researcher recommends that there should be more education about the law in relation to criminal acts committed for better resolution of complaints. There are few Acts in the Remand Home so as to enable the children delinquents gain more knowledge on the nature of offences they have committed. More over the children delinquents were eager to have further information relating to the nature of the offences they had committed. The government through the Ministry of Gender, Labour and Social Development must allocate funds to provide legal material in the

remand home like especially national and international instruments like the Children Act and Penal Act which are all laws of Uganda. This would also aid the need for education and instruction of the children delinquents at the remand home since there is no form of continuous education at the Remand Home.

The government needs to do more at community level to curb the vice of delinquency early. The government should engage the community through community leaders the police and parents to guide them on their responsibility in raising children. This is also important in schools where children engaged in delinquent behaviour can be identified and counseled early to reform and improve. In fact most respondents noted that parents have a role to play by ensuring that they discipline as well as guide their children early before they spiral out of control leading to remand.

5.4 Suggestions for Further Study

From the findings of the study, the researcher suggests that studies should be carried out on families as a strategy to reduce delinquency in Uganda. This is in a bid to find out ways as to how delinquency can be dealt with early in the raising of children by parents and guardians. If it is curbed early then there will be fewer children delinquents in Remand Homes.

The researcher also suggests a study to be carried out to establish reasons why most children delinquents are males. As noted by the researcher, most of the children delinquents at the remand home were male. Although female delinquents were found at the Remand Home, they were fewer in number. An explanation for this should be come up with through a study.

There is also need to study the creation of policies that strengthen and empower children delinquents to be better citizens in the community. This is crucial since most of the children

delinquents the researcher interacted with exhibited good behaviour, meaning they can change and reform to better citizens.

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APPENDICES

APPENDIX I : INTERVIEW QUESTIONS FOR THE RESPONDENTS

Dear Respondent,

My name is Akio Maria. Thank you in advance for your time and willingness to share your views on the “Challenges of Children delinquency in Accessing Justice: A case study of Naguru Remand Home.”

Research has demonstrated that there is an increase in the number of children delinquents in remand homes generally. However the researcher is interested in finding out the challenges faced by children delinquents in accessing justice. The researcher is therefore interested in using your responses to establish these challenges. Please be assured that your anonymity is guaranteed and that no one will be able to view your responses. Further the results will not include data that could identify individuals.

Section A: Bio Data

Name..... (Optional)

Age.....

Sex.....

Marital Status.....

Religion.....

Level of Education.....

Working status.....

Section B: Access to Justice

The table below shows a list of different types of justice in the community. You are requested to assess each of the types of justice from strong agreement to strong disagreement.

Access to fair social treatment/Justice in the community

General justices	Strongly agree	Agree	Neutral	Disagree	Strongly disagree
Equity in community					
Equality					
Human Rights					
Fairness					
Respect					
Integrity					
Trust					
Empowerment					
Dignity					
Kindness					
Appreciation					
Care					
Sharing					
Compassion					
Education					
Others					

a) Do you live comfortably with other family members in your home? Yes No

b) If no, why.....

c) Do your parents/guardians treat you equally like the other children in the community?

.....

d) Is there anything you do not like about your neighbors in your community?

.....

.....

e) Do you have any problem with elders in this community?

.....

.....

f) How is your relationship with other community members?

.....

.....

g) When you have a problem, who do you tell it to?

.....

.....

h) What are your biggest challenges in life?

.....

.....

i) How do you overcome them?

.....

.....

24. What should the government and development partners do in order to support the community in relation to conflicts and justice?

.....

SECTION C: Guide for Focus Group Discussions

- (a) What impact has your child's delinquent behaviour had on your livelihood?
- (b) How long has the situation persisted?
- (c) What efforts did the locals in your community do to improve the situation?
- (d) Do you think the locals need to be educated more on children delinquency? If yes, explain why.
- (e) Which actors/people/organizations came to your rescue?
- (f) What was the relationship between the various actors like?
- (g) Was it peaceful or rebellious? Explain your answer.
- (h) What does the concept of justice mean to you?
- (i) Do you know about the courts of justice? If yes what do you know about it?
- (j) Do you think they have any roles to play in promoting justice in the community?
- (k) If yes, what roles can they play in improving children delinquent's access to justice?
- (l) What mechanisms should the government put in place to curb delinquent behaviour?
- (m) Can this be achieved Yes/No?
 - If yes, please explain to what extent
 - If no, please explain why
- (n) Do you as parents face any challenges in carrying out your roles? Yes/No
 - If yes, what challenges
- (o) How best do you think the situation can have been improved?
- (p) How best do you think the government and community can help you?

THANK YOU FOR YOUR TIME AND CORPORATION