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**EFFECTIVENESS OF THE RIGHTS ACCORDED TO THE CHILDREN ON
MANAGEMENT OF ORPHANED AND VULNERABLE CHILDREN IN
CHARITABLE CHILDREN INSTITUTIONS IN KENYA.**

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ABSTRACT

Children are the most vulnerable beings in need of care and protection from every manner of abuse. International bodies such as United Nations Convention On the Rights of the Child have been established to ensure that the children are accorded their rights. The purpose of this research was to evaluate the effectiveness of the rights accorded to the children in the charitable children institutions on the care given to the orphaned and the vulnerable children in Kenya. The researcher used 210 children, 16 care givers/ counselors and eight managers of the children institutions totaling 234 respondents. Purposive sampling was used to choose managers and the children aged 10 – 17 years. Convenient sampling was used to choose caretakers and counselors. Data were collected using questionnaires and check list. The study established that although most of the children were found to have enjoyed the rights accorded to them. The results from the caretakers and the managers contradicted these results. It was found that the children's involvement in the decision making and freedom to express themselves depended on their age. The study established that the older children had more freedom than the small children.

key words : Child, Rights, Charitable Institutions, Management, Vulnerable Children, Orphaned Children

INTRODUCTION

In any given society, children are valuable resources as they ensure continuity of that society. Therefore the rights of the children especially the orphaned and vulnerable in charitable children's institutions is paramount.

Purpose of the Study

The purpose of this study was to evaluate on the effectiveness of the of the rights of the children in the children's homes on the care given to the orphaned and vulnerable children in Kenya.

Justification of the Study

In many countries of the world, children's home care is the main strategy for helping children in need of special care and protection. However, Save the Children (2003) observed that many features of the children's homes are an abuse of the children's rights and the issues of these children need placing on the international agenda. Cameroon and Maginn (2009) noted that in our affluent society, it is easy to take for granted the importance of primary care particularly child's right especially when his or her basic needs such as food, shelter, warm sleep and health are catered for. Even with the enactment of the Kenya's Children's Act of 2001, which lays down the procedures of the management of the children's homes and spells the rights to be enjoyed by every child, cases of torture, cruel and inhuman treatment have continued to be witnessed in various homes. Over the years, a range of description has been for damage caused to children deliberately includes cruelty, baby battering, abuse, non accidental injury, and other significant harm (Kate and Gardener, 1995). Migosi, a children's officer from Taita Taveta in the Daily Nation of April, 2008 expressed fear that some corrupt official from the Children's Department who are meant to protect the children, connive with the traffickers to cover up the evil. These acts are undermining the rights of the children. A research done by Ekesa on protecting children from Human Rights violation in 2006 revealed that little effort is made to inquire about resources, staff quality, and the material standards. The material standards within the residential facility such as food, clothing, education, health provision vary within countries and over time and so do their rights.

Effectiveness of the Charitable Children's Homes in Meeting the Rights of OVC.

Mangold (2002) noted that according to some researchers the notion of the children's rights at least one proposing that there is no singularly accepted definition or theory of the rights held by children. However, globally the Convention of the Rights of the Child (CRC) 1989 is the principle framework to guide actions on behalf of the children. It is the single children most important reference point concerning orphans and the vulnerable. The convention on the rights of the child (1989) provides guidelines for policies and practices to ensure realization of the children's rights. These are aimed at improving the lives of the children and safeguarding their human rights. Bandmam (1999) asserts that the interpretation of the children's rights range from allowing children the capacity for autonomous action to enforcement of children being physically, mentally and emotionally free from abuse. William and Gardener (1995) cited the following rights in accordance with the UN Convention of the Rights of the Child (1989):

1. Every child has right to life.
2. Right to freedom of expression and to be heard in any proceedings that concern them.
3. Right to appropriate information.
4. Protection from abuse, neglect, maltreatment, or exploitation and discrimination.
5. Right to highest standards of health and access to health services.
6. Right to adequate standard of living that enhances mental, spiritual, moral and social development.
7. Right of every child to education.
8. Child's right to rest, leisure, play and recreation.

According to CRC (1989), State parties shall respect the rights of the child who is separated from one or both parents. The convention reaffirms the responsibility of the state in protection of children's rights without discrimination. All these initiatives address the needs of the children at different ages including those in the children's homes (Hobart and Frankel, 2000). Respecting the child's needs and the ability to express their opinions and make informed decisions is crucial at every stage, and therefore to avoid discrimination and stigmatization of children in the children's homes, children must not be singled out and provided with separate services but rather have access to services available to all the children (Save the Children, 2003). However, in many countries, orphans and vulnerable children in children's homes are disadvantaged in obtaining essential services necessary to their welfare. They have lower school attendance rate, and are at risk to poor nutrition and health. They are also at greater risk of abuse and exploitation. Typically orphaned children have significant psychosocial needs and their support systems to meet such needs are weak or in extreme cases nonexistent (World Bank, 2004).

Kiara (2001) noted that Kenya had made achievements in terms of laws and registrations for the orphaned and vulnerable children through the following.

1. The adoption of the CRC by General Assembly of the UN.
2. Ratification of the CRC 1989 in 1990.
3. Children Act 2001.
4. National Program of Action for Children (NPA) 1992.
5. Kenya National Commission for Human Rights (KNCHR) 2003.

According to a report by the committee on the rights of the child in July 2006, the enactment of the Children's Act (2001) was widely seen as a new beginning for the development and effective protection of the child. The Children's Act (2001) is seen as the only legal instrument in Kenya that provides social, economic, and cultural rights along with some protection of civil liberties. Among its key social welfare is the guarantee of free basic education and right to health. Arts, k. Popvosky et al (2006), observed that organizations and mechanisms such as caucus for United Nations General Assembly Special Section for children, the United Nations Human Rights Council and the Non Governmental Organizations exist to facilitate implementation and compliance with the Convection on the Rights of the Child and to ensure the child's rights were given the first priority. However, although severe penalties such as imprisonment, fines or both for those who violate the rights or obstruct a children's officer or any authorized officer in the execution of their duties in protecting the rights of the child, child trafficking, child labor, smuggling of the children through dubious adoption or fostering procedures have continued to be reported (Onyancha, 2003). Risk of violence has been highlighted in children's homes both from staff to

child and child to child stemming from factors such as lack of privacy, frustration, unchecked abuse of power, discrimination, staff inability to cope and inappropriate disciplinary options. Therefore, due to inadequate legal provision for children the states generally infringe the children's rights (Bourdillon, 1994).

Myers and Boyden (1998) assert that adults need to listen to the children and understand the perspectives of their own situations. Such approach treats all children with full respect for their rights, opinions, potentials and individuality. However, Bourdillon (1994) noted that adults often take it for granted that they know better than children and seek to solve the children's problems without reference to the child's views and perspectives. They easily forget that children are persons, with their own expectations and knowledge, individual feelings, preferences, and choices about their lives. Onyancha and Shister (2003) further noted that individuals who carry out these atrocious acts deny the children their rights to a proper upbringing, moral development, nationality, identity, education and pose a risk that such children may become child abuser themselves.

Expression of Opinion by the Children in the Children's Homes

The Children Act (2001) provided that in any matter of procedure affecting a child, the child shall be accorded an opportunity to express his or her opinion, and that opinion shall be taken into account as many are appropriate, taking into account the child's age and the degree of maturity. Through the Children's Act, the Civil Society Organizations (CSOs) has continued establishing Children Rights clubs in which children are to express themselves. For instance law, environmental and interact clubs. There are also several (CSOs) run by youth to youth and child to child programs, children in some school are allowed to choose their leaders. The government in collaboration with partners has introduced the participatory programs for children and youth, whereas the Ministry of Education, Science and Technology developed a teacher's handbook on child rights for primary teachers training colleges. Events like "Children Voices" are being organized where children from all over the country meet and exchange information on crucial issues that affect their lives. 'The other side of the street' is a forum where talent by the needy children is show cased. The media on the other hand runs programs for children e.g. Club Kiboko, among others. While Article 3 lays out one of the general principles of the Convention as "respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons" (United Nations, 2006), research however indicate that despite the rights enshrined in international legislation, children in general and particularly those in the children's homes often remain excluded from participating in decisions that directly impact on their lives, including consultation regarding policy-making and service design and delivery (Sinclair, 2004; Morrow, 1999). Without regular opportunities to make basic decisions, children in the children homes and particularly those with an intellectual disability will not be prepared for making more challenging decisions about their lives and will therefore continue to be more dependent on others (WHO, 2010).

Research Design and Methodology

Research design

A descriptive survey design was used to seek the current status of the of the children, caretakers and managers concerning their opinions, views, attitudes and values on

the effectiveness of the children's homes in management of the orphaned and vulnerable children in regards to the children's rights.

Study Population

Only children between ages 10 -17 from the selected children's institutions were included in the study. In addition, there was one manager and two caretakers from each of the selected institutions. The population was chosen because statistics indicated that there has been an influx of the orphaned and other vulnerable children in these institutions due to orphan hood, child abuse, neglect, maltreatment, and HIV AIDS.

Sample size

The study used 234 respondents from the charitable children's institutions in Nairobi County. The sample size consisted of 210 children, eight managers and 16 caretakers. Out of the 210 sampled children, 121 were male while 89 were female as shown in Table 1. The sample was drawn from eight Charitable Institutions of which one was Government sponsored, two Non Governmental institutions, two Religious, and three individually sponsored institutions

Table .1 Number of Children Sampled from each Category

Category	Gender		Total
	Male	Female	
Religious	36	29	65
individual	50	30	80
Non governmental	27	22	49
governmental	8	8	16
Total	121	80	210

Sampling Techniques and Procedures

Purposive and convinient sampling were used for the study. Convivient sampling was used to select care givers/ counselors while purposive sampling was employed in choosing the children and managers.

Data Collection Methods

Children's in the children's homes were given questionnaires to seek their the children's satisfaction of the the rights accorded in the charitable children's institutions. The caretaker's and manager's questionnaires were given a separate questionnaires to get their opinions on the effectiveness of the services offered to

the OVC in the charitable children's institutions. The researcher also used observation checklist to find out the suitability of the charitable children's homes and the socialization of the caregivers/ counselor in the management of the OVC.

Results of the Study

The children in the charitable children's institutions were asked to indicate whether they enjoyed all their rights in their centers. However, 78.6% of the children seemed to enjoy their rights, while 17.6% were not. From the eight sampled institutions, all the managers reported that they ensured the rights of the children were observed in their institutions. As shown in ANOVA Table 2, the children did not differ in their perception on the effectiveness of their rights accorded to them in the children's homes since F -observed (1.726) was smaller than F -critical (2.0551) at 0.05 significance level. Thus, ($F=1.726$ $df=7$ $p>0.05$) indicated that there was no significant difference between the rights accorded to the children in the charitable children institutions and the management of the OVC.

Regarding the level of freedom of the children to do what is expected, the results revealed that 82% of the children in the charitable children's homes indicated that they were free to do what was expected of them while 11.1% disagreed. In addition, the ANOVA Table 2, showed that children differed in their perception on the freedom to do what was expected of them since F -observed (3.052) was greater than F -critical (2.0556) at 0.05 significance level and seven degrees of freedom between group. Thus, ($F=3.052$ $df=7$ $p<0.05$) indicated that the study failed to accept the null hypothesis. On the other hand, the results concerning the freedom to express their opinion, revealed that 66.4% children in the sampled children's homes agreed that they were allowed to express their opinion freely. In contrary however, 26.8% disagreed with the opinion. Further, the caretakers' responses revealed that the children were not accorded the opportunity to express their opinion. Managers also reported that some institutions did not have clubs which the children could use to express their opinion. The ANOVA Table 3 showed that there was a significant variation with the sampled children's homes ($F=5.270$ $df=7$ $p<0.05$) indicated that the study failed to accept the null hypothesis since F -observed (5.270) was greater than F -critical (2.0563) at 0.05 significance level.

In regard to having a say in deciding matters to do with their centers, the children varied in their responses. Out of the 207 children who responded to this option, 49.3% agreed that the children had a say in deciding matters to do with their centers. In contrary, 78 (37.7%) disagreed while 27 (13.0%) were undecided as shown in Table 2. However, the ANOVA table 3, showed that there was no significant variation with the sampled children's homes ($F=2.015$ $df=7$ $p<0.05$) indicated that the study accepted the null hypothesis that there was no relationship between having a say in deciding matters and the management of the OVC.

Children were asked to give their opinions concerning whether the caretakers and managers in the charitable children's institutions allowed them freedom to make their own decision. Table 2, revealed that 39.4% of the children agreed while 53.4% reported that they were not allowed to make their own decision. The ANOVA Table 3, showed that there was significant variation with the sampled children's homes ($F=3.028$ $df=7$ $p<0.05$) indicated that the study failed to accept the null hypothesis that there was no relationship between being allowed to make own decision and the management of the OVC.

Table 2: Children Responses on Effectiveness of their Rights in the Children's Institutions

Children responses	Agree		Neutral		Disagree		Total	Mean
	Fre.	%	Fre	%	Fre.	%		
Enjoy All Their Rights	165	78.6	8	3.8	37	17.6	210	1.96
Free to do what – expected	170	82	8	3.9	29	11.1	207	1.90
Free to express opinion	136	66.4	14	6.8	55	26.8	205	1.94
Freedom to decide matters	102	49.3	27	13.0	78	37.7	207	2.91
Freedom to make - decision	82	39.4	15	7.2	111	53.4	208	3.29

Source: Researcher (2011)

Table 3: ANOVA- Source Table for Perception of the Children on Effectiveness of Children's Rights in the various Children's Institutions

Needs of the children in children's homes	Source of Variation	Sum of Squares	df	Mean Square	F	F critical =0.05
enjoy all my rights	Between Groups	23.006	7	3.287	1.726	2.0551
	Within Groups	384.689	202	1.904		
	Total	407.695	209			
free to do what is expected of me	Between Groups	30.475	7	4.354	*3.052	2.0556
	Within Groups	285.289	200	1.426		
	Total	315.764	207			
each child is allowed to express their opinion	Between Groups	75.729	7	10.818	*5.270	2.0563
	Within Groups	404.369	197	2.053		
	Total	480.098	204			
Every child has a say in deciding matters	Between Groups	34.350	7	4.907	2.013	2.0556
	Within Groups	487.477	200	2.437		
	Total	521.827	207			
Managers/caretakers do not believe am capable	Between Groups	45.910	7	6.559	*3.028	2.0570
	Within Groups	420.174	194	2.166		
	Total	466.084	201			

*hypotheses rejected **Source:researcher (2011)**

DISCUSSION

From the study findings most of the children in the children's homes were revealed to be enjoying all their rights. These views were however disapproved by the report from the caretakers that the children were not accorded opportunity to express their opinion. The same sentiments were expressed by Corinna (2009) who reported that the children in the residential care were unaware of their rights and were powerless to defend themselves which make them be vulnerable to violence including rape, exploitation, trafficking, physical harm such as beating and torture and psychological harm which included isolation denial of affection and humiliating discipline. Further research quoted two incidents where mistreatments of the children were done by the children themselves and those responsible for the care. A child in Mongolia was quoted saying "once I went to the toilet without knowing that it was the time for headcount. When I came out the supervisor hit my head against the wall many times." (Save the Children Sweden, 2009). A 12year old boy from institutional care in Fiji was quoted by the same study as "you have to help usI was placed here for protection because I was living on the streets. But boys like me are mixed with bad boys and we can't even bathe or sleep properly because we're scared of getting stabbed, assaulted or something like that". This may be an indication that although the study results established that the children enjoyed all their rights, abuse and deprivation of child's rights have continued to be upheld in the charitable children's institutions. Earlier study by Chris Bett (2003) established that abuse by the staff had gone on and no doubt was to continue in residential establishments as it did with other contexts where adults worked with children. He revealed that physical and sexual abuses were inevitably to be found among those who work with vulnerable children. Waterhouse (2000) in concurrence with maltreatment of the children in the children's homes observes that there had been a series of allegations about physical and sexual abuse in a number of residential establishment and foster homes in north Wales. Such allegations were reported by the Kenya Nation Group media in 2009 where a catholic priest was accused of sexually abusing the orphaned boys under his care. In addition to this, Frank Beck had also been accused of both sexual and physical abuse of his children while head of children's home in Leicestershire (Leicestershire County Council, 1993). The results of the study by the managers revealed that five of the eight managers did not always know what was happening with the children in their children's homes. It was further established that some children's homes did not have a club where the children could express their opinion. This indicated that the children were not given freedom to express their opinion freely as stipulate in article 12 of the UNCRC of 1989 and this too could explain why the above incidences and allegations occurred since the children did not enjoy rights of protection. The study results of the counselors established that not every child was accorded opportunity to express themselves. The study found out that age played an important role in the children's involvement in decision making and expression of the opinion since older children were allowed to express their opinion as compared to the young children. It should therefore be known that "a residential care is not just a residential service, the last resort when all else fails. It has a positive role to play and it must be enabled to play them well" (Skinner 1992 p.87). In conclusion therefore, proper policies, guidelines and procedures should be put in place because without them such allegations of abuse whether found or unfounded were to continue and could destroy an organization's reputation.

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