

**INTERNATIONAL CHILD PROTECTION: THE CASE OF THE UN
CHILDREN'S FUND (UNICEF) IN SYRIA AND KENYA, 2001- 2012**

BY

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DECLARATION

This project is my original work and it has not been submitted for another degree in any other University.

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This project has been submitted for examination with my permission as University supervisor.

Signature.....Date.....

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DEDICATION

To my parents, Mr. Joe and Mrs. Juliet Muriithi and my siblings Tony, Hillary, Ann, Dave and Danny. To my Best friends Clara and Elsie; to Jorel, a very special child I met at St Barbados orphanage. To children all over the world who are in need of protection and those whose rights have been violated. Finally to my dream, that one day I will become an International Child Protection Ambassador.

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ABBREVIATIONS

AACs	Area Advisory Councils
ACRWC	African Charter on the Rights and Welfare of the Child
ANPPCAN	African Network for the Protection against Child Abuse and Neglect
CFS	Friendly Schools and Spaces
CPD	Campaign for Peace and Democracy
DCs	District Commissioners
DOs	Division Officer
FBOs	Faith Based Organizations
FDI	Foreign Direct Investment
FGM/C	Female Genital Mutilation/Cutting
GDP	Gross domestic product
GoK	Government of Kenya
GPC	Global Protection Cluster
GTZ	German Technical Cooperation Agency
HIV/ AIDS	Human Immunodeficiency Virus/ Acquired Immunodeficiency Syndrome
IDP	Internally Displaced Persons
ILO	International Labour Organization
IMC	International Medical Corps
IPEC	International Programme on the Elimination of Child Labour
ISCU	International Save the Children Union
MDGs	Millennium Development Goals
KAACR	Kenya Alliance for the Advancement of Child Rights
KEPSA	Kenya Private Alliance Society

MHPSS	Mental Health and Psycho-Social Support
MOSAL	Ministry Of Social Affairs And Labour Syria
MoGCSD	Ministry of Gender, Children and Social Development
NCCS	National Council for Children Services
NDP	National Development Plan
NGOs	Non-Governmental Organizations
OPICAC	Optional Protocol on the Involvement of Children in Armed Conflict
OPSC	Protocol on the Sale of Children, Child Prostitution and Child Pornography
OVC	Orphans and Vulnerable Children Program
SANA	Syrian Arab News Agency
SARC	Syrian Arab Red Crescent
SCFA	Syrian Commission for Family Affairs
SITAN	Situation Analysis
SRCC	Strategic Research and Communication Centre
SRG	Syrian Republican Guard
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCRC	United Nations Convention on the Rights of the Child
UNDAF	United Nations Development Assistance Framework
UNDP	United Nations Development Program
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund

UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
USDS	United States Department of State
VDPA	Vienna Declaration and Programme of Action
WHO	World Health Organization
WVK	World Vision Kenya

ABSTRACT

International child protection has been a subject of debate and concern since the 1920s after the First World War. This motivated the drafting and adoption of the first international law on child rights, the Declaration on the Rights of the Child 1924. Further efforts led to an updated Declaration in 1959 and a substantial, efficient one in 1989, the United Nations Convention on the Rights of the Child (UNCRC). The UN went ahead to create an international organization to advocate for children's rights globally, the United Nations Children's Fund (UNICEF). Consequently the UN affiliate has established a physical presence in many countries; concentrating highly on developing countries. Kenya and Syria are one of those countries which have hosted and worked with UNICEF for more than 20 years. This particular study was guided by an overall objective, to critically analyze the role of UNICEF in international child protection in Syria and in Kenya from 2001- 2012. Specifically to provide an overview of the child protection situation, to investigate challenges faced by UNICEF and to explore some of the key child protection issues of concern in the two States. Notably liberal institutionalism stands out as a very relevant theory to this study. It elaborates the importance and crucial necessity of international organizations like the one applied in this study (UNICEF) in States' relations. Seemingly, States are more capable of handling critical issues (like child protection) through the combined efforts of institutions hence achieving greater results; for example developing international laws and structures to protect children. The research methodology in this study utilized both primary and secondary methods of data collection. The secondary data was acquired through books, journals, reports, conventions, declarations and articles. The primary data was attained through interviews which involved UNICEF, NCCS, Department of children services, ANPPCAN and World Vision officials and children. The key findings revealed that UNICEF is faced with several challenges that derail or hinder its efforts in Kenya and Syria. The challenges are inclusive of inadequate funds, poverty, conflict, poor implementation of policies, different ideologies between actors etc. Nonetheless both States have made considerable efforts to improve their national child protection mechanisms and laws, with Kenya having an upper hand through an early in the century ratification and domestication of the UNCRC.

CHAPTER ONE

INTRODUCTION TO THE STUDY

1.1 INTRODUCTION

The United Nations Children's Fund (UNICEF) is an international child rights organization that was established by the United Nations to cater for the welfare of children around the world. The organization mainly focuses its efforts in developing countries, especially poor countries; these countries are identified as serious habitats of child rights violations. The two case studies, Kenya and Syria who are graced by the physical presence of UNICEF are reported to harbour serious child rights violations. Nonetheless, children's rights and protection are treated as contentious issues by two States leading to national measures to implement the same.

The central aim of this study is to provide a critical analysis of the United Nations Children Fund's role of child protection; focusing on two case studies (Kenya and Syria) that will be utilized to obtain comparative data ranging from 2001- 2012. The purpose of the analysis is to realize the extent to which the organization has been able to deal with the key child issues in the two nations in relation to its mandate to the global child. To also identify the specific child protection concerns UNICEF is faced with, especially in relation to Kenya and Syria.

The study will also assess different international human rights laws especially those affiliated to children, for example the United Nations Convention on the Rights of the Child (UNCRC) and their impact since adoption. Considering that the UNCRC is a binding convention on the country that ratifies it, the researcher will enquire how these laws have been integrated or incorporated in local laws for the purpose of child protection. The convention's optional protocols on Involvement of Children in Armed Conflict and Protocol on the Sale of Children,

Child Prostitution and Child Pornography will also apply in this study. This is in view of the fact that UNICEF utilizes the UNCRC as a guide to its work and mandate.

UNICEF's physical presence in nations is very significant to enhance efficiency to its global responsibility. Nonetheless, UN organization cannot be able to work single-handedly; it requires the participation and assistance of local governments including other non-governmental organizations and at times private institutions. Hence local institutions for the implementation of children's rights are of outermost importance to the researcher as it is through these institutions that the needs of the child in a particular nation are implemented or are supposed to be implemented. The study will also analyze the extent to which local institutions have collaborated with UNICEF to curb children's rights violations, promote these rights and enhance child care and protection.

Considering the fact that Syria and Kenya are developing countries, they have both been affected by some of the adversities that are common in many developing countries which include conflict and poverty. These issues have been identified as some of the key concerns that derail these countries; they have in turn led to increase in abuse of human rights, adversely affecting children. Hence, the researcher seeks to identify the specific challenges (if any) UNICEF faces in Syria and Kenya, and how the organization has dealt with them.

Finally the study aims at making recommendations where necessary in order to ensure that promotion of children's rights is enhanced by all parties and partners affiliated with UNICEF including state, non-state actors and organizations.

1.1.1 BACKGROUND TO THE STUDY

The United Nations Children's Fund (UNICEF) was established in by the United Nations 1946; the organization is exclusively responsible for the well-being of the world's children. Skelton

affirms that UNICEF, previously the United Nations International children's Emergency Fund was initially set up to cater for children devastated by the effects of the 2nd world war including famine and disease, specifically in Europe.¹

After the emergency situation seized UNICEF continued to serve children in need around the world, becoming an advocate for children and working to advance their needs especially through relief. The UN declared it a permanent organization and changed its name to United Nations Children's Fund in 1953. UNICEF went on to champion the rights of children by participating in the development of the Declaration of the Rights of the Child in 1959 and the Convention of the Rights of a Child in 1989. Skelton asserts that, UNICEF works to ensure that children are seriously considered as part of the agenda in world affairs; an example of such an initiative is the UN Special Session on Children in New York in 2002.²

This UN organization employs itself to advance child protection, ensure their survival and development especially in developing countries. It extends to women and girls to ensure that they are entitled to equal rights and opportunities. It has also established a physical presence in many countries that include Syria and Kenya.

Syria is an Arabic country located in the Middle East, listed by the UN as one of the developing nations of the world; it existed under emergency law from 1963 to 2011. Syria's president Bashar al-Assad has ruled since 2000 and is considered as undemocratic by rebels who continue to fight his government. Like many countries in the Middle East, Syria has had several incidents of conflicts for years. Nils, Gleditsch and Strand affirm that, Middle East is considered as one of the world's regions seriously prone to conflict; internal and regional unrests and high

¹ Tracey, Skelton. Children, Young People, UNICEF and Participation. *Children's Geographies*, Vol. 5, Nos 1-2, (February-May 2007), p 170.

² Ibid.

acquisition of weapons qualifies it as the most militarized region globally.³

Conflicts in Syria between 2001- 2012 have been interstate (with other states like Lebanon and Israel) and others intrastate (civil wars). Since March 2011 Syria has been involved in a civil war between the Free Syrian Army rebels and government forces. The rebels formed an alternative government called the Syrian National Coalition which is recognized by several nations abroad including the United States and United Kingdom.

Syria ratified the Convention on the Rights of the child in 1993, hence vowing to create laws and policies to protect children. To date, Syria has not yet approved an explicit law document adversely codifying the rights of a child; however there have been several attempts, nevertheless these laws have had their challenges of implementation. One of these include the 2005 National Plan for Action drafted by the Syrian body for family affairs to protect children from violence neglect and abuse and the Child Rights Bill which was drafted but has never been adopted since 2006. Syria's incumbent conflict acts as an immense hindrance; Assad's government is too busy fighting for power to handle many of its impending obligations.

Kenya just like Syria is listed by the UN as one of the developing nations of the world. It is located in East Africa, with its newly elected President, His Excellency Uhuru Kenyatta. Kenya like Syria has also experienced incidents of conflict, for example the post-election violence of 2007/2008 which lasted barely two months. Since independence Kenya has not experienced conflicts as serious as is the case with Syria. Apart from several tribal conflicts, Kenya has often experienced long durations of peace.

Kenya ratified the Convention on the Rights of the Child in the year 1990, hence pledging to protect the rights of children. In respect to that decision the Kenyan government has worked consistently to implement laws and institutions for the welfare of the children. Such like

³Sørli, Mirjam, Nils Petter Gleditsch and Håvard Strand. Why is There so Much Conflict in the Middle East. *The Journal of Conflict Resolution*. 49, No. 1(Feb 2005), p 141.

measures are the Children and Young Persons Act in the previous constitution and the Children's Act of 2001. Kenney (2007) affirms that, there is also a child services section, in the department of Home Affairs Cultural and Social Services.⁴ Human Rights Kenya Network notes that, the preamble of the Children's Act 2001 quotes the government's commitment of maintaining international standards for Kenyan children with respect to the CRC and the African Charter on the Rights and Welfare of the Child.⁵

1.2 STATEMENT OF THE RESEARCH PROBLEM

Despite the existence of UNICEF, the Committee on the Rights of the Child and other children's rights organizations, coupled with international laws like the UNCRC, serious violation of children's rights continue to be witnessed. Some of the top issues identified as affecting children worldwide include, use of children in armed conflict, physical and sexual abuse of children, child prostitution, trafficking and slavery, being subjected to live as refugees in miserable conditions, child neglect, child labor and traditional practices that harm children.

Child maltreatment and abuse has been witnessed in both developing and developed countries. In developing countries like Kenya and Syria these violations are sometimes accelerated by other factors that include weak laws and policy implementation, corruption, weak governance, poverty and conflict. Instances of extreme poverty expose children to high levels of exploitation and abuse. Some guardians use their children to acquire resources; at times these children are forced to work under dangerous and hazardous conditions. In some areas very young children are used as prostitutes or trafficked in exchange of lump sum or cheap payments.

⁴ Schwartz Kenney, et al. *Child Abuse: A Global View* (Westport Connecticut, London:GreenwoodPress,2000), p 124.

⁵ Human Rights Network Kenya, *Human rights in Kenya: The Post Moi Era 2003-2007* (Nairobi Kenya: Claripress ltd, 2007), p 75.

During conflict, (like Syria's incumbent conflict) some children are maimed or killed in the violence, while others are sexually abused. The result of so much damage to housing facilities during conflict has led children to live in deprived situations as refugees in neighboring countries. Very young children are and continue to be subjugated as child soldiers in conflict stricken countries, they are trained to use guns, to hate and kill. Children who have been subjected to such maltreatment end up having their well-being and development compromised; some experience psychological problems while others grow up to become disturbed adults with no better idea of handling children, even their very own children.

Corruption, weak governance and poor implementation of laws and policies also fuel human rights violations, let alone children's rights. Some officials who are supposed to protect children are at times enticed to take bribes and ignore child rights violations; whereas, weak laws and poor policy implementation only act as breeding ground for these violations. A good example is a common law in Arab countries that a rapist can be acquitted if he marries his victim even if she is under age. Another one is in the Syrian family law of marriage that allows a young girl of thirteen and a boy of fifteen years to get married; this according to the CRC would result into a child right violation.

These violations happen and continue to happen in the presence of international governmental organizations, non-governmental organizations and local institutions who are supposed to protect children. Hence, it may be considered necessary to identify the role that is played by local institutions and laws in collaboration with CRC and international organization like UNICEF. It is only then that conclusions can be made depending on the outcome, thus the motivation to carry out a critical academic research to that account. This leads the researcher to question the role of international child protection UNICEF plays in Syria and Kenya.

1.3 OBJECTIVES OF THE STUDY

The overall objective of the study is to critically analyze the role of UNICEF in international child protection in Syria and in Kenya from 2001- 2012.

Specifically the study aims to:

- Provide an overview of the child protection situation in Syria and Kenya
- Investigate challenges faced by UNICEF in Syria and in Kenya
- To explore some of the key child protection issues of concern in Syria and Kenya

1.4 LITERATURE REVIEW

This section of the study will examine different scholarly works, in form of books and journals that expound on different issues relating to International Child Protection. The variables to be analyzed in the literature review include human rights, International child protection, UNICEF, child protection in Syria and in Kenya.

1.4.1 HUMAN RIGHTS

The term human rights can be defined as...“a legally enforceable set of expectations as to how others most obviously the state should behave towards right bearers.”⁶ The human rights debate became of grave concern during the two famous world wars; the 1st world in 1918 and the 2nd World War in 1935; they resulted in extreme abuse of human rights. Both adults and children suffered immensely, homes were destroyed, livelihoods ruined and many lives lost. Woodwiss argues that, the background of human rights has considerably been molded by major world occurrences, coupled by a desire for equality, dignity and freedom in the world. He adds that, millions of people were killed in the war as the international community watched due to lack of a

⁶ Anthony Woodwiss, *Human Rights* (USA and Canada: Routledge, 2005), p 23.

human rights guide in international law.⁷ This also led to the establishment of the United Nations, a major player in human rights affairs.

The creation of the United Nations (UN) in 1945 was characterized by the failure of the League of Nations which failed to prevent World War 2. The UN was established as a platform for dialogue and conflict resolution with a mandate to maintain world peace. Chowdhury upholds that, the formation of the UN was a valuable transformation from national laws to international laws such as those involving human rights.⁸ In reference to this mandate, conventions and protocols were drafted for the protection, respect, dignity and freedom of all human beings, laws contained in international law. Dixon affirms that, in 1948 the General Assembly adopted resolution 217A termed as the Universal Declaration of Human Rights (UDHR); containing economic, social and political rights for all.⁹

The UDHR was approved by majority of the UN member states from Europe, America, Asia, Africa, and Middle East including Syria; it identified human beings universally as dignified, free and equal. Chowdhury points out that, while protection of human rights remained mainly in domestic jurisdiction, the urge to cooperate conferred the international community a responsibility to categorize international human rights standards.¹⁰ In 1993 the United Nations held the World Conference on Human rights in Vienna. The conference resulted in the Vienna Declaration and Programme of Action (VDPA) and the United Nations High Commissioner for Human Rights. Dixon (2004) emphasizes that, the VDPA asserted the universality of human rights and highlighted promotion and protection of those rights as key to the UN. He adds that,

⁷Anthony Woodiwiss, *Human Rights* (USA and Canada: Routledge, 2005), p 23-24.

⁸ Chowdhury, *Introduction to International Human Rights Law* (Laiden Boston: Brill Academic Publishers,2007), p 25.

⁹ Martin Dixon, *Textbook on International Law* (New York, USA: oxford University Press, 2007), p 345.

¹⁰ Chowdhury, *Introduction to International Human Rights Law* (Laiden Boston: Brill Academic Publishers,2007), p 191.

the UN Charter also sets out regard for human rights of all individuals no matter their identities in race, religion or sex.¹¹

Consequently, some scholars like Oestreich have criticized human rights conventions, declarations and protocols that have been drafted by the UN, claiming that they were drafted with a westernized doctrine that was then imposed on other nations suppressing their interests and contributions. Oestreich argues that, considering that the UN Charter and some human rights documents were prepared in the absence of developing countries may have led them to assume that those documents were biased to favor the West ignoring their needs.¹²

However, the UDHR has been characteristic in the drafting of other conventions of human rights. Before the Convention on the Rights of a Child the UDHR recognized that a human being is born unrestricted, a child born with full rights. Copelon et al indicates that, inserting the clause that rights are inheritably for all humans from birth in the Universal Declaration of Human Rights was agreed on by majority of the UN member states.¹³

1.4.2 INTERNATIONAL CHILD PROTECTION

Child protection involves taking proper care of a child and protecting the child from anything harmful, which involves abuse, exploitation and neglect. It also includes responding effectively to violations against children, like child labour, abuse (sexual and physical), trafficking, exploitation, child marriage etc. These rights entitled to a child have been recognized in national and international laws. Collings and Davies argue that, one of the most universal discourses of childhood in relation to child protection views a child as a delicate passive, innocent and

¹¹ Martin Dixon, *Textbook on International Law* (New York, USA: oxford University Press, 2007), p 344-345.

¹² Joel, E. Oestreich, UNICEF and the Implementation of the Convention on the Rights of the Child. *Global Governance* 4, No. 2, (June 1998), p 184.

¹³ Rhonda Copelon et al, Human Rights Begin at Birth: International Law and the Claim of Fetal Rights, *Reproductive Health Matters* 13, No. 26, (Nov 2005), p 121.

vulnerable being who is not prepared to handle threats and challenges of this world hence the need for protection.¹⁴

Through the continuous participation of the founder of the Save the Child Organization and the League of Nations, the Declaration on the Rights of the Child was 1st announced in 1924. In 1959 the UN adopted a more revised version of the declaration; the newer declaration clearly defined the rights entitled to a child in terms of protection, health care and other vital necessities. Boyden argues that, advocacy for children in war, hazardous labor, abused and exploited situations attracted the attention of rights activists, legislators, policy-makers, and other practitioners to create international laws and mechanisms to protect children.¹⁵

The UNCRC was adopted by the UN General Assembly in 1989; with it came the Committee on the Rights of the Child. O'Donnell observes that, the UNCRC is recognized in history as the most ratified document of human rights, which is legally binding becoming part of International law.¹⁶ Skelton adds that, the UNCRC has influenced, developed and challenged national governments, NGOs and development agencies in their work for and with children.¹⁷ The UNCRC also holds two optional protocols; the first one is the Optional Protocol on the Involvement of Children in Armed Conflict which protects children in conflict settings. O'Donnell and Seymour mentions that, "...Children are uniquely vulnerable to military recruitment and manipulation into violence; child soldiers are victims whose involvement in conflict bears serious implications for their physical and emotional well-being."¹⁸

¹⁴ Sara, Collings and Linda, Davies. For the Sake of the Children: Making Sense of Children and Childhood in the Context of Child Protection. *Journal of Social Work Practice* 22, no. 2, (July 2008), p183.

¹⁵ Jo, Boyden, Children under Fire: Challenging Assumptions about Children's Resilience, *Children, Youth and Environments* 13, No. 1, (Spring 2003), p 1.

¹⁶ Dan O'Donnell and Dan Seymour, *Child Protection: A handbook for parliamentarians* (Switzerland: SRO-Kundig, 2004), p 10.

¹⁷ Tracey, Skelton. Children, Young People, UNICEF and Participation. *Children's Geographies*, Vol. 5, Nos 1–2, (February–May 2007), p 167.

¹⁸ Dan O'Donnell and Dan Seymour, *Child Protection: A handbook for parliamentarians*. (Switzerland: SRO-Kundig, 2004), p 52.

The second protocol is the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. This protocol protects children from sexual exploitation of any kind and bestows on the government that responsibility, also obligating the state to make laws and policies to protect children from sexual abuse and support child sex victims. Brian argues out that, sexual exploitation and maltreatment of children has become a global challenge which is ailing both developing and developed countries whereby children are abused at a very increasing rate.¹⁹ Muntarbhorn et al adds that Child Sexual abuse has become widespread due to the negative outcomes of globalization coupled with technology, tourism and increase in transnational crime around the world.²⁰

Among the existing international governmental and non-governmental child organizations, the United Nations Children's Fund (UNICEF) is the most important; this organization works globally to promote and enhance child protection and children's rights. Hamner asserts that, child rights organizations including UNICEF utilize the CRC in their mandate as it happens to be the most comprehensive document of child right and protection.²¹

1.4.3 UNITED NATIONS CHILDREN'S FUND (UNICEF)

The United Nations Children's Fund is an international organization responsible for the promotion of, care, protection, development, welfare and rights of the children globally. Skelton asserts that UNICEF is a champion of child development and tries to counter some of the damaging effects of globalization on children.²²

¹⁹ Cory Brian, *Child Abuse. 3rd* (Berkshire GBR: McGraw-Hill Professional Publishing, 2005), p 4.

²⁰ Alen Muntarbhorn, et al, *Commentary on the United Nations Convention on the Rights of the Child, Article 34 : Sexual Exploitation and Sexual Abuse of Children* (Laiden Boston: Martinus Nijhoff Publishers, 2007), p 1.

²¹Stephen, Hanmer, *Child Rights Organizations and Religious Communities: Powerful Partnerships for Children. Association for Religion and Intellectual* (September 2010), p 452.

²² Tracey, Skelton. *Children, Young People, UNICEF and Participation. Children's Geographies*, Vol. 5, Nos 1–2, (February–May 2007), p170.

UNICEF's headquarter is in New York, in the United States; which also hosts the executive director; the current executive director is Mr. Anthony Lake. There is also an executive board of 36 members, elected by the UN Economic and Social Council. The organization works in about 190 countries; it coordinates with county offices and regional offices that manage its activities around the world in about 17 regions. Hanmer affirms that partnerships through vital actors like governments and the civil society contribute to UNICEF's efforts of promoting children's rights.²³ Hanmer adds that, UNICEF deals with a wide range of issues in relation to children, which include, health, nutrition, education, HIV/ AIDS, water, sanitation and child protection from, abuse, violence and exploitation.²⁴

Under child protection, the key issues include birth registration, orphaned children, child recruitment by armed forces/groups, female genital mutilation, sexual violence against children, child trafficking, child labor, justice for children, monitoring and reporting mechanism. Skelton argues that, in any country, UNICEF picks specific priorities through the help and consultation of its many field officers, research and other projects.²⁵

UNICEF also collaborates with other NGOs, private and religious based organizations and other local partners to be able to reach children widely. Hanmer affirms that, religious communities play a key role in child care and protection; they are highly sought out by many child rights organizations around the world which includes UNICEF; through their moral authority and power they are able to mobilize communities, initiate dialogue and identify key priorities.²⁶ UNICEF also utilizes world celebrities who work as goodwill ambassadors against

²³ Joel, E. Oestreich, UNICEF and the Implementation of the Convention on the Rights of the Child. *Global Governance* 4, No. 2, (June 1998), p184.

²⁴ Stephen, Hanmer, Child Rights Organizations and Religious Communities: Powerful Partnerships for Children. *Association for Religion and Intellectual* (September 2010), p 452.

²⁵ Tracey, Skelton. Children, Young People, UNICEF and Participation. *Children's Geographies*, Vol. 5, Nos 1–2, (February–May 2007), p 171.

²⁶ Stephen, Hanmer, Child Rights Organizations and Religious Communities: Powerful Partnerships for Children. *Association for Religion and Intellectual* (September 2010), p 451.

child atrocities like, child labor, child abuse, and trafficking.

UNICEF works in developed and developing countries but mostly in developing countries like Kenya, and Syria whose instances of poverty and conflict have on more than one occasion led to serious violations of children's rights. Douglas et al affirm that, Poverty repeatedly denies children the best opportunities, puts them in danger and restrains their potential; violence and conflict deprives them of a secure environment and family, frustrating their hope and trust.²⁷

1.4.4 CHILD PROTECTION IN SYRIA

Since the ratification of the Convention on the Rights of the child in 1993, Syria has made slow but recognizable effort to improve Children's Rights in national law. Without a Children's act to reference, children's rights are mentioned and distributed in many aspects of National law. They include, the Penal Code, the Personal Status Code, Juvenile Offenders Act, Labour code, Civil code, Persons with Special Needs Act, Syrian Nationality Act, the prohibition of human trafficking, Legislative Decree No. 3 etc.

Since early 2000 UNICEF in Syria has had to deal with incidents of child labor. Some children have been working in very hazardous conditions, in industries without proper protective attire, while others work in garbage looking for valuables to sell. O'Donnell notes that, poverty acts as a principal cause of child labor in many developing countries, some children condone the worst cases of jobs if only to assist in family affairs. Child labor also fuels poverty as it denies children proper education and skills acquisition to possibly earn a better living.²⁸

²⁷Carol A. Douglas, et al. "UNICEF Sounds Alarm Over Child Poverty Source." *Off Our Backs* 35, No. ½, (Jan- Feb 2005), p 1

²⁸ Dan O'Donnell and Dan Seymour, *Child Protection: A handbook for parliamentarians*. (Switzerland: SRO-Kundig, 2004), p 142.

Other issues affecting children in Syria include exploitation, sexual abuse, early marriages and child trafficking. Since March 2011 UNICEF has dealt mainly with the incumbent conflict's effects on children; previous children's rights violations have only accelerated to grave concerns. O'Donnell argues convincingly that children are always the main victims in conflicts, some are killed, others are seriously maimed, some orphaned, and some especially young boys are recruited into armed groups or the army, while young girls are more prone to sexual abuse and exploitation.²⁹ UNICEF is working in Syria with several partners like Save the Child to protect children from these violations by creating safe zones for them. Those children who unfortunately are victims of the violations are offered psychological help, attending therapies and counseling sessions that help them deal with their emotional problems.

Due to the conflict, the Syrian government has become less sufficient in taking care of not only the children but also its citizens. The Bashar al- Assad government is more concerned in trying to solve its political woes and retain power at the expense of suffering civilians especially children. O'Donnell notes that, in circumstances of emergency and humanitarian crisis, the violence coupled by weak governance and lack of accountability leads to displacement and lack of humanitarian access resulting in serious child protection problems.³⁰ Rishmawi adds that, although the CRC grants the state the responsibility to provide for its children, that responsibility is bound by the resources and ability of the state.³¹

The conflict has not only been a disadvantage to the children but also to UNICEF and other organizations like the Syrian Arab Red Crescent (SARC); the conflict brings about a lot of

²⁹ Ibid, p 52.

³⁰ Ibid, p 9.

³¹ Rishmawi, *Commentary on the United Nations Convention on the Rights of the Child, Volume 4 : Commentary on the United Nations Convention on the Rights of the Child : Article 4 : Nature of States Parties' Obligation.* (Netherlands: Martinus Nijhoff Publishers, 2005), p 1.

insecurity issues making some areas inaccessible to necessary humanitarian aid. Covell, et al argues that, despite immense global pledge to work together to protect children's rights a large number of children are still at risk of getting caught up in violence incidences.³²

Other issues that ail developing nations like Syria include international debts and the dependency syndrome. Syria's external debt rose from 18.6 % in 2001 to 26% of its GDP.³³ Rishmawi notes that, some of the poorer nations are left with such huge external debts to pay that extreme amounts of those countries' GDP are used to pay those debts.³⁴ This only makes the country less efficient in funding other vital initiatives, let alone child initiatives.

1.4.5 CHILD PROTECTION IN KENYA

Having ratified the Convention on the Rights of a child, Kenya went ahead and created child protection policies like the Children's Act of 2001, including child protection clauses in the new constitution, specifically in article 53. Onyango and Lynch note that, prior to the children's Act Kenya prepared a national plan of action with the support of UNICEF; through collaboration with the civil society it also prepared its first report and presented it to the Committee on the CRC in January 2000.³⁵

The Children's Act led to the creation of the Nation Council for children, this council is responsible for children services and organizations which includes child courts in the country. Onyango and Lynch add that, efforts by the government to enhance child protection also led to National policies on child labor in 2002, the orphans and vulnerable children and a policy on

³² Covell, et al, *Children, Families and Violence: Challenges for Children's Rights* (London: Jessica Kingsley Publishers, 2009), p11.

³³ Barry, Rubin. *Truth about Syria* (New, York: Palgrave Macmillan,2007), p152.

³⁴ Rishmawi, *Commentary on the United Nations Convention on the Rights of the Child, Volume 4 : Commentary on the United Nations Convention on the Rights of the Child : Article 4 : Nature of States Parties' Obligation.* (Netherlands: Martinus Nijhoff Publishers, 2005), p 36.

³⁵ Philista, Onyango, and Margaret A. Lynch. Implementing the right to child protection: a challenge for developing countries. *Essay focus.* 367 (February 2006), p 693.

education in 2005.³⁶ In 1996 a seminar attended by the government and several child rights organizations like the Child Welfare Society of Kenya was held. The seminar was focused on training the officials in terms of children's rights, child neglect and abuse.

Notwithstanding Kenya like Syria reports case of extreme poverty and its effects. This encompasses some of the child protection issues affecting children in Kenya that UNICEF has to deal with, child abuse as a consequence of poverty. Majority of the poverty stricken environments only serve as a breeding ground for child rights violations. Kenney, et al affirms that, in Kenya financial problems are greatly associated with child abuse, not to imply that all poor families abuse children but most cases of children abuse and neglect are reported from poor families and neighborhoods.³⁷

Other child protection concerns that UNICEF Kenya deals with include, child labor, abuse (physical and sexual), exploitation and trafficking. Due to life hostilities and life hardships some guardians and parents impose their frustrations on children in their care. Some Children have received corporal punishment both in school and at home. Kenney, et al mentions that, children have been severely punished for the petty crimes like eating the only food in the home or taking a few shillings, displaying how poverty results into abuse.³⁸

Some parents and guardians exploit children sexually for prostitution purposes to earn some money; other children are trafficked for sexual purposes and child labor. Some are sexually abused in their own homesteads sometimes leading to cover up by some family members to hide the shame. Human Rights Network Kenya confirms that, there are cases where children as young

³⁶ Philista, Onyango, and Margaret A. Lynch. Implementing the right to child protection: a challenge for developing countries. *Essay focus*. 367 (February 2006), p 693.

³⁷ Schwartz Kenney, et al. *Child Abuse: A Global View* (Westport Connecticut, London: Greenwood Press, 2000), p 121.

³⁸ Ibid.

as 2 months have been defiled by the same people who are supposed to protect them.³⁹ Brian (2005) adds that, concerns that have emerged worldwide include exploitation and maltreatment of the child, child trafficking and child labor.⁴⁰

Other forms of abuse against children are termed as traditions. These traditional practices include; Female Genital Mutilation/C (FGM/C), early marriages and sexual exploitation of girls among pastoralist communities. Kenney, et al insists that, there still remains a struggle to define child abuse by drawing the line between acceptable traditions and child ill-treatment practices.⁴¹ UNICEF Kenya has formed partnerships with private organizations like the Kenya Private Alliance Society (KEPSA) which has complete support from the Kenyan government. Through social responsibility initiatives private sector organizations are able to spread awareness and raise funds to enhance children's rights and curb violation of those rights. Onyango and Lynch note that UNICEF works with schemes and organizations both private and public that work to promote the rights of children and enhance their care, development and protection.⁴²

1.4.6 LITERATURE GAP

The literature review demonstrates the introduction of child protection organizations like UNICEF in the international community and their contribution to the world's children. It displays measures and laws between international organization, local governments and institutions including their provisions in these countries. It also demonstrates countries' initiative and attempts to create laws and policies in relation to the Convention on the Rights of

³⁹ Human Rights Network Kenya, *Human rights in Kenya: The Post Moi Era 2003-2007* (Nairobi Kenya: Claripress ltd, 2007), p 76.

⁴⁰ Cory Brian, *Child Abuse. 3rd* (Berkshire GBR: McGraw-Hill Professional Publishing, 2005), p 4.

⁴¹ Schwartz Kenney, et al. *Child Abuse: A Global View* (Westport Connecticut, London: Greenwood Press, 2000), p 121.

⁴² Philista, Onyango, and Margaret A. Lynch. Implementing the right to child protection: a challenge for developing countries. *Essay focus*. 367 (February 2006), p 693.

the child. Despite all the measures taken by the international community and local governments, children's rights violations are still on the increase.

This exhibits a literature gap that has not been intensely researched on; one that identifies the challenge/disconnect between local governmental institutions and international organizations like UNICEF. That disconnect denies these institutions the unison to work together for the benefit of the children. Another aspect that exhibits a gap that has not been pursued considerably is the children's perspective and contribution in laws, policies and institutions that are set up to cater for their needs. After all, the CRC does indicate that children's participation is of great significance in relation to issues affecting them. This study will focus on these gap areas so as to fill them with credible and reliable information.

1.5 JUSTIFICATION OF THE STUDY

The literature review demonstrates a lot of international effort to cater for the rights of a child; nations coming together and creating historic laws like the UNCRC and credible stable organizations that are supposed to cater and protect children. Organizations like UNICEF and the Committee on the Rights of a Child. Unfortunately a lot is left to be desired in the cooperation between these international organizations and Governments in many countries, for example in Syria and Kenya. In Syria where conflict has severely accelerated it may be very difficult for UNICEF and the Syrian government to work together that's because the government is busy trying to fight off the rebels, whereas children continue to suffer from the effects of the conflict. There is definitely some disconnect between the two institutions; that disconnect is what these study aims to address intensely.

The researcher aims to identify not only the collaboration of UNICEF and local governments but also go deeper and identify the conditions and policies that are used in the

process; to investigate if these policies are taken seriously or implemented according to agreement between the parties. That's because if there were, the atrocities against children would not be happening at such a high rate. The research will be utilized to identify the challenges that UNICEF faces in trying to play its role to children and the reception it receives in those countries; to also come up with ways of dealing with the challenges amicably.

The end result will add on to scholars, contribution in the international organizations debate; in this particular case UNICEF and local governments in Kenya and Syria. Several policies have previously been developed but it seems that implementation is and continues to be a problem. As soon as the main disconnect is identified then it will be easier to solve it and improve these relations. If the content of policies is the problem then better policies with clearly defined implementation mechanisms will be encouraged. This will strengthen the cooperation between UNICEF and governments including other institutions that work with them.

The results of this study will benefit UNICEF as an organization. It will also benefit children especially the most vulnerable in Syria and Kenya. Consequently, when UNICEF becomes more resourceful, it can better address the problems that continue to distress children, compromising their survival and healthy development.

1.6 HYPOTHESES

This study will test the following hypothesis,

- Proper implementation of child laws/policies and strengthening of institutions is vital to improve the practice of child protection in Kenya and in Syria;
- Conflict, weak institutions, and poor implementation of laws contribute vastly to some of the challenges facing UNICEF's work in Syria and in Kenya;

- Increase in child labor, abuse, exploitation and trafficking are the key child protection issues of grave concern in Kenya and Syria.

1.7 THEORITICAL FRAMEWORK

This study borrows from the liberal school of international relations. The liberalists, close allies of idealists believed that the state was receiving a challenge as a primary source of power by other emerging global bodies that challenged that power. Jackson and Sorensen affirm that, liberal theorists believe that when individuals cooperate, and engage in collaborative social action they can gain much more not only within States but internationally.⁴³

Particularly, the study makes use of liberal institutionalism, which stress on the capability of international organizations or institutions and their importance in states' relations. The theory argues that, working together States are able to solve those issues that they could not handle individually. Jackson and Sorensen point out that, liberal institutionalism picks up from the earlier liberal thought concerning the benefits of international organizations/regimes, which according to them make cooperation much easier and more probable to happen.⁴⁴

In these systems, groups of states come together and form organizations with rules and policies that they promise to abide by. As described in the literature review, states came together under the umbrella of United Nations and formed organizations like UNICEF and laws like the CRC coupled with the Committee on the Rights of a Child which are highly regarded. Hoffman... "Worth noting is that liberal institutional theorist have also been credited for speaking out against human rights violations in the world".⁴⁵

⁴³ Robert Jackson and Georg Sorensen, *Introduction to international relations* (Oxford University: Press New York 2007), p 98.

⁴⁴ Ibid, p 108.

⁴⁵ Stanley, Hoffmann. The Crisis of Liberal Internationalism. *Foreign Policy*, No. 98 (Spring, 1995), p 165.

However, this particular theory is weak in that it fails to recognize the role of other minor institutions and non-state actors that would well serve to advance human rights. The theory also fails to recognize the difference and diversity of issues, cultures, religions and opinions that exist in many countries. Hoffman points out that, governments in some countries impose serious control over their constituents; hiding some human rights violations behind their different orientations that do not relate with international laws.⁴⁶ This theory also ignores the fact that some major international organizations do not represent the opinions of all actors involved. Mostly, it is the rich countries that make major decisions in these systems and the rest are left with little or no choice but to agree.

Liberal Internationalism is important to this study because it identifies the importance of not only international organizations, but also the key role of states in collaboration with these institutions. It notes the capability of international organizations like UNICEF to handle sensitive issues, for example in this case child protection. It also notes that together with state cooperation a lot can be achieved than when institutions work individually. Hence if the two do not work and support one another a problem is high likely to emerge. Thus, as long as organizations like UNICEF don't get enough support from local governmental institutions those they are responsible for (children) may continue to suffer, in this case in Kenya and Syria.

1.8 RESEARCH METHODOLOGY

The research methodology made use of both primary and secondary methods of data collection.

The secondary data involved literature review; analyzing different books and journals. It also included other documents derived from, reports, relevant treaties (conventions and declarations) and articles. The primary data was retrieved through the qualitative method in form of

⁴⁶ Stanley, Hoffmann. The Crisis of Liberal Internationalism. *Foreign Policy*, No. 98 (Spring, 1995), p 173.

interviews. The interviews involved UNICEF, NCCS, Department of children services, ANPPCAN and World Vision officials and children.

The qualitative research method was applied in the Kenyan case; the researcher employed random sampling method. The data acquired in the field was analyzed through induction, where by previous hypotheses were compared to the results. In the Syria case study, secondary data was applied, from different credible documents like reports and articles.

The research scope included UNICEF, NCCS, Department of Children Services, ANPPCAN, World Vision and primary schools. Limitations of the research surrounded amount of time and resources. Unfortunately, there wasn't enough time and resources to cover a much wider field as desired. For example, the researcher was not able to visit Syria physically to collect data.

1.9 CHAPTER OUTLINE

The study is structured around five chapters:

- Chapter one, Introduction to the study
- Chapter two, International child protection and the UN Children's Fund in Syria and Kenya: an overview
- Chapter three, International child protection: the case of the UN Children's Fund (UNICEF) in Syria and Kenya, 2001- 2012
- Chapter four, International child protection: a critical analysis of the UN Children's Fund in Syria and Kenya
- Chapter five, Conclusion to the study

CHAPTER TWO

INTERNATIONAL CHILD PROTECTION AND THE UN CHILDREN'S FUND IN SYRIA AND KENYA: AN OVERVIEW

2.1 INTRODUCTION

Chapter one is introductory; it develops the topic and the key issues that will be utilized to build up the study. The researcher discusses the problem which acts as a key motivator of the research; not forgetting the key objectives that guide the study. In the process of reviewing literature the researcher briefly discusses and expounds on the various variables contained in the overall topic; this includes a background and introduction of the case studies. The hypotheses, justification, theoretical framework and research methodology of the study are also presented in chapter one; it concludes with the chapter outline or breakdown.

Chapter two bases its arguments on a historical platform of the main subjects of the study, international child protection, UNICEF in Syria and in Kenya. It commences with the utilization of theory which expounds on the main object of study (an international Organization: UNICEF) its importance and facilitation of the main variable, child protection. The succeeding sub topics paint a picture of the historical exertion of the international community to create organizations laws and policies aimed at child protection globally. The concluding sub topics describe UNICEF's participation in the case studies to curb child rights violation, ensure these rights and child protection.

2.2 THE RELEVANCE OF THEORY

To advance adequate understanding to the significance of an international organization as an object of importance to the study, it's of necessity to apply and demystify an applicable theory. The most relevant theory in this particular study as earlier mentioned is Liberal institutionalism

(LI). LI theory emerges from the liberal school of theorists whose tenets are closely linked to Idealists. Just like the idealists, liberal institutional theorists express immense support for international cooperation by States dubbed as the most effective way to tackle vital issues facing many countries in the globe. To also ensure that States assist each other which lead to increased development through organized institutional cooperation. Keohane argues out that the liberal institutional theory professes a doctrine which justifies international organizations as fundamentals of social change; which leads to benefits in terms of human security, liberty and welfare hence a peaceful, prosperous and free world.⁴⁷

Liberal institutional theorists view institutions and their rules of law as a necessary and significant platform in which many actors' views are expressed, better solved and managed. Institutions are essential in that, they sustain cooperation and increase the possibility of most or many actors gaining access to the international ground hence increasing their chances for survival. Keohane points out that, Liberal institutionalism believes in improving and bettering human conditions through international organizations hence the rationale for building these cooperative institutions.⁴⁸

These theorists view states as essential participants as it's through their effort that these institutions continue to thrive and grow; for example through their contributions to run the organizations. Nevertheless, they identify institutions as independent in their own mandate, working to bring states together in one platform. Devatak, Burke and George note that, liberal Internationalists observe norms, declarations, conventions and laws as fundamentals aspects in the international relation of states.⁴⁹

On the other hand, critics to Liberal institutionalism perceive that despite the presence of

⁴⁷ Robert O. Keohane, 'Twenty Years of Institutional Liberalism,' *International Relations*, (Jun 8, 2012), p 126.

⁴⁸ Ibid.

⁴⁹ Richard, Devatak, Anthony Burke, Jim George, eds, *An Introduction to International Relations* (New York: Cambridge University Press, 2012), p 55.

many actors, international organizations don't represent what they claim to; they are viewed as avenues for advancing the interests of rich countries at the expense of poorer ones who are denied the same opportunity. Keohane mentions that in international organizations sovereignty is not surrendered by states, some states seek to earn benefits that include influencing others; cooperation is coupled by self-interest and reciprocity.⁵⁰

This theory displays its relevance to this study in its main subject of interest which is international organizations. The study aims to clarify the significance and necessity of international organizations; in this case to analyze the role of child protection by UNICEF globally, with specific case studies. Liberal Institutionalists endorse a lot of prominence to the creation and existence of institutions especially due to their capacity to better handle specific vital issues. Skelton asserts it's worth noting that UNICEF was initially created to help children distressed by the Second World War.⁵¹ The international community viewed UNICEF as a better remedy to solve the calamity that was affecting many children in Europe. UNICEF did such a good job that it was declared a permanent organization to continue serving children all over the world especially in developing countries.

It is through cooperation with other organizations for example Save the Children organization that UNICEF has been able to reach and serve many children in need around the world. For example UNICEF has been delivering Humanitarian services to children in Syria since the crisis began back in 2011; UNICEF is working in collaboration with other UN partners like UNHCR and external ones like the Syrian Arab Red Crescent (SARC).⁵² UNICEF also utilizes many international Law documents to guide its operations, notably, the Convention on the Rights of the Child, an international law binding document developed and highly ratified by

⁵⁰ Ibid.

⁵¹ Tracey, Skelton. Children, Young People, UNICEF and Participation. *Children's Geographies*, Vol. 5, No 1-2, (February-May 2007), p 170.

⁵² UNICEF, *Syria's Children, A Lost Generation? Crisis Report*, March, 2011- 2013, p 5.

many States to protect children.

The UN and its affiliates like UNICEF receive majority of their funds and support from states. The UN for example receives a lot of money from rich countries; its permanent members who control a lot of its operations are states. UNICEF on the other hand, receives immense support from states, to operate national and regional offices and also lead their child protection initiatives. Keohane and Martin argue that, major governments emphasize the importance of international organizations by continuously investing in material and reputational resources; they would not be investing such resources if these institutions didn't matter.⁵³

2.3 THE CONCEPT OF CHILD PROTECTION

The preliminary fundamental initiative towards children's rights was initiated by the founder of Save the Children organization Miss Eglantyne Jebb, who notably originated from a human rights endorser family. Eglantyne was advantaged to work with one of the first children's fund organization (Save the Children Fund) in Britain; a relief organization that had diverted its initial political role (The Blockade of Germany) to a humanitarian initiative for children. Miss Jebb moved on to create the International Save the Children Union (ISCU). UNICEF affirms that, ISCU was designed as an aid organization to provide humanitarian services to suffering children as a consequence of the First World War; the organization mainly participated in raising funds in Europe to advance its objectives.⁵⁴

Eglantyne's desire to protect children led her to draft what she termed as a children's charter. The short but precise document was identified as the first Geneva Declaration on the Rights of the Child in 1923. Eglantyne was quoted saying....“It appears to me that the moment

⁵³ Robert O. Keohane and Lisa L. Martin, The Promise of Institutional Theory. *International Security*, Vol. 20, No. 1 (Summer, 1995), p 40.

⁵⁴ UNICEF. *The State Of The World's Children, special edition: Celebrating 20 Years of the Convention on the Rights of the Child* (New York: UNICEF, 2009), p 4.

has come when we can no longer expect to conduct large relief actions... we should claim certain rights for the children and labor for their universal recognition.”⁵⁵ The declaration was later adopted by the International Save the Children Union, in February of the same year. It was later recognized by the then existing intergovernmental organization the League of Nations in 1924, terming it as the World Child Welfare Charter. The declaration was discussed by world leaders in the very first International Child Welfare Congress in Geneva, the leaders from states, public and private organizations expressed their support for the Document.

The declaration contained only five articles which comprised its core operating principles. UNICEF outlines the principles as, the child’s right to both material and spiritual development, a right to assistance due to hunger, disability or illness, when orphaned and troubled; lastly children were to be protected from exploitation and provided with a safe and social upbringing.⁵⁶ Unfortunately the 5 article document didn’t impact intensely as it had absolutely no binding capacity in international law. Hence it only provided states with a guideline; no implementation mechanism was endorsed, neither accountability of failure to comply, notwithstanding, it highly informed succeeding international laws on children’s rights.

Following the collapse of the League of Nations, the new intergovernmental organization (the United Nations) expressed concern over the massive violation of human rights. One of its grave concerns was children whose innocence and wellbeing was highly compromised by the war. Considering these facts the UN created the United Nations Children’s Emergency Fund in 1946 to cater for those suffering children in Europe. In view of the necessity of the children’s organization globally, the UN made it a permanent organization in 1953, shortening its name to the United Nations Children’s Fund (UNICEF); with its main focus on developing countries. Skelton furthers that, coupled with the insistence of the International Union for a more

⁵⁵ Ibid.

⁵⁶ UNICEF. *State of the World’s Children: Childhood Under Threat* (New York USA: UNICEF, 2004), p 12.

comprehensive declaration on children's rights. The UN organization championed the establishment and adoption of a new Declaration which clearly established child protection, development and well-being.⁵⁷

The new Declaration on the Rights of the Child was adopted by the UN General Assembly on November 20th 1959. It added on to the earlier articles of the original Geneva Declaration of 1924. It's worth noting that November 20th was marked by the UN Gen Assembly as the Universal Children's Day. It had also been marked by the Women's International Democratic Federation as the International Day for the Protection of Children during a conference in Moscow, on 22nd of November 1949. Continuous participation of the UN to advance children's rights also led to the declaration of the year 1979 as the International Year of the Child.

Key organs of the UN, which include the Commission on Human Rights, the Economic and Social Council, UNICEF and other independent partners worked together to produce a draft text of the Convention on the Rights of the Child. UNICEF states that, while revising the draft the UN group consulted the UDHR, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural rights. They group agreed on the current articles of the UNCRC.⁵⁸ The UNCRC was adopted by the UN General Assembly in 1989.

The Convention is the most elaborate document of child protection, comprising a preamble and 54 articles. UNICEF upholds that, the CRC is guided by four key principles that are extremely relevant in the life of any child globally. The principles include, non-discrimination, best interests of the child, the right to life, survival, development and respect for

⁵⁷ Tracey, Skelton. Children, Young People, UNICEF and Participation. *Children's Geographies*, Vol. 5, No 1–2, (February–May 2007), p 170.

⁵⁸ UNICEF. *The State Of The World's Children, special edition: Celebrating 20 Years of the Convention on the Rights of the Child* (New York: UNICEF, 2009), p 2.

children's views.⁵⁹ The UNCRC introduces an aspect that had not been amplified in other human rights documents, child's participation, which recognizes children as actors in their own rights. Hanmer adds that the UNCRC views children as social actors, who belong to a family, are born with rights and bestowed duties in relation to age and proper development.⁶⁰

The UNCRC is an international law document with binding capability on the country that ratifies it. The UN asserts that, parties are mandated to assume all appropriate legislative, administrative and any other necessary measure to ensure that children rights underlined in the UNCRC are implemented; these rights include economic, social, cultural, civil and political.⁶¹ Pais furthers that, the Convention also advocates for bilateral and multilateral cooperation to curb violations and ensure children are protected enough to grow in a safe, conducive environment.⁶²

In late September 1990, days after the UNCRC came to force; world leaders organized the World Summit for children in New York, United States. The summit led to the adoption of the World Declaration on the survivor, Protection and Development of children, complete with a Plan of Action. Pais asserts that, during the Summit, Heads of governments and States pledged their immense commitment to work towards the increase of the ratification and intense implementation of the UNCRC.⁶³ The declaration's Plan of Action was a designated program containing the needs of children in 1990, strategies to meet those needs and goals of the declaration.

In reference to article 43 of the UNCRC, the Committee on the Rights of the Child was created in 1991. It was necessary to include experts of different fields in relation to children,

⁵⁹ UNICEF. *State of the World's Children: Childhood Under Threat* (New York USA: UNICEF, 2004), p 12.

⁶⁰ Stephen, Hanmer, *Child Rights Organizations and Religious Communities: Powerful Partnerships for Children. Association for Religion and Intellectual* (September 2010), p 453.

⁶¹ UN. *The Convention on the Rights of the Child*, 1989.

⁶² Marta Santos Pais. *The Protection of Children From Sexual Exploitation: Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. International Journal of Children's Rights* (2010), p 555.

⁶³ *Ibid.*

these experts ranged from human rights to international laws. Initially holding a total of 10 members, the committee has expanded to 18. The UN organization acts as a monitoring body to ensure that the UNCRC and its Optional Protocols are implemented, including advising member states. UNICEF upholds that, ratifying States agree to submit regular reports to the Committee; the first report within 2 years of ratification and every 5 years. Each report should contain a country's background and effort in implementing the UNCRC and challenges experienced.⁶⁴

Increase in child rights violations like child labour motivated the continuous synthesis of laws, protocols and policies by the international community to protect children. The International Programme on the Elimination of Child Labour (IPEC) was adopted by the International Labour Organization (ILO) in 1992. The central role behind IPEC was to eliminate child labour and advocate the initiative at national level and as international level. This was followed by the Worst Forms of Child Labour Convention in 1999, identified as convention No. 182 of the ILO. O' Donnell maintains that, worst forms of child labour are those identified as severe forms of exploitation, including slavery, trafficking, sexual exploitation, use of children in drug trafficking, forced labour and recruitment of children into armed groups.⁶⁵ Convention No. 182 also set 18 as the minimum age of combatants involved in conflict.

The ILO also adopted the Worst Forms of Child Labour Recommendation, No. 190, a complementary piece to the Convention No. 182. The two conventions plus the 1973 Convention no. 138 on the Minimum Age of Employment, spurred the designation of 12 June as the World's Day against Child Labour by the ILO.

In 2000 UNICEF adopted a child protection strategy based on a previous research on the shortfalls of child protection systems and struggle to curb child rights violation in many States.

⁶⁴ UNICEF. *The State Of The World's Children, special edition: Celebrating 20 Years of the Convention on the Rights of the Child* (New York: UNICEF, 2009), p 9.

⁶⁵ Dan O'Donnell and Dan Seymour, *Child Protection: A handbook for parliamentarians*. (Switzerland: SRO-Kundig, 2004), p140.

The strategy described responsibility from the grass root, stating the need to initiate awareness in the society about child's rights and violations. The government and child rights organizations are also bestowed the responsibility of implementing the UNCRC. UNICEF notes that, the new child protection strategy builds on five main approaches. They include improving child protection systems, promoting social change in the society, enhancing child protection emergencies, partnerships for greater impact, monitoring and evaluation.⁶⁶ In the same year, the UN incorporated the UN Millennium Goals to target children and issues facing them.

25th May 2000 marked the adoption of two optional protocols to the UNCRC, The Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography and the Optional Protocol on the Involvement of Children in Armed Conflict. The two protocols required a minimum of 10 ratifications; they came to force as binding laws in January 18th and February 12th 2002 respectively.

The Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography mandates national laws to protect children from violations, issues penalties and prosecution of those who violate these rights, which involves international cooperation in view of the fact that some children are trafficked to other states. It's also inclusive of procedures to protect and supporting child victims, and awareness to the public. Pais outlines that, this protocol is highly motivated by the Programme of Action for the prevention of Sale of Children, Child Prostitution and Child Pornography; developed in conjunction with and adopted by the UN's Commission on Human Rights in 1992 and its Special Rapporteur.⁶⁷

The Optional Protocol on the Involvement of Children in Armed Conflict identifies an

⁶⁶ UNICEF. *The State Of The World's Children, special edition: Celebrating 20 Years of the Convention on the Rights of the Child* (New York: UNICEF, 2009), p 9.

⁶⁷ Marta Santos Pais. The Protection of Children From Sexual Exploitation: Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. *International Journal of Children's Rights* (2010), p552.

international protection standard for children involved in armed conflict. It touches on the issues on minimum age requirement of soldiers in government forces and prohibits recruitment of underage children in armed groups. The protocol also bestows and obliges Nation states the responsibility of implementing these international standards in national laws. UNICEF notes that, the protocol caters for the fact that the UNCRC did not offer soldiers less than 18 years, equal rights as other children in that that age bracket. It also establishes a legal and international standard that makes States accountable for children in armed conflict.⁶⁸

2002 marked the very first UN General Assembly Special Session on Children. Remarkably hundreds of children were invited to participate in the event as official delegates, affirming the UNCRC assertion that children are right holders and hence should be involved and participate in issues that affect them. The Session's official delegation and world leaders affirmed their commitment to ensure children's rights according to the Convention. Skelton maintains that, 2002 was a key historical moment in which the UN, UNICEF and other significant partners demonstrated their commitment towards children and produced a Plan of Action titled, A World Fit for Children.

Notably, UNICEF had worked previously with the Al-Azhar University in Egypt to release the Child Care in Islam Manual in 1984. This demonstrated that child welfare was also central to Islam as it quoted several Islamic religious writings. Hanmer furthers that, UNICEF joined the Al-Azhar University again in 2005 and worked together to produce the Children in Islam manual, dealing with child protection, care and development; the manual was also used to counter the specious beliefs that the UNCRC was against the principles of Islam.⁶⁹

In December 2007 the UN held another Special session dedicated to children, as a follow

⁶⁸ UNICEF. *State of the World's Children: Childhood Under Threat* (New York USA: UNICEF, 2004), p 57.

⁶⁹ Stephen, Hanmer, *Child Rights Organizations and Religious Communities: Powerful Partnerships for Children. Association for Religion and Intellectual* (September 2010), p 453.

up to the earlier one in 2002. Leaders met to designate the progress that had been achieved since the first session in relation to the implementation of the UNCRC. A new declaration was adopted by more than 130 state governments present; this declaration informed progress towards ensuring children's rights and expounded on challenges experienced. The leaders also affirmed their commitment to continue working on creating a world that is fit for children and to advance implementation of the UNCRC and its two optional protocols.

Regardless of these intense, vigorous measures and commitments by the international community, children's rights violations continue to be witnessed around the world. This fact is recognized by the UNCRC as a result of poverty, armed conflict, inadequate societal conditions, disasters and so on. UNICEF notes that, 500 million– 1.5 billion children are violence victims, 150 million children are engaged in child labour, 70 million women and girls have gone through female genital mutilations. An additional 64 million women were married before they turned 18, while millions more are exploited and abused both physically and sexually.⁷⁰ UNICEF continues to work tirelessly around the world with national, regional, public and private partners to curb these violations and ensure child protection, care and development.

2.4 UNICEF IN SYRIA

UNICEF has intensely supported children initiatives in Syria for many years; it has been working in Syria for over 40 years. The organization has been working with both private bodies like the Syrian Arabic Red Crescent and public bodies like the Syrian Commission for Family affairs (SCFA). UNICEF worked hand in hand with Syrian officials in 2003 during its first child protection initiative at national level, which led to the National Plan of Action against violence, neglect and abuse. GPC outlines that, the SCFA was created the same year; it is a key organ with

⁷⁰ UNICEF. *The State Of The World's Children, special edition: Celebrating 20 Years of the Convention on the Rights of the Child* (New York: UNICEF, 2009), p 24.

the obligation of ensuring the implementation and monitoring of the UNCRC. It also reviews the Penal, and Personal Status code in other words the family Law so as to ensure comprehensive protection.⁷¹ Notably, this was the same year that Syria consented to the OPSC.

The Plan of Action was developed through the consultation of the UNCRC and its optional protocols. Its main aim was to contribute to facilitate and advance the implementation of the UN Convention. Save the Children Sweden notes that, the plan involved the creation of a national database, to be utilized for registering child abuse and neglect cases.⁷² Consequently, UNICEF Syria and the SCFA organized a workshop to discuss this National Plan and its contribution to child protection; the occasion was graced by the Syrian People Assembly. Ghanem clarifies that, SCFA considered the members of parliament as the best candidates to ensure the implementation of the plan in relation to the UNCRC.⁷³ SCFA went ahead to develop a National Committee to assist in the legislation, monitoring and implementation.

UNICEF has participated and organized workshops, trainings and conferences with local officials in Syria to discuss the UNCRC and the best way to ensure implementation, including child participation. SCFA notes that, SCFA organized a campaign through the cooperation of UNICEF Syria in 2005 dubbed “Where is My Right’. The campaign was utilized to inform on the UNCRC, paying close attention to the poorer areas of Syria like the Eastern Region.⁷⁴ 2006 was marked by the Arab League Technical Advisory Committee for Childhood’s meeting in Syria whereby children in special situations were immensely discussed, to ensure that these children who include, orphans, abused and juvenile victims are not neglected.

Notwithstanding, Syria has harbored and still continues to harbor many child’s rights

⁷¹ Global Protection Cluster (GPC). *Child Protection Priority Issues and Responses inside Syria: Child Protection in Syria*. February, 2013, p 4.

⁷² Save the Children Sweden, *Child rights situation analysis – Middle East and North Africa*, August 2011

⁷³ SCFA. *Syria’s Report to the Committee on the Rights of the Child*. 2005, p 6.

⁷⁴ *Ibid*, 7.

violations. Some of these violations have greatly been influenced by poverty especially in the most remote areas of Syria like the Eastern region; conflict has not spared the statistics either. The most notorious of these violations is child labour, which has been an issue of concern to Syria and UNICEF since early 2000. HNA Syria notes that, UNICEF describes extreme cases of child labour as ones that involve children below 12 years working in any economic activity and those from 12- 14 years involved in harmful labour activities. The worst forms of labour include child enslavement, prostitution, trafficking and forcing children to work in illegal and hazardous activities.⁷⁵ UNICEF argues that, poverty and armed conflict serve as two of the three most significant factors with serious damaging effects on child survival and protection.⁷⁶

Some Syrian children have been forced by circumstances and parents to work and contribute to household needs, at times working at odd hours of the night. Worse still, some work in very dangerous and hazardous environments without proper protection attires. HNA Syria outlines that, some children as young as 10 years and below ransack heaps of garbage in Jedaydet Artous, a suburb in Damascus, looking for plastics and scraps to sell for as little as 10 US cents per kilo. Other children are forced to engage in dangerous activities like pouring melted aluminum in hot ovens.⁷⁷

Agricultural activities are the most common forms of child labour; children are forced to work for long hours sometimes with no food and very little pay; this is mostly common in the rural areas of Syria. Sadly, some children work more than one job per day. Majority of them are denied a chance to go to school risking their future and subjecting them to live a life of illiteracy and poverty. Aage A. Tiltnes et al point out that, child labour in Syria accounts for approximately 26, 500 children from the age of 10-11, 171,500 and 423,000 are children

⁷⁵ Humanitarian News and Analysis. Syria: “*Child Labour Still Rampant*”: *IRIN*. September 28, 2005.

⁷⁶ UNICEF. *State of the World’s Children: Childhood Under Threat* (New York USA: UNICEF, 2004), p 21.

⁷⁷ Humanitarian News and Analysis. Syria: “*Child Labour Still Rampant*”: *IRIN*. September 28, 2005. 2013.

between 12-14 and 15-17 respectively. 65% between the ages of 10-14 years are involved in agriculture, manufacturing, trade and construction; about half of these children are unpaid.⁷⁸

In 2001 the Syrian government tried to control widespread child labour by stating that children below 15 years of age were not allowed to work in heavy industries. Notably, this was not exclusively in line with the ILO convention No 138 of 1973, which insists that heavy jobs should not be issued to children under 18. Syria's policy of 15 years only applies to article 1 which allows a ratifying state to choose the minimum age of employment, and article 2(3) which states that that age should be maintained at 15. The ILO convention no. 138 affirms that, the minimum age of employment, for any job, which in its nature and circumstances may compromise the health and safety of young people should not be less than 18 years.⁷⁹ Syria's 2001 policy thinly overlooks article 3(1); working in heavy industries does compromise the health and safety of children, for example working with hot melted aluminum.

The Syrian government also developed programs like the Social Welfare Fund, to help poor families financially, curb child labour and allow children to go to school. This was clearly not as effective as intended since poverty and child labour still persisted. Aage A. Tiltnes et al assert that, despite these legislative reforms 4% of children 5-14 years and 18% of children aged 10-17 were still involved in child labour. In a 1999-2003 study, UNICEF reported that child labour was more predominant in poor households.⁸⁰ Aage A. Tiltnes et al adds that A study by the Ministry of Social Affairs and Labor and UNICEF in 2002 revealed that poverty in Syria worsened due to a downward economic trend, leading to increased cases of child labour.⁸¹ The ILO, UNICEF and the Ministry of Social affairs and Labour carried out an intense research on

⁷⁸ Aage A. Tiltnes et al. *Magnitude and Characteristics of Working Children in Syria: A Report to UNICEF, Syria Based on a National Household Survey*. (Damascus: UNICEF, 2002), p 3.

⁷⁹ ILO. *Convention No. 138, Minimum Age Convention*, 1973. Article 3 (1).

⁸⁰ Aage A. Tiltnes et al. *Magnitude and Characteristics of Working Children in Syria: A Report to UNICEF, Syria Based on a National Household Survey*. (Damascus: UNICEF, 2002), p10.

⁸¹ Ibid.

child labour in Syria from April 2010 to March 2011, hence developing a National Programme on the Elimination of the Worst Forms of child Labour in Syria which was released on March 2012.

Corporal punishment/physical violence of children has been reported in Syria for many years. Notably, the Syrian government has banned corporal punishment in school. Even so, the law is not explicit, it does not clearly define this prohibition; it however does allow for corporal punishment in homes. UNICEF confirms that the Penal Code (1959) allows discipline of children by teachers and parents under ‘general custom’. Parental guardianship including disciplinary authority is covered by article 170 of the Personal Status Act.⁸² Physical child abuse is highly reported in domestic settings; some schools have not completely banned corporal punishment especially those in the rural outskirts. UNICEF sustains that, 89% of children between 2-14 years had been subjected to violence in form of discipline between 2005- 2006; about 92% of mother and guardians considered physical punishment as a necessity in child upbringing.⁸³

Another worrying trend that involves young girls and women is honour crimes, whereby young girls and other female members accused of illegitimate sex acts are killed for the honour of the family. Honour killings have been engraved in some Syrian traditions for generations. Even so, it is still a violation of human and children’s rights. Global Protection Cluster asserts that, honour killings are still in existence in Syria; human rights organizations mentioned that prior to the conflict 200 cases of honour killings were recorded per year.

Another child protection issue of concern is early marriages; the family law in Syria allows a girl to be married at 17 years of age and a boy to be married at 18 years of age. However, the same law is bent to allow girls as young as 13 to get married and boys as young as

⁸² UNICEF. *Syrian Arab Republic – Country Report: Child population*: 8,918,000. 2010.

⁸³ UNICEF. *Child Marriage: Programme brief* • October, 2012, p 2.

15, this is clearly a child rights violation. UNICEF elaborates that, child marriage between a boy and a girl below 18 years of age; is of high risks to girls, limiting their opportunities exposing them to incidents of violence and abuse and endangering their health. It also disrupts both the boy and girl's education.⁸⁴

The 2011 conflict between the rebels and the government forces has only served to fuel many child rights violations, as it stretches to its third year. Children have been sexually and physically abused, injured and killed in the conflict. Many young girls have been forced to early marriages (especially to foreigners) by desperate parents. Martlew asserts that, Organizations in Syria have reported that, early marriages have also been used to cover up sexual violation of minors. These girls are divorced within a very short time span and sent back home.⁸⁵

Many children are forced to travel to neighboring countries like Turkey, Lebanon and Jordan where they are subjected to live in deprived conditions as refugees. UNICEF states, that 2 years of conflict have resulted in devastating results for the Syrian population, children have suffered the most; of the 4 million people affected almost half are children.⁸⁶ Martlew adds that the 2012 UN Secretary-General's Report 2012 on Children and armed conflict mentions Syria represent grave violations of children's Rights under UN Security Council Resolution 1612.⁸⁷

Some combatants installed land mines at Syrian borders to compromise supplies and to inhibit the fleeing population from leaving the country. These cruel acts have resulted to death and serious injuries of many adults and children. Children are the most vulnerable in such conditions; their innocence deprives them the proper knowledge of these dangerous weapons. Global Protection Cluster asserts that, about 70 to 100 people have been treated at Damascus

⁸⁴ Ibid.

⁸⁵ Nick Martlew. *Childhood under fire: The impact of two years of conflict in Syria*, 2013

⁸⁶ UNICEF. *Syria's Children: A lost generation?: Crisis report* March 2011-March, 2013, p 4.

⁸⁷ Ibid.

hospital due to serious burns, and scars from explosives, majority are women and children.⁸⁸ UNICEF confirms that, remnants of war comprising abandoned explosives like land mines and has been reported to kill and seriously injure thousands of children every single year.⁸⁹

Young children have been subjected to torture and placement in juvenile jails without any legal representative. Children who participate in demonstrations have been arrested together with adults and subjected to severe punishment, a number of them have died in prison. UNICEF confirms that, a report developed from over 200 interviews carried out from April 2011 to May 2012 on former detainees and government officers revealed that children had been detained and tortured in Syria; by the end of June 2012, local activists had counted 635 children.⁹⁰ This harsh treatment is vastly condemned in article 37 of the UNCRC, relating to detention, torture and mistreatment of a child, coupled by the denial for legal representation.

Under age children have been misused by rebels and government forces. Some carry weapons, work as guards, are trained to kill, others are heartlessly used as human shields and suicide bombers. GPC mentions that, a human rights investigator obtained video footage of a check point at which prisoners were massacred; a child is spotted fighting beside the armed group.⁹¹ These acts are condemned by the Optional Protocol on the Involvement of Children in Armed Conflict which states in article 1 and 2 that States should install legislative measures to ensure children under 18 years are not used as a combatants; Article 3 condemns voluntary recruitment of any child less than 18 years. Notably Syria ratified this particular protocol in 2003.

Sexual abuse of children is also common; most girls are raped in detention as a weapon

⁸⁸ Global Protection Cluster (GPC). *Child Protection Priority Issues and Responses inside Syria: Child Protection in Syria*. February, 2013, p 6.

⁸⁹ UNICEF. *State of the World's Children: Childhood Under Threat* (New York USA: UNICEF, 2004), p 56.

⁹⁰ UNICEF. *Child Marriage: Programme Brief* • October, 2012, p 3.

⁹¹ Global Protection Cluster (GPC). *Child Protection Priority Issues and Responses inside Syria: Child Protection in Syria*. February, 2013, p11.

of torture. Other children and women have been raped during raids and military searches, both the armed rebels and government forces have been accused of raping civilians. GPC notes that, the worst case was a 7 year old girl who died during operation after a rape ordeal. Resolution 1882 of the Security Council in 2009 identifies sexual violence as one of the 6 grave violations that armed groups are shamed about.⁹² UNICEF outlines that, chaos as a result of war undermine the rule of law exposing children to abuse and exploitation.⁹³ By 2012 UNICEF and its partners had invested a lot in offering psychological help to children traumatized by war and abuse. They had also invested in training local communities on Psychological help and first aid. UNICEF also took the initiative to educate the public on weapons of war like landmines.

UNICEF efforts are not only compromised by insecurity; declining funds also acts as a major challenge, it limits the organization's will to deliver vital services which are desperately needed. UNICEF asserts that, the organization appealed for US\$ 195 million by June 2012, to enable the organization extensive reach to children in Syria and in countries like Jordan, Turkey, Iraq and Lebanon which hold Syrian refugees. Nevertheless, they have received only 20 percent of the requested amount.⁹⁴

Despite numerous challenges of insecurity, UNICEF has been working in Syria with key UN organs like UNHCR and WHO. Some of its private partners include, Save the Children, the Syria Arab Red Crescent and the Palestinian Red Crescent. These organizations are working together to contain and curb increasing rates of child violations, using Children Friendly spaces. Though their access is highly compromised, they are not able to reach all children in areas where the violence has highly accelerated.

⁹² Ibid.

⁹³ UNICEF. *State of the World's Children: Childhood Under Threat* (New York USA: UNICEF, 2004), p 55.

⁹⁴ UNICEF. *Syria UNICEF 2012 HAC Update*, p 2012.

2.5 UNICEF IN KENYA

Just like in Syria, UNICEF has played a major role in child protection in Kenya; it has been working in the country for over 30 years. Since 1990s Kenya has endorsed many initiatives to cater for child protection and advance children's rights, with the support of UNICEF Kenya. Prior to the establishment of a functional child protection framework and system, the country highly depended on the African Network for the Prevention and Protection against Child Abuse and Neglect (ANPPCAN). One of the key achievements in Kenya in terms of child protection was the drafting and adoption of the Children's Act 2001. Waweru and Hussein et al note that, the UNCRC and African Charter on the Rights and Welfare of the Child (ACRWC) were largely domesticated through this 2001 act.⁹⁵

The Act which came to force in March 2002 is the country's most explicit document of child protection and rights. Since 2002 Kenya has invested a lot of effort to develop its child protection framework; this has involved the cooperation of key international actors like UNICEF. Through the help of UNICEF the Kenyan government has organized campaigns and produced policies that explicitly protect children from, exploitation, abuse, neglect, traditional practices, child labour and other forms of child rights violations (including revising the Children's Act in 2007). Chinyama and Mwambe observe that, in 2007 UNICEF organized the 'stop rape now' campaign in Kenya to spread awareness against rape; it was graced by the hip-hop star and Goodwill Ambassador for Eastern and Southern Africa, Zola.⁹⁶

Other efforts include a code of conduct through the help of UNICEF to curb child exploitation by tourists in 2004. The Government and Childline Kenya unveiled the child helpline 116 in 2008. The helpline is a 24 hours free line utilized to report cases of child abuse;

⁹⁵ Hellen W. Waweru, Ahmed Hussein et al *The Framework for The National Child Protection System for Kenya*. November 2011, p 1.

⁹⁶Chinyama and Julie Mwambe, *Sexual violence afflicts the lives of children at a school in central Kenya*, 2007.

this project was supported by several international actors like UNICEF and World Vision. Waweru and Hussein mention that, the Kenyan government also utilized consultation from key international actors to develop specific programs and policies to address particular children's rights like, the Cash Transfer Programme for Orphans and vulnerable children.⁹⁷

A study on violence against children and the response system in Kenya (2007) by the African Network for the Prevention and Protection against Child Abuse and Neglect (ANPPCAN) and Save the Children Finland revealed devastating results. In relation to the findings the National Council for Children's Services (NCCS) conducted an assessment on the Kenyan national child protection system. This led to several workshops in the country that included child protection experts and actors like UNICEF. Waweru and Hussein outline that, UNICEF took the opportunity to develop a tool kit to map and assess child Protection at national level. These efforts coupled by intense international consultations led to the development of a Framework for the National Child Protection System in Kenya. The System would serve the purpose of linking up actors, to coordinate and harmonize Child protection efforts.⁹⁸

UNICEF Kenya has also linked up with the private sector, community and Faith Based Organizations, noting the influence these parties possess as opinion leaders in the society. In this way the organization has expanded its reach to children at grassroots levels. UNICEF affirms that, the organization has worked with the Kenya Private Sector Alliance (KEPSA) since 2004, to raise awareness on children's rights and raise funds to enable children's rights initiatives. UNICEF has also partnered with the Inter-Religious Council of Kenya.⁹⁹

Notwithstanding, child rights violations in Kenya are still omnipresent. Some of the common violations quoted By UNICEF include exploitation through child labour and

⁹⁷ Hellen W. Waweru, Ahmed Hussein et al *The Framework for The National Child Protection System for Kenya*. November, 2011, p 1.

⁹⁸ Ibid.

⁹⁹ UNICEF. *Private Sector and Corporate Partnerships*, 2008.

prostitution, sexual and physical abuse, child neglect, child trafficking and discriminatory traditional practices. Just like in Syria, many Kenyans live below the poverty line; this creates a lot of disregard for children's rights. UNICEF comments that, poverty especially in terms of income is one of the major challenges in Kenya, over 45% of the population live below the poverty line. The World Bank indicated that poverty in Kenya had increased in 2008 hence compromising the achievement of the Millennium Development goals.¹⁰⁰

Sexual abuse and exploitation especially in the Kenyan Coast is very common. Children are continually exploited sexually, especially by tourists who are reported to take advantage of girls as young as 8 years old. To illustrate in depth, Lulu Hassan, a journalist at Citizen TV narrated a story dubbed 'Stolen Innocence' in April 2013. It revealed the lives of several underage girls in the Kenyan coast who engaged in prostitution regularly. Some girls were forced into the trade by their elder siblings or parents; others were introduced by fellow underage girls. UNICEF points out that, a study on 4 Kenyan coast districts revealed that 45% of children continued to be exploited sexually in the tourism sector.¹⁰¹ USDS adds that, the Kenyan coast is notorious for child prostitution; "beach boys" as young as 14 are issued high commissions of \$240 or more by tourists to trade in underage girls.¹⁰²

These despicable acts result in to both child labour and sexual exploitation. Article 32 of the UNCRC clearly denounces such acts; it quotes that States should protect children from economic exploitation which would compromise a child's, education, health, physical, mental, spiritual, moral or social development.¹⁰³ After partaking in the trade for a while most of these children are not able to go back to school. With no proper education about sex and its consequent repercussions some risk contracting HIV/AIDS, sexual transmitted infections and unwanted

¹⁰⁰ UNICEF, *Kenya Country Programme document, 2009- 2013*, p 3.

¹⁰¹ UNICEF, *Kenya Child Protection, February, 2009*, p 1.

¹⁰² United States Department of State (USDS), *2012 Trafficking in Persons Report - Kenya*, 19 June, 2012.

¹⁰³ *The Convention on the Rights of the Child*. 1989, p 144.

pregnancies; these children are continuously risking their lives.

Another heart breaking story was narrated by K24's Journalist David Okari dubbed 'Gang Rapists of Dandora' in May 2013. It revealed how young girls are gang raped by teen boys some as young as 16 and 18 years old. A 13 year old girl was abducted by teenage boys in a 'matatu' in broad daylight, taken to one of the slum houses and continuously gang raped for several days before being released. Children in Kenya are not abused by strangers alone some are abused by people they know very well, neighbours, fathers, brother, uncles and teachers. UNICEF Kenya reported that, children in Kenya suffer from sexual abuse in homes, institutions, schools and even on the streets.¹⁰⁴

Physical punishment/abuse is also a cause of concern in Kenya. This is despite the worldwide ban on corporal punishment also applied by the Kenyan Government through the legal notice No. 56 in the year 2001. This was to be applicable with immediate effect on all schools in the country. Some children especially in rural schools in Kenya are still victims of corporal punishment. Those who don't get it at school receive it at home from parents, guardians and at times elder siblings. Some children have been badly maimed with an excuse of discipline. UNICEF Kenya confirms that corporal punishment is still being practiced in some institutions, schools and homes.¹⁰⁵

In 2010 UNICEF funded the Kenya Violence against Children Survey in collaboration with the Kenya Bureau of Statistics and other partners. This study revealed a lot of evidence on child abuse in the country. UNICEF reported that, in a study of about 3,000, three out four children were victims of sexual, physical and emotional violence; the Chief of child Protection UNICEF Kenya, Jean-Francois Basse said that the findings and response plan would be used to

¹⁰⁴ UNICEF, *Kenya Child Protection*, February, 2009, p 1.

¹⁰⁵ Ibid.

advance child protection in Kenya.¹⁰⁶

Kenya has been identified by UNICEF as a notorious avenue for trafficking; both children and adults especially of the female gender have become victims of trafficking for many years. Children are the most worrying lot when it comes to this vice; very young children are trafficked to countries with a promise of a better life abroad. Unfortunately, some of them end up being seriously violated and exploited with a number losing their lives. Most children who are lured to these crimes are children from poor families whose parents are easily convinced to let their children go in search of a better life. USDS furthers that, many Kenyans, including children are trafficked to countries like, Europe, the US, Saudi Arabia, Dubai, Qatar etc. with a promise of employment; many are the times that they end up exploited as household servants, taken to brothels, indecent massage parlors and forced to into hard labour.¹⁰⁷

Trafficking in Kenya does not only involve going across the border, it also involves trafficking within the country, from rural to urban areas. These young children are transported to the city to work as domestic servants, the unfortunate ones end up in the hands of harsh employers who seriously cane them for small mistakes and at times deny them meals. UNICEF affirms evidence of Kenya as a fast growing environment to source, transit and deliver trafficked victims, which also includes internal trafficking.¹⁰⁸ USDC adds that, some children who are lured to the city to work as domestic workers end up in brothels; brothel based child prostitution in notorious in Kisii, Migori and Homa Bay counties.¹⁰⁹

UNICEF Kenya has over the years expressed concern on several harmful traditional practices; some of them result in serious repercussions to the child's health. These practices

¹⁰⁶ UNICEF. *Government of Kenya committed to addressing findings on Violence against Children Study Report*. 28 November, 2012, p 1.

¹⁰⁷ United States Department of State (USDS), *2012 Trafficking in Persons Report - Kenya*, 19 June, 2012.

¹⁰⁸ UNICEF, *Kenya Child Protection*, February 2009, p 1.

¹⁰⁹ United States Department of State (USDS), *2012 Trafficking in Persons Report - Kenya*, 19 June, 2012.

include FGM/C, sexual exploitation of children especially young girls and early marriages. Most of these traditional practices are common among pastoralist communities. An illustration of such like traditions was revealed in a story narrated by NTV reporter, Rose Wangui, titled 'Beads of Bondage' in October 2012. It exposed an inhumane tradition in which morans take advantage of young girls through the use of beads. The morans would buy beads for girls as young as eight and then use them as sex objects. Those who got pregnant were forced to abort by women who literally stepped on the girl's stomach and pushed the foetus out. These acts continuously violate children's rights and compromise their health in the most inhumane ways.

Female Genital Mutilation/Cutting (FGM/C) also present in these pastoralist communities is a complete violation of children's rights. Notably, it is mostly carried out in unhygienic methods and areas that compromise a girl's health and can also result in Psychological disturbance for the girl. The Kenyan Demographic Health Survey in 2003 reported that 34% of girls between the ages of 15-19 had been circumcised; in North Eastern Province this figure rose to 98.9%, a very worrying trend.¹¹⁰

FGM/C is denounced by the Kenyan Laws in the Children's Act 2001, which also includes Early Marriages and any other harmful tradition conducted on children that compromises the child's well-being. Kenya, UNFPA and UNICEF, quote some international Laws, policies and initiatives against FGM, they include the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities in 1980s, the UN World Conference on Human Rights in Vienna, the Vienna Declaration and Programme of Action and the 2005 African Parliamentary Conference on Violence against Women.¹¹¹

¹¹⁰ UNICEF, *Kenya Child Protection*, February, 2009, p 1.

¹¹¹ Kenya, UNFPA and UNICEF. rfp/001/2011-*development of a sessional paper to the national policy on female genital mutilation in Kenya*, 2011.

Consistent tribal conflict including the 2007/2008 political violence has had extreme effects on children. In the 2007/2008 violence children were among those killed, seriously maimed, sexually abused and displaced. Some of these children were forced to live in unhealthy, unsafe and unstable makeshift tents, depending only on humanitarian aid. UNICEF Kenya took the initiative to lobby groups both locally and internationally to raise funds and awareness to cater for many children who had fallen prey to the violence. Niles affirms that, UNICEF appealed for \$6 million to fund its project to protect children and women affected by the violence; the European Humanitarian Aid initially granted the organization \$2 million.¹¹²

Despite all these child protection concerns, UNICEF does recognize the effort by the Kenyan government to facilitate child protection through the implementation of the Children's Act 2001 and other national policies. There has also been an increase in District Advisory Councils and state affiliated organizations that are set up to cater for children's rights and needs. UNICEF continues to support child protection systems and framework in Kenya through the local government and other local and international actors.

2.6 CONCLUSION

The historical platform displayed above has demonstrated immense if not enough effort by both local government and the international community to ensure child protection and promote children's rights in all necessary circumstances. State governments have gone a mile in domesticating international laws to validate that children are protected according to international standards. Non state actors, both local and international have been integrated into the equation hence intensifying the effort to enhance and promote these rights widely. On the other hand, the researcher detects a loophole of weakness in implementation of these laws; not even the best of

Chris Niles, "UNICEF Appeals For \$6.6 Million to Help Those Affected By Post-Election Violence", January 30, 2008.

laws can function independently. Many developing countries like Kenya and Syria lack appropriate and steady implementation and monitoring systems. Roles and duties of different parties involved in child affairs are not clearly defined, for example where one party's role ends and the other begin. This loophole may act as a breeding ground for child rights violations.

CHAPTER THREE

INTERNATIONAL CHILD PROTECTION: THE CASE OF THE UN CHILDREN'S FUND (UNICEF) IN SYRIA AND KENYA, 2001- 2012

3.1 INTRODUCTION

Chapter two is based on a historical lane; one that expounds on the international society's effort to safeguard children's rights; an effort that initiated from several individuals leading to collective action by States around the world. This exertion has led to the drafting and ratification of international laws and documents that have been utilized to ensure international standards for the wellbeing of the child internationally. This chapter also looks at UNICEF and its presence in the two case studies (Kenya and Syria); it also includes the different cases of child rights violations that both UNICEF and the States have had to deal with.

Chapter three concentrates on the two case studies; areas of interest include governmental councils responsible for children's rights and their relationship with UNICEF and other NGOs involved in children's affairs. This chapter critically analyses UNICEF and its work, including the challenges experienced by the organization in the two states. The Kenya case mainly utilizes qualitative research methods; basically carrying out interviews with different officials from the National Council of Children Services, UNICEF, World Vision and the African Network for the Prevention and Protection against Child Abuse and Neglect (ANPPCAN). The Syrian case utilizes secondary data, mainly UNICEF's reports and other organizations looking at the Syrian Commission for Family Affairs, UNICEF, the Syrian Arabic Red Crescent and Save the Children.

3.2 BACKGROUND

The obligation and initiative to protect children internationally was initiated early in the 19th

century when many countries around the world especially in Africa were still under colonial rule. The colonial masters held on to the sovereignty of these states denying them the right to endorse their own laws. It was a time in which the world was nothing close to peaceful; States were more engrossed in exercising their power over others leading to many political wars. The famous German blockade was one of the momentous historical indulgences of conflict that led to many children's rights violations.

The international Save the Children Union, one of the initial children's rights NGOs initiated its operations with a political idea of discouraging the blockade. This preceded the organization's later key initiative to cater for children who were suffering immensely due to the blockade. The organization later spread its wings to advance children's rights internationally. One of the key founders of Save the Children Miss Eglantyne Jebb built a foundation for international standards and laws for children's rights, the very first declaration on the rights of the child 1924, which was later adopted by the League of Nations.¹¹³

The UN which was created to advance world peace in 1945 took it upon itself to ensure human rights; with special concern on children's rights. This was coupled with an international organization to ensure those rights, UNICEF. This was also characteristic in the UN's effort to sponsor a more detailed declaration on the Rights of the Child dated 1959.¹¹⁴ These efforts led to the now widely ratified United Nations Convention on the Rights of the Child (UNCRC). The UNCRC acted as a backbone for many other conventions and protocols of special concern in relation to child protection; for example conventions against child labour. In reference to this are its two optional protocols on armed conflict and sexual exploitation of children. Some of these international law documents like the UNCRC oblige ratifying states to create laws using them as

¹¹³ UNICEF. *The State Of The World's Children, special edition: Celebrating 20 Years of the Convention on the Rights of the Child* (New York: UNICEF, 2009) p 4.

¹¹⁴ Ibid.

a reference. This involves reporting to the Committee on the Rights of the Child in relation to developments and challenges towards children's rights.

Kenya and Syria have both ratified the UNCRC; Syria has also ratified its two optional protocols, while Kenya has only ratified the Optional Protocol on Involvement of Children in Armed Conflict. Kenya has made more progress in domesticating the crucial international law document; it did this by drafting and adopting the Children's Act in 2002, in relation to the UNCRC and the African Charter on the Rights and Welfare of the Child (ACRWC). Not forgetting the dedication of article 54 in the Kenyan constitution primarily to children.¹¹⁵ The act also led to the establishment of the National Council for Children Services, a National council that is responsible for coordinating policies, forums, initiatives and organizations in relation to children affairs.

Syria on the other hand being an Arabic Muslim country its legislation is directly influenced by Sharia Laws, leading to reservations to some articles in the UNCRC. Specifically Syria has for many years had concerns with article 20 and 21 of the UN convention on child adoption. SCFA notes that, Syria made an effort by drafting the Children's Bill which was finalized in 2006 but has not been adopted, due to different ideologies between the parties involved (government ministries and NGO's).¹¹⁶

Even if Syria has not officially conceded a national children's rights document, the country has made considerable effort to advance those rights. The effort includes the Syrian Commission for Family Affairs (SCFA) that caters for among other things children's affairs and rights. According to the delegation at the Committee on the Rights of the Child in 2011 SCFA is taking part in the review of Syria's Penal Code, Law of Criminal Procedures and Juvenile Law,

¹¹⁵ GOK, Childrens Act revised edition (Nairobi: the National Council for Law Reporting, 2007), Article 54.

¹¹⁶ SCFA, *State party examination of the Syria's Third and Fourth Periodic Report 58th Session of the Committee on the Rights of the Child 19 September – 7 October* (2011), p 3.

all of which had clauses conflicting with UNCRC standards of child protection.¹¹⁷ A notable milestone by the SCFA is the National Action Plan for the protection of children from violence in 2005; however that Plan has also had its challenges.

These two countries (Kenya and Syria) have also enjoyed the assistance of international organizations both intergovernmental like UNICEF and nongovernmental like Save the Children International. UNICEF'S participation in policies and children's initiatives has been very instrumental in advancing child protection in the two nations; which involves providing necessary funds, mobilizing organizations and partners to advance children's rights.

3.3 UNICEF AND GOVERNMENT AGENCIES ON CHILD PROTECTION

3.3.1 Child protection in Kenya

The National Council for Children's Services (NCCS) Kenya is a government agency responsible for regulating and coordinating children's affairs in Kenya. NCCS was established by the Kenyan government in 2002, under section 30 of the Children's Act 2001; it was officially inaugurated on the 27th of September 2002. The Children's Act states that the central objective of the organization is to supervise, control and coordinate children's rights and welfare activities and also acts as the chief advisor of the government in relation to those matters.¹¹⁸ In its first report to the ACRWC, NCCS stated that the Act also established other statutory structures like the Children Courts, designation of more than a hundred magistrates to deal with children's issues and discourage delays in the process.¹¹⁹

Its other objectives include drafting policies in relation to children, facilitate and advocate

¹¹⁷ Ibid.

¹¹⁸ GOK, *Childrens Act revised edition* (Nairobi: the National Council for Law Reporting, 2007), Article 32.

¹¹⁹ NCCS, *Initial Report to the African Union on the Implementation on of the African Charter on the Rights and Welfare of the Child-2003 to 2007* (Nairobi 2008), p vi.

for the implementation of both international and regional standards in relation to children, which includes writing reports on the progress of those initiatives, coordinating programs and forums designed for children's benefit and ensure that the best interests of the child according to the UNCRC are adhered to. It includes making sure that, children especially those with special needs are protected and catered for in all circumstances. Its objectives also include coordinating the activities of other NGOs (local, regional and international) that work for children in Kenya. NCCS states that in relation to its objectives it's mandated to ensure that children's rights are guaranteed and implemented exactly as they are stipulated in the Children's Act.¹²⁰

NCCS is composed of four committees, the Resource Mobilization Management and Organization Development committee, the Advocacy, Media Participation and Partnership committee, the Planning, Research, Monitoring and Evaluation committee, and the Policy Development and Legal Issues committee. NCCS adds that, its 21 members include, a non-executive chairman, Permanent Secretary from the office of the Vice President, the Ministry of Education, Finance, Labour and the Local Government. Others include the Attorney General, the Director of Children Services who is also the Secretary to the council, the commissioner of Police, 3 people from FBO, 6 from NGOs and 2 from private sector.¹²¹ The council is represented all over the country through Areas Advisory Councils (AACs). Mbugua adds that NCCS is responsible for establishing AACs at the district, division and location levels.¹²²

In view of its mandate NCCS works closely with other NGOs both local and international. UNICEF Kenya has and continues to work as a development partner to NCCS, which also includes mobilizing other partners in terms of child protection and children's rights. NCCS utilized the tool kit that was developed globally to assess the situation of the child

¹²⁰ Ibid.

¹²¹ NCCS, *Guidelines for Child Participation in Kenya* (Nairobi, 2007), p ii.

¹²² Jane Waithira Mbugua, *Promoting Child Right* (Nairobi, 2012), p 14.

protection system in the country; it did this in collaboration with UNICEF in 2009. UNICEF states that this also involved the Department of Children Services in the Ministry of Gender, Children and Social Development (MoGCSD) and other partners including children. It was initiated to develop a national child protection strategy and strengthen the system in Kenya by identifying gaps in the system.¹²³ This is relevant in terms of the Child Protection Programme initiated by UNICEF in 2009 in Kenya that strives to bring different partners on board and in unity to enhance child protection. NCCS upholds that it has progressed in implementing its mandate through key organizations like UNICEF who have been very effective in lobbying resources to address children's issues.¹²⁴

During the development of the framework for the National Child protection system in Kenya, NCCS made a lot of consultations through the help and support of UNICEF. This involved visiting other countries like the UK and consulting other organizations like Save the Children, ANPPCAN and Child Legal Action Network. The framework was developed through analyzing the different roles played by actors involved in the system. UNICEF sets minimum standards in child protection and trainings to officials involved in the systems approach, for example the police.¹²⁵ UNICEF participated in developing Child Protection Centers (CPCs), in Malindi, Garissa and Nairobi one of which is government run. The government has committed to opening up more centers and is currently following up on that ¹²⁶ Mbugua adds that, the Children's Act also established statutory Children's Rescue Centers which are mandated to deliver child care and protection; district Commissioners are authorized to run the institutions.¹²⁷

¹²³ UNICEF, *Annual Report for Kenya* (Nairobi, 2010) p13.

¹²⁴ NCCS, *Initial Report to the African Union on the Implementation on of the African Charter on the Rights and Welfare of the Child-2003 to 2007* (Nairobi, 2008) p 4.

¹²⁵ Interview with Carren Ogoti, Department of Children Services, Nairobi, June 18, 2013.

¹²⁶ Interview with an anonymous UNICEF Child Protection Officer, Nairobi, July 10, 2013.

¹²⁷ Jane Waithira Mbugua, *Promoting Child Rights* (Nairobi, 2012), p 14.

UNICEF prioritizes child protection in all countries around the world; it aims to strengthen the child protection environment and ensure all children are protected; also strengthen the children's knowledge about their rights. UNICEF mentions that this includes reviewing laws, behaviors and practices and the environment in which these children are brought up.¹²⁸ UNICEF continuously supports the review of the Children's Act 2001. UNICEF mentions that it supported the MoGCSD, and other stakeholders to identify areas in the Children's Act that needed to be reformed, to align with the constitution and emerging children's issues.¹²⁹ It has also supported the legal framework to develop child friendly courts, the drafting and adoption of IDP policy, a National Code of Conduct for the tourism sector, the Sexual Offences Bill, the FGM/C Policy and the FGM/C Prohibition Bill. Nonetheless there are still loop holes in the law; for example considering that Kenya has not ratified the second Optional Protocol on Sale of Children, Child Prostitution and Child Pornography.¹³⁰

UNICEF has an obligation to fund and support forums and workshops to enhance children rights and protection; it also provides technical support for example through experts. UNICEF participates in research and assessment/mapping leads to development of policies and strategies in relation to child protection issues, concerns and violations. Its delegations are also present during the drafting and at times launching of these policies.¹³¹ An example of such policy is the National Plan of Action for Children in 2008 and the National Children Policy Kenya 2010.

UNICEF highly advocates for the emergency response program. This became extremely necessary after the 2007/2008 post-election violence in Kenya. Though the violence did not last too long, it led to a lot of child's rights violations; in many areas the emergency response was

¹²⁸ UNICEF. *UNICEF Child Protection Strategy* (Nairobi, 2008), 6.

¹²⁹ UNICEF. *Annual Report for Kenya* (Nairobi, 2010), p 13.

¹³⁰ Interview with an anonymous UNICEF Child Protection Officer, Nairobi, July 10, 2013.

¹³¹ Interview with Adelaide Ng'aru, NCCS, Nairobi, June 7, 2013.

abrupt hence not as efficient, especially due to limited funds. UNICEF works hard during crisis to reduce child violations and strengthen the protection sector.¹³² UNICEF has greatly assisted in the development of the emergency response program to protect children in case of misfortune and in times of conflict.¹³³ UNICEF has encouraged and supported the advancement of a diverse response emergency program/system in high-risk districts like North Eastern that are prone to conflict and misfortune. UNICEF upholds that the increased emergency preparedness to natural and other crisis between the government and UNICEF has improved the humanitarian response in Kenya.¹³⁴

The country has an obligation to write reports in relation to several international laws ratified by the state; these reports are written by NCCS. They contain progress achieved in terms of implementing the laws and the challenges experienced in the process. The most important of these is the UNCRC; other laws include the Optional Protocol on the Involvement of Children in Armed Conflict, the African Charter on the Rights and Welfare of the Child (ACRWC), the Declaration on the World Fit for children and Africa Fit for Children. UNICEF has supported the drafting of the reports and funded the input that goes into it, including research and workshops. It also prepares the delegation that defends the report to the Committee on the Rights of the Child.¹³⁵ UNICEF notes that Kenya is responsible for the domestication and implementation of international laws and instruments to advance children's rights.¹³⁶

Through UNICEF's help, NCCS developed the National Guideline for child Participation. It also developed the Kenya Children's Assembly in 2009, the representatives in the assembly include children between the ages of 12-17; Children elect representatives in

¹³² UNICEF. *UNICEF Child Protection Strategy* (Nairobi, 2008), 4.

¹³³ Interview with Carren Ogoti, Department of Children Services, Nairobi, June 18, 2013.

¹³⁴ UNICEF, *UNICEF Revised Country Programme Document Kenya 2009-2013* (Nairobi, 2009), 7.

¹³⁵ Interview with MaryGorret Lesumba, NCCS, Nairobi, June 11, 2013.

¹³⁶ UNICEF, *UNICEF Revised Country Programme Document Kenya 2009-2013* (Nairobi, 2009), p 9.

constituencies, districts and nationally. Lesumba notes that, NCCS developed a guideline for the assembly operations, supported by UNICEF, the Kenyan government, World Vision and The Kenya Alliance for the advancement of Child Rights (KAACR).¹³⁷ At the meetings children discuss issues affecting them which include their child protection, rights and concerns, hence affirming to the UNCRC's, article 12/13 that relates to child participation.

In Kirigiti Girls Kiambu, several teachers impart the pupils about their rights and actions to take in case of violations, which include reporting to the police help desk and to the head teacher. The girls' school also has a counseling program where girls have private sessions with counselors.¹³⁸ In Getathuru Rehabilitation boys, the boys have been informed about the child helpline 116 used to report child rights violations. The school also holds an 'Empower the Child' program every Wednesday where they are educated about current and emerging child issues.¹³⁹ Mbugua notes that as early as 2004 child participation was encouraged and promoted; he quotes a workshop in Machakos in which child representatives were trained about issues ranging from the children's rights and protection, the UNCRC, ACRWC, the Children's Act etc.¹⁴⁰

UNICEF is a strong supporter of the Orphans and Vulnerable Children Program (OVC) that caters for that group protecting them from abuse, exploitation or a condemnation to live in the streets. NCCS notes that through the program the Kenyan government also developed the National OVC Steering Committee, the guideline that unifies actors involved, A Rapid Assessment Analysis and Action Planning process, an informal Parliament committee on OVC and a direct cash subsidy program.¹⁴¹ The program which was initiated in 2004 with only five districts and a small budget has grown immensely to demand more deliberation and budget

¹³⁸ Interview with Divinah Manoti, Kirigiti Girls Kiambu, Nairobi, June 21, 2013.

¹³⁹ Interview with Michael Ng'ari and Anthony Nd'ungu, Getathuru Rehabilitation boys, Nairobi, June 21, 2013.

¹⁴⁰ Jane Waithira Mbugua, *Promoting Child Rights* (Nairobi, 2012), p 20.

¹⁴¹ NCCS. *Initial Report to the African Union on the Implementation on of the African Charter on the Rights and Welfare of the Child-2003 to 2007* (Nairobi, 2008) ,p 9.

allocation. It is guided by the National Plan of Action on Orphans and Vulnerable Children. UNICEF confirms that in 2010 the OVC cash transfer Programme then in 47 districts had increased from 262,500 children in January – to 290,500 in December.¹⁴² This number had increased to more than 500,000 children in more than 60 districts by 2012.

UNICEF also implements protection mechanisms for children living in refugee camps, for example the enormous Dadaab camp; they include child-friendly spaces that deal with children's needs and protection. A good example is child friendly courts and representation carried out at the spaces. The UN agency also advocated and participated in the development of a data analysis system so as to keep record of children and issues affecting them. This makes it easier to initiate and carry out programs with clarity of numbers involved. The data analysis program can be used for referral purposes to keep track of children's issues.¹⁴³

UNICEF also supports and funds advocacy initiatives by NCCS which includes media programs, like radio and TV shows designed to discuss and raise awareness on children's rights and child protection. It also incorporates press briefs, newspaper statements, stickers and billboards. Advocacy is immensely implemented during the international and the African Day of the child celebrated every year.¹⁴⁴

3.3.2 Child Protection in Syria

The Syrian Commission for Family Affairs (SCFA) was established as a governmental body under Law No. 42 in 2003. It was created as an organization that caters for family issues in Syria, hence strengthening that department considered to be very vital to the Syrian republic. The Syrian Constitution in Article 44 states that the family is the basic unit of society which is

¹⁴² UNICEF. *Annual Report for Kenya*. (Nairobi, 2010), p13.

¹⁴³ Interview with an anonymous UNICEF Child Protection Officer, Nairobi, July 10, 2013.

¹⁴⁴ Interview with MaryGorret Lesumba, NCCS, Nairobi, June 11, 2013.

protected by the state.¹⁴⁵ There is also the Syrian Law of Personal Status that governs family issues and several issues relating to children; it was instrumental since 1953 but amended in 1975. UNESCO and IBE remark that, the SCFA was created to advance and empower the family so as to offer a better contribution to the development process in the country.¹⁴⁶

The SCFA is responsible for all issues concerning children, women and the population in general in terms of policy. It also deals with issues of rights bestowed to the family unit and its inhabitants. It works to create a legal, social and conducive environment to guarantee the protection of the family including children. It is respected as independent in its administrative duties and roles; however its officials coordinate with the office of the prime minister.

In terms of the child protection Program in Syria, UNICEF has worked with government partners and especially the SCFA to assist in the development of child policies and ensure their legislation in relation to children. It has also targeted the civil society and other NGOs to introduce and cement child protection mechanisms and a better environment for Syrian children and at times refugee children from neighbouring countries. The program has dealt with issues of child neglect, violence against children, sexual and physical abuse of children, exploitation, children who are in conflict with the law, child labour and children involved in armed conflict etc.

The SCFA holds activities and events in relation to the society; it develops policies, plans and programs and it also carries out research, conducts conferences, workshops and seminars in relation to family issues. An example is the SCFA Report on Domestic Violence in Syria focusing on women and children in 2010. UNICEF works with other government ministries in relation to issues in its field of operation, for example education, health, labour etc. It also

¹⁴⁵ GoS, Syrian Constitution, (Syria: GoS, 2012) Article 44 (1).

¹⁴⁶ UNESCO and IBE. *World Data on Education: Syria Arab Republic. 7th ed* (Syrian Arab Republic, 2010/2011), p 3.

coordinates with other non-governmental and governmental organizations to accomplish its mandate.

In relation to its duty in family affairs the SCFA is the top organization that deals with children issues, which includes drafting laws and policies that cater to children . GPC notes that the SCFA is the key organ that monitors and coordinates the implementation of the UNCRC. It is also cast with the responsibility of reviewing different important laws like the Penal Code and the Personal Status code otherwise referred to as the Family Law. It does this to ensure that those it represents are fully protected especially children.¹⁴⁷ Through its dealings with other organizations that deal with children SCFA works vastly with UNICEF as the key organ responsible for children globally and in this case in Syria.

UNICEF supports the SCFA in terms of preparing and defending its reports to the Committee on the Rights of the Child. Just like in Kenya and other states it helps fund seminars, workshops and research in relation to these reports. It also trains officials on how well to implement the UNCRC and conduct follows up to monitor if the standards are being met accordingly. UNICEF confirms that, SCFA's officials were trained and advised by UNICEF in relation to the UNCRC and the nation's submission of its report that was to be reviewed in 2011. It also supported the SCFA and the SPC in drafting a policy to update the NDP using the SITAN.¹⁴⁸

Part of the training by UNICEF involved the facilitation of the SCFA officials to attend the International Child rights System in Geneva in 2010. GPO adds that from 2010-2012 UNICEF facilitated the training of UN, SCFA and NGOs officials in terms of prevention and response in cases of sexual and gender based violence which includes children.¹⁴⁹ The Policy

¹⁴⁷ Global Protection Cluster (GPC). *Child Protection in Syria* (Syrian Arab Republic, 2013), p 4.

¹⁴⁸ UNICEF. *Country Office Annual Report for Syria*. (Syrian Arab Republic, 2010), p 3.

¹⁴⁹ Global Protection Cluster (GPC). *Child Protection in Syria* (Syrian Arab Republic, 2013), p13.

Advocacy and Partnerships for Children's Rights Programme at UNICEF Syria advocates for more policies in terms of child protection in Syria. It also works to strengthen children's rights through research, data analysis, advocating, monitoring and evaluation of the domestication of the UNCRC by parties involved.

UNICEF and the SCFA have worked together for many years in relation to children's issues their situation and how to deal with emerging issues in this field. The issue of child labour which has been an area of serious concern to the Syrian government and UNICEF has also benefited from these efforts funded by UNICEF in collaboration with the SCFA. Sixsmith gives an example of a child labour workshop held in 2010 in the North of Syria in the city of Aleppo which acted as an advocacy initiative to spread awareness widely on the critical issue.¹⁵⁰ There is also the report on the State of Childhood in Syria launched in Damascus in 2009 by the SCFA and UNICEF; it dealt with different issues concerning children including the progress in terms of protection, health etc. SANA adds that it also reviewed the progress achieved in terms of development, areas for improvement and challenges facing parties involved.¹⁵¹

One of the most significant child protection mechanisms run by UNICEF in Syria is the Child Friendly Schools and Spaces (CFS). The CFSs are directed by the 4 Ps, Pedagogy, Protection, Participation and Physical environment. Through the use of CFSs children have been protected, their needs highlighted and catered to. UNICEF asserts that the CFS model were initiated in 2007 in 16 schools, by 2010 they had grown to 600.¹⁵² UNICEF has coordinated with other partners to increase the CFS over the years and especially since the current conflict broke out in 2011, hence guaranteeing the protection of many children from increased abuse and

¹⁵⁰ Rob Sixsmith. *UNICEF workshop determines to tackle child labour problem in Syria: Breaking the Cycle of Poverty*, (Syrian Arab Republic, 2010), p 1.

¹⁵¹ SANA. SCFA and UNICEF. *Launch Report on Current State of Childhood in Syria*. (Syrian Arab Republic, 2009), p 1.

¹⁵² UNICEF. *Country Office Annual Report for Syria* (Syrian Arab Republic, 2010), p 1.

neglect. Rashidi adds that more than 20,000 Iraqi refugee children living in Syria have also benefited from Child Friendly Spaces since 2007.¹⁵³ UNICEF also established the Inter-Agency Response Plan that focused on the most children disadvantaged in terms of rights and protection.

UNICEF has also coordinated with other UN partners and the Syrian government to carry out the Mental Health and Psycho-Social Support (MHPSS) program, including the database that was initiated in 2008. This initiative was especially started to cater for Iraqi refugees who had been accommodated in Syria before their safe haven also turned into a conflict zone. UNICEF adds that, the initiative was carried out in collaboration with UNHCR, SARC, GTZ and IMC and was highly supported by other local partners like the Damascus University. The program aimed at strengthening capacity building, national services and staff involvement.¹⁵⁴

Another program inspired by Iraqi refugees was the Humanitarian Support Programme initiated in 2009. UNICEF points out that since then, the Programme became incorporated with the Regular National Programme which was then set up for the benefit of all children in Syria.¹⁵⁵ The emergency efforts by UNICEF and its partners have extended to the ongoing conflict that has highly contributed to child rights violations and leading to a desperate need for child protection and emergency efforts. UNICEF has been offering its assistance to Syria children in and out of Syria. UNICEF upholds that from May 6th - 20th it was able to reach 40,000 people who included more than 30,000 children.¹⁵⁶

Another mechanism involves the improvement of the Juvenile Justice in Syria that affects people in conflict with the law including children, an obvious case of interest to UNICEF; it began in 2010. This has also involved SCFA and UN organs like UNHCR, UNDP, and UNFPA

¹⁵³ Razan Rashidi. *Regional Director sees progress towards development goals with equity in Syria*. (Syrian Arab Republic, 2011), p 1.

¹⁵⁴ UNICEF. *Country Office Annual Report for Syria*. (Syrian Arab Republic, 2010), p 1.

¹⁵⁵ Ibid 18.

¹⁵⁶ UNICEF. *UNICEF Syria Crisis Sub-regional Situation Report: Jordan, Lebanon, Turkey and Iraq* (Syrian Arab Republic, 2012), p 2.

in collaboration with MOSAL. These efforts also led to the introduction of the Juvenile Justice Monitoring System, including a roadmap to collect and analyze data. UNICEF upholds MOSAL was assisted to develop a unified database in relation to juvenile justice which was established in reference to the UNICEF/UNODC standards.¹⁵⁷ Juvenile reforms are also of concern due to their status quo in relation to age of criminal responsibility in Syria (10). Notably the Committee on the Rights of the Child asked Syria to increase that age limit in 2011.

UNICEF's partnership also included the ILO in a Juvenile Justice and Child Labour initiative in 2011 to improve the condition of children in juvenile cells and eradicate worst forms of child labour. UNICEF highly advocates for children to be brought up in a family environment or alternatively care based in the community; it supports children being put under foster homes or charitable care institutions as a last resort. The organization keenly follows and advocates for the UN guidelines on Alternative care. GPC notes that, in Syria separation of children from their parents and families is prohibited: according to Islamic laws adoption is not allowed, even so there are still those in alternative care institutions.¹⁵⁸ UNICEF conducted an assessment on these institutions in 2010 so as to introduce family or community care alternatives and reduce institutionalization which denies children of parental care and protection.

Through the participation of UNICEF, the United Nations Development Assistance Framework (UNDAF) and the Syria CPD were developed in collaboration with the SCFA and other government officials. The program describes the actions and strategies to be applied by the UN in the country to achieve national development. This initiative was designed to focus mostly on the most disadvantaged in Syria whose vulnerable state due to poverty and other disadvantages leads to many violations against children. UNICEF mentions that this included the North Eastern communities, those living in poverty, children living with disabilities, those

¹⁵⁷ UNICEF. Country Office Annual Report for Syria (Syrian Arab Republic, 2010), p 1.

¹⁵⁸ Global Protection Cluster (GPC). *Child Protection in Syria* (Syrian Arab Republic, 2013), p15.

involved in child labour among others.¹⁵⁹ Evidently, if these issues are dealt with as they should then children's rights violations can be reduced significantly.

3.4 NGOS' CONTRIBUTION TO NATIONAL CHILD PROTECTION

3.4.1 NGOs' Contribution in Kenya

In relation to this study the researcher looks at the contribution of two major and instrumental NGOs that contribute to the national child protection in Kenya, the African Network for Prevention and Protection Against Child Abuse and Neglect (ANPPCAN) Kenya Chapter and the World Vision. These two organizations are involved in different national programs and activities that relate to children's rights and protection. ANPPCAN points out that, this corresponds to the national legislation in Kenya which states that child related organizations are obligated to implement and deliver its services to children in the state.¹⁶⁰ World Vision and the ANPPCAN are strong supporters of NCCS in terms of advocacy, which includes as mentioned previously, raising awareness, participating in child forums, assessments and community trainings in children's rights and child protection.¹⁶¹

The World Vision international was founded by Mr. Bob Pierce in 1950 as a Christian non-profit organization dedicated to providing relief, enhancing development and spreading awareness with interest to children and communities; to work against injustice and poverty. WVK comments that, the Christian organization was introduced in Kenya in 1974, its initial interventions were concentrated on emergency response to Kenyans who were affected by severe drought. This initiative led to child sponsorship due to the desperate need of children; it also led to the development of community development programs that continued to assist famine

¹⁵⁹ UNICEF. *Country Office Annual Report for Syria* (Syrian Arab Republic, 2010), p 6.

¹⁶⁰ ANPPCAN. *ANPPCAN Annual report* (Nairobi, 2011), p 11.

¹⁶¹ Interview with Adelaide Ng'aru, NCCS, Nairobi, June 7, 2013.

survivors.¹⁶² Soon after, the organization established a physical presence to work for the wellbeing of families in need and paying close attention to children.

World Vision Kenya works to empower communities and prevent violence against children, child abuse neglect and exploitation. It also trains officials involved in children affairs that includes, teachers, the police and health staff on children's rights, Acts of parliament and other laws that affect children. It also helps to rehabilitate child victims through community mobilization, providing psychological help and legal aid. WVK often utilizes a community development mechanism to be able to address issues for example poverty at the grass levels. Its partners include NCCS, other NGOs, faith based and religious organizations and community organizations. It addresses different sensitive issues at grassroots levels in many Kenyan communities hence preventing child rights violations resulting from those issues, for example child labour due to poverty. WVK adds that it works with other partners like UNICEF to support programs that cater for orphans and vulnerable children in the community.¹⁶³

World Vision has supported and continues to support the development of the Kenya national child protection system. It also contributes immensely to Area Advisory Councils (AACs) set out in many districts in the country to cater for children's rights and protection at the county, district and constituency level. WVK cooperates with AACs located in their 62 field operation offices present in 37 counties in Kenya, which includes training manuals. It also supports Technical Working Groups who endorse child protection mechanisms and also those who get involved in emergencies programs.¹⁶⁴ Through partnerships with NCCS and other local partners WVK has trained officials like DCs and DOs on child protection.

¹⁶² WVK. *Community Development in Kirindon Addressing Kenyan Children's Holistic Needs for a Better Future*. (Nairobi, 2011) p 2.

¹⁶³ Ibid.

¹⁶⁴ Interview with Caroline Nalianya-Okumu, World Vision Kenya, Nairobi, June 10, 2013.

WVK supports initiatives towards the implementation and monitoring of international and regional laws which include the UNCRC, OPICAC and ACRWC. The support also extends to the assessment and the drafting of reports in relation to these international law documents. WVK also supports the review of local laws to align them with new laws and emerging child issues which includes capacity building on the issue.¹⁶⁵

The organization also extends its support to child participation nationally, in counties and at district level where child assemblies are held to discuss different issues that affect children in the particular location. WVK has also assisted in the development of manuals and guidelines for national child assemblies. It also plays a key role in participation of children in international forums like the first East African Community Child's rights Conference.¹⁶⁶ It also takes part in initiatives leading to the development of policies and Plans of Action for children. In all its initiatives, WVK works with other child rights organization and partners, in coordination with NCCS, the Department of Children Services in Kenya and UNICEF.

The African Network for Prevention and Protection against Child Abuse and Neglect (ANPPCAN) is a pan-African non-profit organization that works closely on child protection issues and ensuring children's rights. It was established in 1986 in Enugu state Nigeria; it has since then developed 22 chapters in different countries in Africa including Kenya which acts as its headquarters.

The Kenyan chapter was established in 1989, but was officially registered as an NGO in 1995. It works as a natural resource center that deals with child rights violations like child abuse, child labour, neglect and rights. It offers both information and technical expertise on child's

¹⁶⁵ Ibid.

¹⁶⁶ Ibid.

rights and protection.¹⁶⁷ ANPPCAN not only cooperates with NCCS, it is also a member of the council. In fact the CEO of ANPPCAN is the chairman of the Planning, Research, Monitoring and Evaluation Committee at NCCS.¹⁶⁸ The organization also advocates for donors, governments and other international organizations like UNICEF to fund children's initiatives.

ANPPCAN just like World Vision and UNICEF works with communities and mobilizes other partners involved in child protection, like the Kenyan Government, other NGOs, FBOs, and Donors (both organizational and individual based, internal and external) so as to strengthen the national child protection system. The organization also engages in research on critical issues affecting children done on regular bases to keep up with evolving issues. It also offers expertise services in relation to children affairs like child protection and child legal issues.¹⁶⁹ The organization's regional level experience offers some lessons in terms of policy and critical areas to pursue in the country, in relation to its mandate.

ANPPCAN has also taken the initiative to introduce an annual child protection from abuse debate that is held in different countries. The very first conference was conducted in Nairobi Kenya in 2007. ANPPCAN upholds that, the debate led to the recommendations and also a way forward in which sexual abuse of children can be meritoriously responded to and minimized in all types of settings.¹⁷⁰ The organization insisted on the necessity to have the same conferences periodically in Africa so as to review ongoing efforts and to share experiences in terms of sexual abuse of children.

ANPPCAN also works to empower children to become advocates for their own rights; they do this by the use of a Child Participation Programme. They raise awareness to encourage

¹⁶⁷ World Organisation against Torture et al. *Situation of Violence against Women and Children in Kenya: Implementation of the UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*. (Nairobi: World Organisation Against Torture, 2009), p 7.

¹⁶⁸ Interview with Adelaide Ng'aru, NCCS, Nairobi, June 7, 2013.

¹⁶⁹ Interview with Elizabeth Kegengo, ANPPCAN, Nairobi, June 7, 2013.

¹⁷⁰ ANPPCAN. *ANPPCAN Annual Report* (Nairobi, 2011), p 11.

Child Rights Clubs and Club patrons/teachers, whereby they train both children and their parents/guardians and teachers about child rights and protection. ANPPCAN mentions that, in 2011, the organization implemented child protection programs which were implemented in 30 schools in Loitokitok and Busia.¹⁷¹ ANPPCAN adds that children are trained to advocate for their own rights so as to empower them.¹⁷²

The organization also trained the local administration in relation to District Child Labour Committees, Child Participation Committee and how they work to enhance child protection. In 2009 ANPPCAN instigated a project aimed at strengthening the child protection system in Kenya. The initiative was highly supported by Save the Children Sweden in collaboration with the NCCS. It also aimed at empowering the Area Advisory Council and law enforcers to be active in responding to issues of interest in relation to children. ANPPCAN explain that, the project concentrated on capacity building with key partners in the country for example the civil society and community based organizations, including children to advocate for a more purposeful National Child protection System.¹⁷³ This was one of the forces that led to the development of the Framework for the National Child Protection System for Kenya.

ANPPCAN worked with UNICEF and other partners from 2009-2010 to develop a manual for the child help desk; this effort also involved the Kenya police. Child help desks were developed and coordinated through Area Advisory Committees to be utilized in dealing with child issues and violations at lower levels in the nation. This was incorporated with trainings to the respective officials on how to operate the child help desks. ANPPCAN states that the trainings were held to create and also strengthen the child protection and response system. Child

¹⁷¹ Ibid.

¹⁷² ANPPCAN. *The Childwatch: The quarterly Newsletter of ANPPCAN. No. 43*, (Nairobi, 2008), p 1.

¹⁷³ ANPPCAN. *Project Update*. (Nairobi, 2010), p 3.

help representatives were trained on different issues including psychological help to children who fall victim to violations and how to encourage and promote child help desks in schools.¹⁷⁴

The organization involved itself in initiatives to curb child labour since November 2011. The projects were instigated in both rural and urban areas where child labour free zones were created. They carry this out by training several community inhabitants through a network of Child Labour Committees. ANPPCAN upholds that, the organization participates in advocacy initiatives through Area Advisory Councils; it advises that each council should design an approach that is specific to its local conditions and needs and not approaches imposed by donors especially the overseas ones.¹⁷⁵ They also advocate for rapid response and rescue programs in relation to child labour cases.

ANPPCAN also has a legal department which provides legal aid and protection to children who are in conflict with the law and also provide advice on such issues therein. It also protects and assists children who have fallen victim to violations. The ANPPCAN has highly participated in the national child protection system by introducing the Coalition on Child Rights and Child Protection in Kenya. The coalition is composed of NGOs, government, private sector partners faith based organizations and so on. ANPPCAN upholds that, the coalition was initiated to create a multi-disciplinary approach, which enables the organization to work in complementary designs to address children's issues with immense efforts that cannot be achieved by one organization.¹⁷⁶

¹⁷⁴ ANPPCAN. *ANPPCAN Annual Report* (Nairobi, 2010), p15.

¹⁷⁵ ANPPCAN. *Enhancing Community Participation in the Delivery of Children's Services in Kenya: Conference for Area Advisory Councils (AACs) and Community Leaders*. (Nairobi, 2002), p 4.

¹⁷⁶ ANPPCAN. *Directory of Children's Services in Kenya*, Nairobi, pg 2-3.

3.4.2 NGOs' Contribution in Syria

In reference to previous chapters, it has become evident that UNICEF and government agencies like the Syrian Commission for Family Affairs do not and cannot work single-handedly. They require the collaboration of other non-government agencies and partners to have a greater reach and impact. Despite the restriction in Syria, NGOs are still able to contribute in relation to this study, to the national child protection system. This study concentrates on two who have been quite instrumental in Syria; they include, the Syrian Arab Red Crescent and Save the Children International.

The Syrian Arab Red Crescent (SARC) was formed in 1942 as a humanitarian non-profit organization; initially, it utilized its medical services to assist the Syrian Army. It was later admitted to the International Committee of the Red Cross; enlarging its efforts to disaster response, relief, first aid and training. SARC mentions that majority of those the organization trains as volunteers are young people, they are hence engaged first and foremost on first aid and driving safely. The organization coordinates relief programs and helps in the development of plans of action in times of major risks or disasters.¹⁷⁷ Notably these risks and disasters highly affect children as one of the most vulnerable groups in the society.

Since its conception SARC which its headquarters is in the capital Damascus has established branches in many parts of the Syrian Republic with a total of 14 locational establishments and many more sub locations. SARC says that the disaster management units in these locations are equipped with specialized equipment, well trained staff and volunteers.¹⁷⁸ SARC has been a major contributor to children's affairs and has been working closely with UNICEF especially in times of conflict. SARC indicates that it works a lot with communities

¹⁷⁷ SARC. Syria: *Preparing For Multiple Disasters*. Syrian Arab Republic. 2012.

¹⁷⁸ Ibid.

which it views as a key input to achievement. The community has also been a great contributor of staff and volunteers who are trained on different areas as evaluating damages in disaster or conflict situations, buying and dispensing required items.¹⁷⁹

Capacity building through the community has increased the chances and efforts of child protection. The organization also works with government agencies to better implement its initiatives. SARC notes that, it recently participated in the development of a National Disaster Response Plan; the Plan aims at making the response program between SARC, government officials and other partners like UNICEF more efficient.¹⁸⁰

Syria has been an inhabitant of Conflict incidents and at times it has accommodated refugees from neighboring countries who obviously include children. SARC has always been on the frontline catering to those in need of its services especially in times of disaster, and conflict. Martlew mentions that it's estimated that more than 480,000 Iraqi and 500,000 Palestinian, hundreds more Afghans and other refugees who escaped their countries due to insecurity are now caught up in another conflict zone and have to depend on humanitarian assistance from NGOs and other partners working with them like UNICEF.¹⁸¹

SARC has also participated in child protection initiatives especially in the Child Friendly Spaces that were created and advocated for by UNICEF. The current conflict which broke up in 2011 has witnessed great participation from SARC in child protection initiatives. Rashidi notes that UNICEF has been working through the collaboration of local partners that include the SARC who also run Child Friendly Spaces for example in the UN refugee agency in Douma. SARC trains psychological first aid in these Spaces; this was initiated with Iraqi refugees in

¹⁷⁹ SARC. *Syria: Preparing For Multiple Disasters*. Syrian Arab Republic. 2012.

¹⁸⁰ Ibid.

¹⁸¹ Nick Martlew. *Childhood Under Fire: The Impact of Two Years Of Conflict In Syria*, (Syrian Arab Republic, 2013) p 9.

Syria and later expanded to include Syrian children.¹⁸² This also included a database on psycho-social support that saw a heavy contribution from SARC.

SARC has been working during the current conflict in Syria through support from other Red Cross agencies like the International Federation of the Red Cross and the Danish Red Cross. The British Red Cross quotes that itself and the International Federation of the Red Cross have worked in Syria with the SARC for many years before the conflict to develop emergency preparedness and community resilience.¹⁸³ It has also developed and implemented child protection initiatives and units to support many suffering children in Syria.

The SARC Child Protection Unit takes the responsibility of taking care of children who have been affected and traumatized by the ongoing conflict. The unit protects children from neglect since some of the children have lost their parents or lost contact with their families. It also protects these children from abuse, persecution and exploitation. The British Red Cross quotes that, the Federation has also supported SARC by restocking relief stocks and providing protection and care services.¹⁸⁴ SARC has also cooperated with the UN High Commission for Refugees on several occasions to cater, rescue and offer humanitarian assistance to refugees in need inside Syria, which always includes vulnerable children.

As earlier mentioned, Save the Children International was created by the worldly recognized Miss Eglantyne Jebb. UNICEF upholds that Eglantyne who founded the organization in England, United Kingdom had the agenda of raising funds for emergency purposes to aid children who were distressed as a consequence of war during the First World War and German Blockade.¹⁸⁵ The organization then grew to 30 affiliates around the world allied to the Save the

¹⁸² Global Protection Cluster (GPC). *Child Protection in Syria. Syrian Arab Republic* (Syria, 2013), p 14.

¹⁸³ British Red Cross. *Syria Crisis – update* (Syrian Arab Republic, 2013), p 3.

¹⁸⁴ Ibid.

¹⁸⁵ UNICEF. *The State Of The World's Children, special edition: Celebrating 20 Years of the Convention on the Rights of the Child* (New York: UNICEF, 2009), p 4.

Children organization in Geneva, also initiated by Miss Jebb. Martlew affirms that its services are upheld in 120 countries and more around the world with the aim to save children's lives, fight to ensure their rights, and empower them to fulfill their potential.¹⁸⁶ Save the Children works mostly in developing countries and is also instrumental in times of conflict and disaster with its resourceful relief efforts and child protection initiatives.

The Syria Arab Republic is one of those countries in which Save the Children organization works in. Among the programs key to the organization in terms of children affairs is child protection especially in times of conflict. The organization recognizes in its official website that millions of children around the world are sexually exploited, recruited into armed groups, neglected, abused, and exposed to violence in schools, homes, societies and especially in conflict situations. Save the Children mentions that, during crisis, it mobilizes speedy emergency response to assist children get through the physical and psychological effects of conflict.¹⁸⁷ The organization highly targets the most vulnerable children and protects them from harmful violations; it invests in long term change to ensure children are protected and brought up in a safe environment.

Save the children has also been part of the Child Friendly Spaces initiative whereby it coordinates with other partners like UNICEF; this program is highly advocated for in emergency situations, like the current conflict in Syria. In these spaces the organization has been able to cater for children's needs and protect them from among other things, violence. Save the Children mentions that it has worked and continues to work with other UN organizations to cater for children, both Syrian and non-Syrian in and out of Syria providing humanitarian assistance,

¹⁸⁶ Nick Martlew. *Childhood under fire: The impact of two years of conflict in Syria* (Syrian Arab Republic, 2013), p 10.

¹⁸⁷ Save the Children. *Results for Children: An Update Annual Report Q1-2* (New York, 2013), p 1.

shelter, food, specialized child care and protection, reuniting children with their parents and treating those who are traumatized.¹⁸⁸

Since its physical establishment in Syria, the organization has worked continuously to influence local policies, development, implementation and improvement of the response system during emergencies to ensure the best interests of the child are met. The organization has also played the role of capacity building, community mobilization and empowerment. These community members or organizations are also able to participate in advocacy and contribute to the national child protection system by helping children in need at grass root levels. Core to the organization is child participation as highlighted by the UNCRC whereby it educates children on their rights, the ills that threaten their lives as children and how to protect themselves.

3.5 MAJOR CHALLENGES

UNICEF just like any other organization faces numerous challenges especially in developing countries like Kenya and Syria who deals with instances of poverty, corruption and conflict. Lack of accountability also hinders donors' participation, corruption leads to misuse or misappropriation of funds. It is at times accompanied by halted or delayed implementation of policies which leads to reluctance of donors to fund some initiatives or to suspend their funding to these projects. Child protection is lowly funded and is not taken as a key priority by the government. UNICEF funds are also limited hence it is not able to cater to many initiatives as it would desire.¹⁸⁹

There is also lack of commitment between partners; this is caused by different ideologies, in other words, lack of a shared vision between the partners involved. These include other United

¹⁸⁸ Ibid 12.

¹⁸⁹ Interview with an anonymous UNICEF Child Protection Officer, Nairobi, July 10, 2013.

Nations agencies, NGOs and government bodies; each with its own idea and approach resists the other's hence delaying crucial services to children. UNICEF mentions that some UN agencies fail to offer sustained commitment while some national partners lack to exhibit required interest to further some policy objectives. That include, developing and utilizing tools for data acquisition and dissemination and national planning in children affairs.¹⁹⁰

A challenge worth mentioning is in relation to national laws that at times conflict with UNICEF's working and guiding principles. For example, Syria as an Arabic country implements and legislate all its laws through the guidance of Sharia Law. Some of these laws are completely contradictory to the UNCRC; for example some of the clauses in the Personal Status code that allow a child, according to the UNCRC to marry or get married. CRC quotes that, during the presentation of the report on the implementation of the UNCRC in 2011, the committee urged the SCFA to ensure reform of the law to rise the age of marriage for girls from 17 to 18 years.¹⁹¹

There is a shortage of informed or skilled officials in issues of child protection and how to appropriately deal with child rights violations. This creates a loophole between UNICEF and its objective to children through the assistance of these officials; some of these officials include police officers in child help desks. UNICEF adds that some NGOs involved in children's issues operate without the guidance of the government and are not aware of emerging child protection standards.¹⁹² There is also a weakness between different sections, instruments and actors in the child protection system. Waweru, Hussein et al note that the mapping and assessment done by NCCS and UNICEF in 2009 revealed weaknesses in structures, policy, accountability and flow

¹⁹⁰ UNICEF. *Country Office Annual Report for Syria*. (Syrian Arab Republic, 2010), p 1.

¹⁹¹ CRC. *State Party Examination of The Syrian Arab Republic's Third and Fourth Periodic Report 58th Session of the Committee on The Rights of the Child 19 September – 7 (2011)*, p 7.

¹⁹² UNICEF. *Kenya Update* (Nairobi, 2009), p 3.

of information between actors in the system.¹⁹³

Child protection units to deal with vital issues in relation to children are also inadequate, especially at the very local areas. This reduces the number of individuals and partners that UNICEF can reach and work with at the very grass root levels. Some of these areas are habitats to child rights violations like FGM/C, early child marriages and child labour mostly due to extreme poverty and ignorance. UNICEF adds that child protection facilities are only available in selected locations in States and are growing but not as fast as necessary.¹⁹⁴

Traditions like FGM/C and child marriages are strongly rooted in some communities hence it's difficult to convince members in these communities to stop the violations. For example in Kenya, certain leaders in Area Advisory Councils also emancipate from these communities hence have their own reservations in relation to some community rituals; considering their leadership posts, their reservations acts as a hindrance to the UNICEF objective of child protection. UNICEF adds that the lack of unanimous outlook on some harmful traditions among tribal and religious leaders acts as a challenge to their efforts to completely scrap child violations.¹⁹⁵

Poverty in many areas in Kenya and Syria also contributes negatively to UNICEF objectives. As the organization works to curb child rights violation, increased poverty especially in rural areas only serves to increase the violations. Poor parents send their children to the streets to beg for food while others are forced to work in small businesses or in farms to make money. Other children are sent to towns or trafficked to work as domestic servants; in worse cases, underage children are forced to indulge in prostitution. Poverty acts as a vehicle that drives child violations at an increasing speed.

¹⁹³ Hellen W. Waweru, *Ahmed Hussein et al The Framework for The National Child Protection System for Kenya* (Nairobi: NCCS, 2011), p1.

¹⁹⁴ UNICEF. *Kenya Update*, (Nairobi, 2009), p 3.

¹⁹⁵ Ibid.

The Syrian government has also been slow in relation to the implementation of policies, having ratified the UNCRC and its two optional protocols; it has taken too long to domesticate these international laws. The National Plan that was developed in 2005 has not been implemented as it should be; the Children's Bill that was finalized by 2006 has never been passed. The Delegation composing of the SCFA officials at the CRC in 2011 explained that different ministries in Syria had not approved the Bill. It also mentioned that some had opposed the Bill as they felt that it had not fulfilled its duty as domesticated in the UNCRC.¹⁹⁶ UNICEF also quotes the weak legal and administrative framework for family and child protection; children are not offered sufficient protection in legal matters. The record keeping or database in terms of child's issues and violations is extremely weak. There also lacks as described by UNICEF, a consolidated system to monitor the implementation and advocacy of the UNCRC.

UNICEF has had limited partnership with local groups or organizations in Syria, that's because the private sector is not very liberalized, it has not even progressed to a substantial amount. UNICEF notes that Partnerships in Syria are more or less limited to UN agencies international organizations and government agencies. Regrettably, majority of the International organizations that have been allowed to work in Syria have for many years been limited to humanitarian services.¹⁹⁷ This leaves a gap that is immensely significant; it is through local and private organizations that UNICEF's reach inside Syria can be furthered; including an avenue to acquire more operational funds. Hence, the efficiency of these organizations including UNICEF is constrained. UNICEF affirms that child protection systems and services are very limited at community level.¹⁹⁸

¹⁹⁶ CRC. *State Party Examination of The Syrian Arab Republic's Third and Fourth Periodic Report 58th Session of the Committee on The Rights of the Child 19 September – 7 (2011)*, p7&3.

¹⁹⁷ UNICEF. *Country Office Annual Report for Syria*. (Syria, 2010), 4.

¹⁹⁸ Ibid 14.

One extremely crucial challenge has to do with funds; UNICEF gets all its funds to operate from donors without which some of its programs would be paralyzed. Funding becomes a problem especially in areas with limited funds like developing nations, for example Syria and Kenya. Conflict also increases the funds necessity; the Syrian conflict for instance has threatened to wipe out a whole generation of Syrians and especially children. UNICEF asserts that the humanitarian response to Syria is critically underfunded. In order to meet the humanitarian needs of millions of children in Syria from 31st August to 31st December 2012 it required US \$44 million but had a funding gap of \$34.7 million.¹⁹⁹ Martlew adds that in 2012 the international humanitarian appeal by the UN for Syria fell short of \$130 million.²⁰⁰ This has paralyzed majority of UNICEF's lifesaving and much needed assistance, especially to children.

Another major challenge involves working in risky or insecure environments; insecurity hinders access and limits the humanitarian reach hence cutting off much needed assistance not only to children but adults. UNICEF officials and other NGOs have worked in risky situations in both Kenya and Syria at times getting caught up in gunfire in the conflict zone. Some areas are deemed too dangerous to pursue and yet they harbour children in need of protection and child violations which again are not easy to document. There is also the danger of remnants of war that threaten the lives of social workers. Martlew confirms that, 15 aid workers have been killed in the last two years in Syria. Some were directly targeted despite their international badges recognizing them as humanitarian workers. About four out of five ambulances have been caught up and wrecked in the conflict.²⁰¹

¹⁹⁹ UNICEF. *HAC Update for Syria* (Syria, 2012.), p 2.

²⁰⁰ Nick Martlew. *Childhood under fire: The Impact of Two Years of Conflict In Syria* (Syria, 2013), p 18.

²⁰¹ *Ibid*, p16.

3.6 CONCLUSION

From the research above, involving both primary and secondary data, it's clear that, UNICEF and its partners in Kenya and Syria have worked and are still working immensely to ensure children are protected and their vital needs adhered to. Nevertheless it's also clear that those good intentions and efforts are greatly challenged by other underlying factors in both countries like ideologies, traditions, poverty and conflict. It is also evident that Kenya has progressed in terms of child protection laws and implementation of international laws much more than Syria. Kenya has drafted and passed the Children's Act in relation to the UNCRC; it has also developed other policies and Plans of Actions relating to sensitive issues of child protection like sexual exploitation of children. In contrast, Syria has not yet passed any child law. While Kenya encourages NGOs to advocate for children's rights, Syria does not offer the same freedom. Hence, UNICEF in Syria seems to be more challenged unlike in Kenya where it has more chances for capacity building with many partners. Syria as a nation has been prone to conflict so many years like many Middle East countries, whereas Kenya has not experienced extreme nationwide conflict like Syria. As humanitarian organizations depict, this conflict increases child violation and compromises humanitarian assistance that becomes very vital. In relation to the domestication and implementation of international laws to protect children in both countries, UNICEF can only advocate for that but it cannot impose on the national government in either Kenya or Syria. Despite a state's obligation to a party or an International body, that state still retains its Sovereign right to draft and revise its laws at pleasure. On the other hand, both Syria and Kenya have made considerable and notable progress in Child protection, in terms of Laws and measures therein.

CHAPTER FOUR

INTERNATIONAL CHILD PROTECTION: A CRITICAL ANALYSIS OF THE UN CHILDREN'S FUND IN SYRIA AND KENYA

4.1 INTRODUCTION

Chapter three is based on the two case studies, Kenya and Syria. Analyzing in these countries the national child protection system and UNICEF's input in this system. This has been put together as a result of both primary and secondary research in which the researcher sought to learn how different child protection parties work in both countries to advance the national child protection system. Parties involved included UNICEF and its relationship with the national government affiliated organizations that work for children's affairs. These are the National Council for Children Services in Kenya and the Syrian Commission for Family Affairs in Syria respectively. The chapter also looks at other instrumental parties (NGOs) involved in child protection; ANPPCAN and World Vision in Kenya, the Syrian Arab Red Crescent and Save the Children in Syria. The final analysis is based on the major challenges faced by UNICEF.

Chapter four is a critical analysis of key emerging issues in the study; the chapter is a second look at those issues acknowledged in previous chapters through a scholarly outlook. To analyze them and elaborate their cause and effect contribution to national child protection systems of the States, specifically in reference to the two case studies, Kenya and Syria. The researcher observes some of these contentious issues come to play strongly in the system and at times act as determining factors to the results that are achieved at by parties involved especially UNICEF. Some of them act as obstacles to the best of policies, programs, and even laws. Through a scholar's eyes the stern nature of these issues will be demonstrated to arouse the

reader's attentiveness in recognizing the solemn significance and effect of these issues to UNICEF and child protection in general.

4.2 EMERGING ISSUES

The emerging issues in this study include; the influence of national laws on UNICEF's child protection role, the significance of funds and how its inadequacy acts as a major challenge to UNICEF, poverty, conflict and their effects to UNICEF's child protection mechanisms. Other issues identified by the researcher include; different ideological differences between the parties involved in the child protection system, especially between UNICEF, government agencies and officials. Another issue of concern is the poor implementation of child protection laws, policies and programs and weak governance in Kenya and Syria. Notable and worth mentioning is the visible improvement of child protection systems in laws, policies, institutions and mechanisms during the selected research timeline of 2001- 2012.

4.2.1 NATIONAL LAWS AND THEIR INFLUENCE ON UNICEF'S CHILD PROTECTION

National laws and legislation in a State are of essential importance as they engulf the first step towards the implementation of international child protection laws after ratification by a State. Laws like the UNCRC and its two optional protocols, the Optional Protocol on Sale of Children, Child Prostitution and Child Pornography and the Involvement of Children in Armed Conflict. These laws intensely advocate for child protection and best interests of a child by the ratifying State.²⁰² O'Donnell and Seymour upholds that for a State to ratify the international and regional

²⁰² UN, United Nations Convention on the Rights of the Child, 1989, preamble.

law instruments, that state is devoted to ensure child protection, implement child laws, policies and programs to guarantee children's rights.²⁰³

Consequently, the mode, speed and commitment of that implementation by the State can either encourage or discourage UNICEF's efforts. According to the UNCRC ratifying States are mandated to undertake measures, legislative and administrative to ensure the implementation of children's rights as recognized in the UN convention. Perrault and Hall assert that each State party to the UNCRC should not only domesticate the UNCRC but also review its past legislation. To amend and adjust articles, clauses or laws that contradict with the UNCRC and adopt new laws or articles that clearly enhance the best interests of the child.²⁰⁴ National law should spell out children rights from birth registration, nutrition, and health, protection from violence, abuse, exploitation and rights to a protective environment. The World Summit for children in 1990 put emphasis on protection of children in all circumstances especially difficult ones.

The subsequent domestication of ratified laws is henceforth affected by other internal factors; including culture and type of legislation and at times the main recognized, religion of the particular state. Perrault and Hall mention that the process and structure of the legal status in child laws is based on four legal systems, Islamic law, civil law, common law and plural legal systems. The plural system involves civil or common law system combined or balanced with customary or traditional law system.²⁰⁵ No matter the obligation bestowed on the State having ratified the UNCRC, that State possesses its sovereign right to legislate the UNCRC according to its political and legal system of governance.

The domestication and implementation of UNCRC involves the creation of institutions to

²⁰³ Dan O'Donnell and Dan Seymour, *Child Protection: A handbook for parliamentarians*. (Switzerland: SRO-Kundig, 2004), p 23.

²⁰⁴ Nadine Perrault and Erica Hall Part and Christine Lundy, *UNICEF Assessing Compliance of National Legislation with International Human Rights Norms and Standards*, (2008), p 2.

²⁰⁵ Ibid, p 3.

promote and advance children's rights and protection. These institutions should be/are also utilized to implement children laws, policies and programs that have been adopted by the State. The State should also earnestly consider necessary administrative and adequate budget allocation for the implementation of child protection measures. Perrault and Hall add that the nation's legal framework should include administration of fair and child friendly justice. A framework to monitor children and the impact of adopted laws should not be left out.²⁰⁶ The national law framework should also encourage and establish mechanisms for children to relate with the State, referred to by the UNCRC as child participation.

UNICEF's efforts are heavily portrayed in the implementation process of child laws by the State; it participates in the review of national laws to align them with the UNCRC. It also contributes to the development of national measures for example policies and Plans of Actions developed to ensure the care and protection of children in all states. These laws in turn strengthen UNICEF's measures in States and in relation to this study, Kenya and Syria. Institutions that advance children's rights are core to domestication of the UNCRC and its legislation in both States. UNICEF adds that it helps governments to shape national agendas and children goals. The organization also provides technical expertise and advisors to support governments on their programs and policies development and implementation.²⁰⁷

Since the ratification of the UNCRC and the ACRWC, the Kenyan government has installed progressive measures to enhance the implementation and domestication of the two documents. Waweru and Hussein argue that, this duty has been well spelt out in the Kenyan Bill of Rights. In the Bill, Kenya obliges itself to implement the legislation of laws to accomplish its

²⁰⁶ Ibid..

²⁰⁷ UNICEF, *An Introduction: Presentation Notes*, p 2.

international obligations in relation to human rights and fundamental freedoms.²⁰⁸ This has further been influenced by the drafting and adoption of policies, laws, programs and national plans of action meant to protect children.

Examples of such policies include, the Nation Policy and Plan of Action on Orphans and Vulnerable children and the National Policy on HIV/AIDS. The two policies are meant to protect and provide care for this group of children in Kenya. UNICEF affirms that, the death of a parent only worsens the situation of the child left behind making that child defenseless to abuse and exploitation.²⁰⁹ UNICEF has immensely participated in these programs in coordination with the Department of Children Services, NCCS and other non-state parties including the private sector. This in essence, is an action by the government to provide for these children, to ensure they stay in school and avoid victimization and exploitation for example through child labour. UNICEF notes that the Cash Transfer program for OVC had increased from US\$ 800,000 FY 2005-2006 to more than US \$ 9 million FY 2008-2009.²¹⁰

Others policies include the 1997 FGM Eradication Strategy and Plan of Action followed by the 2009 National Policy for the Abandonment of FGM/C and the Prohibition of FGM/C in 2011. The most recent development is a National data base for child protection cases coupled by child helpline 116 and a National Child Protection Committee developed in 2012. Consequently liberalization and development of the private sector and NGOs in Kenyan law offers a foundation and expanded opportunity for capacity building and partnerships in child protection. Waweru upholds that the Kenyan constitution offers a notable opportunity and renewed progress

²⁰⁸ Hellen W. Waweru, Ahmed Hussein et al, *The Framework for The National Child Protection System for Kenya* (2011), p 1.

²⁰⁹ UNICEF, *Children's protection and civil rights*, p 72.

²¹⁰ UNICEF, *Kenya Child Protection* (2009), p 2.

on child protection, committing the government to invest in child welfare.²¹¹

NCCS has a responsibility through the Children's Act, article 32 to ensure that it coordinates and performs all functions under its mandate to ensure that, children's rights and the best interests of a child are advanced. It should also create Area Advisory Councils in all counties in the country, to ensure that its services to children are represented and advocated for adequately. Notwithstanding several challenges, NCCS has increased the number of AAC which also includes the child help desk. Notably, UNICEF worked with the ANPPCAN and other parties to draft a manual for the child help desk. It is through these mechanisms set by government laws in the Children's Act, that UNICEF has had opportunities for capacity building hence reaching many children in need at grassroots levels.

NCCS has a key responsibility through the Act to monitor charitable organizations that are or may be established to provide care for orphaned and abandoned children. NCCS should provide criteria to approve the establishment of these institutions and their child welfare programs. Thus the approval of officers to further the protection care and control of children in these institutions should be done through a Gazette notice.²¹² In 2011 UNICEF worked with the Department of Children Services to develop national standards that promotes the best interests of a child in charitable organizations. This approach also sought to reintegrate children back to the community after leaving the institutions.

Syria on the other hand has had a notable weakness in terms of legislation that indisputably protects children. Despite having ratified both the UNCRC and its optional protocols the sovereign State still derails putting in place strict mechanisms in law to protect children. The nonexistence of a National children's Law in Syria creates a child protection void.

²¹¹ NCCS, *The National Plan of Action against Sexual Exploitation of Children in Kenya 2013-2017* (Nairobi; NCCS, 2012), p V.

²¹² Kenya Law reports, Children's Act, 2001, revised edition 2007, (Nairobi, national council for law reporting, 2007) Article 62& 66.

A child law is essential for UNICEF to coordinate with the UNCRC and cater for children's needs specific to Syria. It is also essential to guide child protection actors, institutions, programs and initiatives. In the old constitution (in use until the 27th of February 2012), children were mentioned briefly and in passing. "The State protects mothers and infants and extends care to adolescents and youths and provides them with the suitable circumstances to develop their faculties."²¹³

In the new constitution children are not mentioned, neither explicitly protected by the supreme Law of the land. In article 33 all citizens are accorded equal rights and freedoms in security, dignity, nondiscrimination equal opportunities etc. Article 51 and 53 expounds on protection of individuals in conflict with the law, including their rights (innocent till proven guilty). Title II on Rights, Freedoms and the Rule of Law ends with a penalty declaration on any one who interferes with another individual's rights and freedoms.²¹⁴ During the 58 session of the Committee on the Rights of the Child concerning Syria in 2011, the committee noted that the national legislation in Syria contained many areas that did not conform to the UNCRC.²¹⁵

The Syrian Personal Status Code for example has articles that undermine the rights of a child to be protected from early marriage which according to UNICEF is harmful to a child's development especially the girl child. UNICEF defines a child marriage as one that is composed of a girl or boy under the age of 18, both formal and informal marriages. Child marriages increase chances of violence and child abuse. It compromises a girl's health and acts as an obstacle to the MDGs and consequently a vibrant, developed fair society.²¹⁶ To exacerbate, according to Article 18 of the same Status Code, if a 15 year old boy and a 13 year old girl feel

²¹³ The Syrian Republic Government. The Constitution of the Syrian Republic. (1964), Article 44.

²¹⁴ The Syrian Republic Government, Draft Constitution Syrian Arab Republic (2012), Articles 33, 51, 54, 2012, p 9-10.

²¹⁵ SCFA, *State party examination of the Syria's Third and Fourth Periodic Report 58th Session of the Committee on the Rights of the Child 19 September – 7 October* (2011), p 3.

²¹⁶ UNICEF, *Child Marriage: Programme Brief* • October 2012, p 1.

'mature' enough to get married then a Judge can accord them that right.²¹⁷ According to the UNCRC, this is absolutely unacceptable; to be shamed is the fact that, this is part of national law in a signatory State of the UNCRC.

The Syrian Republic Penal Code penalizes sexual abuse offenders, the penalty is severe in case of a child victim; nonetheless that particular justice is diluted in Article 508 of the same Code. According to the article, a rapist is acquitted if he marries his victim, hence double torture for the victim; consequently double violation in case of a child, involving sexual abuse of a child and marriage. The Penal Code is also discriminatory in subjecting penalties; offenders of girls under 15 years are penalized less those of boys of the same age. This could very well increase the number of cases of underage girl rapes; after all, the penalty is not as severe. During the reporting of the OPSC by the SCFA in 2006 the committee noted that, no provisions in the Syrian constitution or jurisprudence harmonized the OPSC with Syrian national Law.²¹⁸ In 2011 the same Committee noted that these measures were still lacking.

The principle of nondiscrimination according to the UNCRC in terms of religion, race, background, social status etc, is not well implemented in the Syrian law. Such a clause would henceforth protect children of other religions other than Islam, refugee children, children by Syrian women and foreigners etc. The Committee on the Rights of the Child noted in 2011 that, children of other religions and single mothers were discriminated against inheritance and citizenship identity. The SCFA delegation admitted that the country did not have a defined law or plan utilized to enhance and advocate for the protection of all children.²¹⁹

²¹⁷Syria Law No. 34: Law of 1975: Law of Personal Status, Article 18, p 3.

²¹⁸ SCFA, *State Party Examination of the Syria Arab Republic's Initial Report on the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC): Session 43 of the Committee on the Rights of the Child*, 2006, p1.

²¹⁹ SCFA, *State Party Examination of the Syria's Third and Fourth Periodic Report 58th Session of the Committee on the Rights of the Child* 19 September – 7 October 2011, p 5.

Syria's child protection efforts in law and practice have been met with considerable challenges that have served to frustrate UNICEF's child protection mechanisms. Several child protection mechanisms were initiated but have not been finalized years after their initiation. An outstanding example is the setting up of a hotline to report cases of family violence and offer services which would be beneficial to victims of child violations. If it had been finalized, it would probably come in handy for UNICEF during the current conflict to report child violations, needs and locations.

4.2.2 FUNDING AS A CHALLENGE

To run the organization, UNICEF depends on funds from several donors both private and public. UNICEF confirms that its contributions come from individuals, corporations, foundations, NGOs and governments.²²⁰ Without the contribution of these parties the organization would not be able to operate efficiently. Bates adds that UNICEF's funding is distributed in two streams; one is designated to development and programming to enhance the realization of long-term goals and the other for humanitarian action.²²¹ UNICEF Kenya is able to acquire and lobby for resources in the country through the assistance of essential partners like the Kenya Private Sector Alliance (KEPSA). UNICEF adds that KEPSA and other key corporate leaders signed a Statement of Commitment in September 2010.²²² UNICEF Syria on the other hand lobbies most of its funds from organizations mainly internationally.

It is worth noting that one of UNICEF's responsibilities is to fund children initiatives in States. The most essential ones are those that are developed at national level and then trickle down to the rest of the population. An obvious assumption would be that through the fund input

²²⁰ UNICEF, *UNICEF: An Introduction*, p 1.

²²¹ Bari Bates, "UNICEF Funding Falls Short Leaving Millions of Children At Risk." *Inter Press Service*, February 3, 2012.

²²² UNICEF, *UNICEF Annual Report for Kenya (2010)*, p 5.

of different individuals and partners UNICEF would not experience extreme fund problems. Nonetheless, working in developing countries like Syria and Kenya is almost always challenging; the UN affiliate cannot completely rely on local donors. UNICEF notes that it spends its funds in a state based on poverty need and effectiveness. Which means, the poorer the country the more resources the organization requires to accomplish its obligation.²²³ Acquiring enough donor funds for UNICEF in many poor countries is not essentially an easy task. At times the amount requested, is not always the amount received.

Domestication of international child protection laws in any State requires funds to implement. Regrettably, many developing countries are marred with too many external debts to fulfill this international obligation to the letter. This is due to the limited funds such nations possess; many times there are higher deficits in comparison to the State's needs. Ebigbo notes that external debts overshadow basic social services in sub-Saharan Africa. The eternal debt in this region composed of 79% of the GDP in 1985, sky rocketing to 108% in 1997.²²⁴ With limited funds, these countries are barely able to carry out the necessary steps required to install a functional child protection system furthermore such conditions limit the country's capability. In reference to this study, child protection only increases the financial burden bestowed on UNICEF. This leads the UN organization to also seek external help in form of grants.

The entire process involved in the development of child laws, policies, programs and initiatives including monitoring and evaluation is quite expensive. Acquiring and analyzing of all the data acquired in the field during monitoring and evaluation can also be a hefty and expensive task. Hence, many developing countries are forced to skip some very vital steps or end up doing them in a cheap inappropriately manner. Regrettably, funds and its availability even for such

²²³ UNICEF, *Multilateral Aid Review: Assessment of the United Nations Children's Fund* (UNICEF), p 1.

²²⁴ Peter O. Ebigbo The Effect of Poverty On Child Protection in Africa, *Child Abuse & Neglect* 26 (2002) 587–617, p 593.

critical tasks can also lead to other negative results. For example money can attract corruption, whereby some funds disbursed by UNICEF are pocketed by selfish individuals.

Other demanding expenses include the Development of child protection centers and units. These facilities require immense funds to be set up countrywide. The proper and efficient sustenance of the institutions also requires a lot of funds. Another key expense involves the recruitment of adequate qualified officers to run the institutions, not forgetting their continuous training on emerging issues. Even with the help of UNICEF, both Kenya and Syria have not been able to establish a commendable number of these centers. Many rural areas do not even have a simple child help desk. ANPPCAN adds that, the lack of adequate funds to set up necessary amenities like recovery centers for children and the dependency on donors is a very common challenge in developing countries.²²⁵

Developing countries especially in the Middle East and Africa including the two case studies are highly prone to conflict and constantly harbour insecurity and political instability. These negative aspects create an environment that is not conducive for foreign investments as it would lead to immense losses for investors. These investors are some of the big contributors to children initiatives and could boost UNICEF's efforts more efficiently especially if they settled locally. The GoK and UNICEF note that inadequate policy and proper legislative structures to deal with and curb corruption, rising insecurity and inadequate improvement of infrastructure, have led to reduced and stagnated levels of FDI. Evidently denying the country many opportunities in donor funds and resources not only to the government but organizations like UNICEF.²²⁶

²²⁵ ANPPCAN. *Enhancing Community Participation in the Delivery of Children's Services in Kenya: Conference for Area Advisory Councils (AACs) and Community Leaders*. (Nairobi, 2002), p 21.

²²⁶ GoK & UNICEF, *Review of Progress towards the World Fit for children+5 goals in Kenya* (Nairobi: GoK 2007), p 4.

Particularly funds become of dire concern during emergency situations, the increase of damage to livelihoods, shelters and loss of lives accelerates the emergency and humanitarian needs. GPC defines a crisis or emergency threatening situation as one that demands urgent action; emergencies can result from political unrest or civil war.²²⁷

Conflict destroys any country's developments let alone an organization. Food stuffs and other supplies become ridiculously expensive demanding more money to purchase basic products. UNICEF states that it provides critical support and humanitarian necessities during emergency situations. Its funds are also expanded to cater not only for children and mothers but at times for whole families. This is in relation to the fact that one of UNICEF's objectives is to disburse international development and humanitarian necessities during emergency situations.²²⁸ Both Syria and Kenya have had instances of politically related violence outcomes which have demanded a lot of funds to develop mechanisms like the child friendly spaces. These spaces are utilized to cater for children especially victims and ensure their continuous protection during the emergency period.

During the post-election violence in Kenya, UNICEF was highly involved in providing all the necessities and child protection mechanisms required at the time. To achieve this UNICEF required funds and had to depend on external donors to fund its initiatives. Elder affirms that, UNICEF was urgently seeking approximately \$6.6 million to cater for emergency services. The money was to be utilized for protection, education and assistance to children in need.²²⁹ UNICEF had allocated a budget of \$8 million to the emergency and was able to acquire \$2 million from the European Humanitarian Aid Department (ECHO). Failing to acquire all the funds required, led to cuts in the UNICEF budget which resulted to the organization's unintentional neglect to

²²⁷ Ibid.

²²⁸ UNICEF, *Multilateral Aid Review: Assessment of the United Nations Children's Fund*, 1.

²²⁹ James Elder, "UNICEF Tent Schools Provide Sanctuary for Kenyan Children Displaced By Violence." February 19, 2008.

some of its much needed child protection initiatives.

UNICEF in Syria has also experienced numerous challenges in terms of funds necessary to achieve its objectives. Due to the current political conflict that has escalated for the past two years and several months, UNICEF in Syria has been extremely challenged financially. The conflict has understandably led to vast humanitarian necessity, disruption and serious destruction of property, lives and infrastructure. This has led to increased dependency since many people have lost their prospects of making a living hence have to depend on charity. These charity organizations are forced to dig deeper to meet the growing humanitarian need. Of great concern are children who have become serious victims to the conflict. UNICEF states that, their efforts to help the children in Syria are seriously frustrated by decreasing funds; the organization has only acquired 20% of the funds appealed for.²³⁰

UNICEF and other NGOs have had to bear the burden of feeding and catering for abundant numbers of people, involving children and adults hence continuously appealing for funds. The appeal has been for supplies including; child protection initiatives for victimized children, and to protect the rest from child violations. GPC affirms that, child protection from violence, abuse, neglect and exploitation is a key priority during emergency or humanitarian conditions.²³¹ Save the Children mentions that the Humanitarian needs intensified by the violence in Syria are slowly paralyzed and can only fulfill so much with available funds.²³²

Technical assistance to facilitate and enhance the humanitarian efforts is also a key necessity in emergency. Notably this assistance is many times determined and challenged by available funds. UNICEF in Syria requires immense funds for capacity building, to coordinate with other actors to reach children in need far and wide. Like many other conflicts, the Syrian

²³⁰ UNICEF, *Children in Conflict Syrian Children Speak Out*, 2013, p 4.

²³¹ Global Protection Cluster, *Minimum standard for child protection in humanitarian action*, (2012) p 5&13.

²³² UNICEF. *State of the World's Children: Childhood under Threat* (New York USA: UNICEF, 2004), p 18.

conflict has had an overflow effect to neighboring countries like Egypt, Lebanon and Turkey. Hence, it has increased the demand for more funds to cater for children and their families fleeing into these countries. This only serves to increase the burden on UNICEF and other charitable organizations like Save the Children and the Red Cross. UNICEF upholds that the limited availability of funds has been and continues to act as a key challenge in capacity building.²³³

Fund problems are common for both UNICEF and national governments in Syria and Kenya. Child protection is not designated as a key priority sector in any of the two countries hence allocation of funds to the same is still limited. During the examination of the UNCRC in Syria by the Committee on the Rights of the Child in 2011, the Committee noted that the SCFA was not considered as a priority during budget allocation. The SCFA delegation present mentioned that child initiatives were funded indirectly through ministries; this was considered unacceptable by the Committee.²³⁴ This clearly demonstrates that both Kenya and Syria do not take their national child protection roles and obligations as serious as they should. They are still not convinced of the sensitivity of the issues involved and how lacking funds can cripple very necessary child protection initiatives creating an unsafe environment for children.

Funds are a vital necessity for UNICEF and its obligations, without which the organization cannot be able to operate, or implement its child protection mechanisms. Every single year, UNICEF releases a Humanitarian Action for Children Report. The report contains all countries involved, necessary avenues to be pursued including health, child protection etc and required funds. Unfortunately its funds appeal for immense initiatives in all these countries are never completely fulfilled, year in year out. Bates upholds that in 2011 UNICEF acquired less than 50% of the funding in its year's budget. It goes without saying that UNICEF's goals for that

²³³ UNICEF. *Syria's Children: A lost Generation? Crisis Report* March 2011-March, 2013. P 9.

²³⁴ SCFA, *State Party Examination of the Syria's Third and Fourth Periodic Report 58th Session of the Committee on the Rights of the Child 19 September – 7 October* (2011), p 4.

year involved difficult decisions in which some children had to be left out hence denying them lifesaving services.²³⁵

4.2.3 POVERTY AND CONFLICT AND THEIR EFFECTS ON UNICEF'S CHILD PROTECTION MECHANISMS

Poverty and conflict are some of the key challenges faced by many developing States. The two have been identified as some of the causes that derail developing countries' accomplishment of the Millennium development Goals. They also impede serious consequences on governmental initiatives in all sectors of a nation. Poverty absorbs and waters down achievements made by the State; conflict on the other hand physically destroys numerous achievements in the shortest period of time. UNICEF affirms that poverty and armed conflict don't act as the only issues that compromise childhood and child initiatives but they are undoubtedly the most severe, resulting to dire consequences on children.²³⁶

Poverty is still identified as one of the main underlying factors that undermine child protection. Poverty has continuously been used as an excuse to fuel child's rights violations. Due to poverty, many children are encouraged and sometimes forced to skip school or drop out to take part in child labour. Orphaned children from poor homes are some of the most disadvantaged and vulnerable children in society. UNICEF maintains that orphan hood complicates the life of the child and puts that child squarely in harm's way and aligns a risky future for these children. The increased economical and emotional drain and strain they are faced with only increases their likelihood to get involved in risky behavior like drug and alcohol abuse

²³⁵ Bari Bates, "UNICEF Funding Falls Short Leaving Millions of Children at Risk." *Inter Press Service*, February 3, 2012.

²³⁶ UNICEF. *State of the World's Children: Childhood Under Threat* (New York USA: UNICEF, 2004), p 21.

and prostitution.²³⁷ UNICEF adds that some of these children engaged in sexual ills are exposed to sexually transmitted infections and HIV/AIDS at a very young age.²³⁸

Some parents and guardians abandon children in their care due to the burden they impose on them requiring resources that are difficult to acquire. Such children abandoned without proper guardianship and protection become vulnerable to all sorts of violations. Human Rights watch argue that, many abandoned children end up in the streets condemned to live in unhygienic and unsafe conditions. In these streets, their rights are at times violated through detention and mistreatment by the same people who are supposed to protect them.²³⁹ A sad issue to note here is that some of the officers who arrest and mishandle street children are the same people who run child help desks whereby child rights violation should be reported.

Kenya is faced with many incidents of poverty; many children live at the verge of violation of their rights. Poverty brings about ignorance and illiteracy; many rural societies harbour illiterate and ignorant citizens who don't comprehend the implications of child rights violations. Some are not aware of UNICEF, the UNCRC, children's rights, violations and protection. Ebigbo sustains that, ignorance precipitates poverty and poverty precipitates ignorance resulting in vulnerability and marginalization. This vicious cycle that breeds a community that is not empowered to handle critical issues like child protection.²⁴⁰ Lachman and Poblete add that, poverty in Africa contravenes against any prospect towards an effective child protection mechanism. It does not guarantee child rights violations but it can be an obstacle for society to address the needs of children at risk of abuse; it can also put them at risk's way.²⁴¹

²³⁷ UNICEF, *Social Protection in Eastern and Southern Africa: A Framework and Strategy for UNICEF* (2008), p 19.

²³⁸ Ibid.

²³⁹ Human Rights Watch, *Juvenile Injustice: Police Abuse and Detention of Street Children in Kenya*, 1 June 1997.

²⁴⁰ Peter O. Ebigbo The Effect Of Poverty On Child Protection in Africa, *Child Abuse & Neglect* 26 (2002) 587–617, P 592.

²⁴¹ Peter Lachman and Ximena Poblete Challenges Facing Child Protection I. Overview—lessons from the South, *Child Abuse & Neglect* 26 (2002) 587–617. P 590.

Young girls in some communities still undergo FGM despite national laws and policies that forbid it, coupled by UNICEF and other child agencies' advocacy to combat harmful traditional practices. Some girls are married off before they attain legal age. These negative issues brought about by other underlying factors like ignorance and poverty have been identified by the researcher and confirmed by a UNICEF child protection officer as being one of the challenges that UNICEF faces in Kenya.

Areas Advisory Councils that work as NCCS representatives and coordinate with UNICEF at district and county level have not yet been developed or established in all districts in Kenya. Child protection units in the country are even less in number, actually less than five. All this is directly connected to financial and the poor state of the country. GoK notes that high poverty levels lead to an immense increase in numbers of children in desperate need of care and protection. Over 50% of these children were identified by the Economic Survey of 2001 as living below the poverty line.²⁴² The extremely low number of child protection units to cater for these children especially in the most rural areas makes these children even more vulnerable; hence it is difficult for UNICEF to implement its objectives in child protection efficiently.

Syria has not been spared either, poverty in Syria has led to a lot of marginalization of communities; these poor communities are mostly found in the northern part of the State. SRCC mentions that the poor in Syria are sidelined in all aspects, economically, politically and socially, pushing them into an inactive marginal role.²⁴³ This also indicates that national, international laws and standards may be ignored or pass by the habitants off these communities with no much impact or effect.

²⁴²GoK, *Committee on the Rights of a child: Second Periodic Kenya country Report on Implementation of the UNCRC 1998- 2004*, p 40.

²⁴³ SRCC, *The Present and Future Impacts of Poverty in Syria*, July 15, 2011.

Children in the Syrian nation are one of the most vulnerable groups in society; many children from poor families are not properly cared for or protected. According to UNICEF, Syria's database on children especially those from poor locations is seriously wanting. SRCC upholds that children from poor homes are forced to abandon school before they complete the compulsory primary education and instead join the labour market. This continues to create a cycle of ignorance and poverty; these children's education level limits their chances in the job market. There was an estimate of 650, 000 child labour in Syria by 2011.²⁴⁴ Jobs assigned to children include worst forms of child labour like drug peddling and prostitution. These happen despite a law passed by the government to curb the ills, through the help of UNICEF and the ILO in 2005. Clearly, passing the law at the national level was not enough.

Children living in these poor conditions are exposed to more ills like violence and child gangs; some are also influenced to become consumers of narcotics and alcohol at a very young age. Others are sent to prisons or juvenile correction facilities; they eventual end up growing from a hush childhood into a disturbed adulthood. SRCC upholds that, in Syria these occurrences are highly facilitated by the weakness in the Syrian child protection and support legislation.²⁴⁵ Child protection Units in coordination with UNICEF are not common, hence many children in the poor neighborhoods continue to experience the harsh reality of violations and denied childhoods.

Conflict has even worse effects in relation to child protection measures set up by UNICEF; it destroys existing frameworks and those under construction. Fighting zones are one of the most risky environments that UNICEF has to bear and work in. UNICEF notes that conflict creates many child protection risks while it magnifies existing ones.²⁴⁶ Unfortunately, it

²⁴⁴ Strategic Research Communication Centre, *The Present and Future Impacts of Poverty in Syria*, July 15, 2011.

²⁴⁵ Ibid.

²⁴⁶ UNICEF, *Progress for Children A Report Card on Child Protection* (2009), p 3.

also closes up some areas which are termed too dangerous to intervene; particularly those areas are the worst inhabitants of child rights violations. GPC affirms that conflict weakens and destroys the child protection environment and mechanisms increasing the risk of child violence.²⁴⁷ UNICEF adds that children suffer severe nightmares as result of the graphic experiences they are subjected to witness firsthand. Others are introduced and hooked into drugs to numb the pain while some end up in distress.²⁴⁸ Up to 10%-20% of children who have been exposed to war have a high likelihood of developing serious physical and mental problems.²⁴⁹

A conflict situation also undermines legal institutions and bodies, child protection and mechanisms either by the national government or UNICEF are highly overlooked. The International Humanitarian Law, Human Rights Law, and the Refugee Law during a conflict situation are greatly disregarded by most combatants. Most conflicts are fueled by political factors and the opposition exacts by disregarding national and international laws. Killian mentions that the terrible face of war has undergone transformations; some scholars refer to collective organized conflicts as very disturbing characteristics of the war dating from late 20th century. Chronic political violence facilitates and increases all forms of violence, domestic, criminal and sexual against children and adults.²⁵⁰ Many of these wars lead to grave violations of human rights laws.

Kenyan conflicts have been centered along tribal crisis that are henceforth marred by political interests. These conflicts are very sensitive as some of the ideologies held by members of the conflicting societies are composed of underlying factors that are part of these communities. These issues also lead to the indoctrination of children during these conflicts

²⁴⁷ Global Protection Cluster (GPC). *Child Protection Priority Issues and Responses inside Syria: Child Protection in Syria* (2013), p 7.

²⁴⁸ Peter Lachman and Ximena Poblete Challenges facing child protection I. Overview—lessons from the South, *Child Abuse & Neglect* 26 (2002) 587–617, p 590.

²⁴⁹ Bev Killian, Is Child Protection Possible in Areas of War And Violence? *Child Abuse & Neglect* 26 (2002), p 602.

²⁵⁰ *Ibid*, p 601.

whereby children are convinced to join in the conflict for tribal reasons. UNICEF and the GoK note that, for years Kenya has experienced many incidents of insecurity as a result of tribal and clan conflicts leading to the death of hundreds of people including children and many others displaced. The uncertainty and disruption that has been brought about by loss of some parents in conflicts has had a definite negative effect on the development and wellbeing of many children.²⁵¹

The Syrian republic's external and internally related conflicts have exalted extreme pressure not only to the country's government and its civilian but also on charity organizations like the Syrian Arab Red Crescent. UNICEF has faced the heaviest burden as child protection needs only increase at an overflowing rate. The UN and SRG mention that tension in Syria has resulted in immense displacement of many people (including children) in many areas in Aleppo, Damascus, Hama etc.²⁵² Displaced children end up anywhere in the country as some who have lost their families seek shelter and food. Unfortunately, it is not easy for UNICEF to track every single displaced child in Syria and attend to their needs.

The conflict also has negative effects on a country's economy; the economic growth in the country is stagnated and production by its citizens halted. This is slowly creating a nation of poor people who may end up as beggars. SRG and UNICEF affirm that, the conflict and its negative effects on the economy and livelihood of the Syrian Republic leads to vulnerability of segments in the society resulting into a shrinking private sector.²⁵³

Poverty and conflict have a push and pull factor in relation to each other; both of them serve to aggravate the possibility of the other. Conflict tips to masses of damage and distraction

²⁵¹ GoK & UNICEF, *Review of Progress Towards the World Fit for children+5 goals in Kenya* (2007), p 4.

²⁵² The Syrian Republic Government, UN et al, *Syrian Arab Republic Revised Syria Humanitarian Assistance Response Plan (Sharp) January - December* (2013), p 17.

²⁵³ Ibid.

that can easily wipe out development structures that have taken years to build, destroying people's lives and their property pushing them to poverty, at times even overnight. Poverty can lead to conflict whereby the poor population may feel deprived and feel the need to fight for what they have been denied, leading to conflict. These two vital issues have for many years challenged UNICEF's child protection mechanisms as they particularly fuel violations at a very high rate degrading the UN affiliate's mechanisms.

4.2.4 OTHER ISSUES

Other contentious issues have emerged in this study as matters of concern in relation to UNICEF and its obligation. These issues consist of; different ideologies between parties involved in the national child protection system, poor implementation of policies and weak governance in States. The last issue which also happens to be extremely important involves the improvement of child protection measures and mechanisms in both Kenya and Syria.

4.2.4.1 Different Ideologies as an Issue

The national child protection systems approach unites numerous actors in form of government agencies, inter-governmental organizations, NGOs, FBOs, community based organizations etc. All these actors emerge from different backgrounds, historical, social and cultural hence, their perceptions are characterized by different ideologies. These ideologies influence their approach on how child protection programs and mechanisms should be carried out in States.

Naturally different ideologies bring about disagreements and conflict of issues between actors as they try to build a unified system, resulting in unwanted delays. In Syria, the SCFA confessed to the Committee on the Rights of the Child that the Children's Bill had not been approved due to different ideologies between the actors. These actors include government

ministries, the SCFA, NGOs, the People's Assembly and other actors. They have opposed the bill with the notion that it does not conform to the UNCRC, among other issues like culture and religion.²⁵⁴ Note that the children's bill was developed and finalized by 2006 but almost 7 years later the bill has not been approved. The actors involved are too ideologically involved to sort out their differences, review, amend, approve the bill and make it part of child national law.

Kenya has not been spared either by ideological constraints involving different actors in the child protection system. The structure of the framework for the national child protection in the country involves a large number of actors, at the national, county, and district level. At the national level it involves the Ministry of Gender, Children and Social Development holding the Department of Children Services which coordinates with NCCS. NCCS henceforth synchronize and works with other international and national actors and organizations like UNICEF and NGOs. The structure boils down to the Area Advisory Councils and other local actors like community based organizations.

At the community level, different groups are affiliated to different beliefs, inherent traditions and cultures that sometimes conflict with children's rights. UNICEF mention that, ideologies in relation to some issues between actors challenge the organization's effort to curb child rights violations. An example is the different opinions and stands expressed by religious and tribal leaders on FGM/C.²⁵⁵ While some of these leaders agree that the act should be curbed some elders are of the opinion that it's a tradition that should be preserved. Ironically these actors are supposed to work together to advocate for children's rights against violations even from harmful traditions.

²⁵⁴ SCFA, *State party examination of the Syria's Third and Fourth Periodic Report 58th Session of the Committee on the Rights of the Child 19 September – 7 October* (2011), p 3.

²⁵⁵ UNICEF, *Kenya Child Protection*, February, (2009), p 3.

Ideological differences become matters of serious concern when they develop among key actors who are supposed to champion sensitive, vital and necessary issues on child protection. For example between government agencies and UNICEF who are the major decision makers. These differences may affect other actors in the system leading to collapse in efforts, resulting in delays or neglect of their considerably needed services.

4.2.4.2 Poor Implementation of Policies and Weak governance

From the study it has become apparent that ratification and adoption of international/regional laws and standards on child protection is not enough. The next step lies with domestication and implementation; which in essence is the most important part of the whole process. Nonetheless it's also clear that implementation has been and continues to be a challenge in many developing States and in this case both Kenya and Syria. One of the causes of weak implementation of policies is weak governance in the national child protection system of a country. Waweru and Hussein mention that, a key challenge lies in enforcement of every single provision of already drafted and approved laws of children's rights and 'ambitions' in the policies. A mapping and assessment done by UNICEF and NCCS in 2009 revealed weaknesses in policies, structures and legal context in the national child protection system.²⁵⁶

In terms of governance, actors at different levels of the structure do not have clearly defined roles and duties that each one of them is supposed to fulfill. This is destined to cause confusion and duplication of responsibilities, resulting in wastage of time and resources. Policy Institutions are also weak in that some policies are developed with unrealistic perspectives and demands. Even more challenging is that these two States lack the capacity to implement all the demands displayed in majority of its policies on child protection.

²⁵⁶ Hellen W. Waweru, Ahmed Hussein et al, *The Framework for The National Child Protection System for Kenya*. (2011), p 1.

Several laws in relation to child protection have been developed but they just add up to the numbers of bills and policies still pending to be finalized and approved. Some of these bills include the Domestic Violence (family protection bill) in Kenya. Another example is the Plan of Action between GoK and the CSOs for rehabilitation of street children; in 2007, three years after its development it had not been finalized. GoK upholds that several issues continue to challenge policy implementation, including inadequate trained personnel and poor funds allocation. Implementation institutions are also weakened by lack of clarity in roles or conflict of these roles with other structures.²⁵⁷

The institutions are further weakened by inadequate data to analyze the exact situation and ensure proper planning during the development and implementation of policies, plans and programs. The data acquired is also unreliable as there are no proper efficient mechanisms to verify the validity of that data. Nonetheless, UNICEF has intervened in that department to improve among other things to collect and analyze data, to predict the child protection environment and concerns.

Syria like Kenya has had serious implementation problems. Child protection policies in Syria include the very first Nation Plan of Action for child protection and the Plan of Action on the elimination of the Worst Forms of Child Labour. The Committee on the Rights of the Child noted in 2011 that the Syrian National Plan had not been implemented with regard to the amendments to national legislation. The allocation of funds to the SCFA was not advocated and treated as a top priority.²⁵⁸ Despite a policy to eliminate child labour, it is still an issue of concern in Syria especially in the poor rural settings. The Syrian nation does not even have an

²⁵⁷ GoK, and UNICEF, *Review of Progress Towards the World Fit for Children Goals in Kenya +5* (2007), p 25.

²⁵⁸ SCFA, *State Party Examination of the Syria's Third and Fourth Periodic Report 58th Session of the Committee on the Rights of the Child 19 September – 7 October* (2011),p 3, 6 &13.

independent human rights organ to monitor and guide the implementation of the UNCRC and other national laws and policies.

4.2.4.3 Improvements in Child Protection Measures and Mechanisms

Despite numerous challenges, it's evident that, both Kenya and Syria have made commendable strides or progress in the development of the national child protection system. Both countries have been able to establish governmental agencies to oversee children's affairs, rights, care and protection. The National Council for Children's Services in Kenya and the Syrian Commission for Family Affairs in the Syrian Republic. Both organizations have achieved commendable achievements, hence immensely strengthening the national child protection system. This includes but not limited to lobbying other actors to contribute funds and other resources to develop institutions, laws, policies, and programs to enhance child protection.

In Kenya, Budget allocations to children's initiatives and agencies including the NCCS and the Department of Children Services have increased since the initial years with-in this study. GoK states that the improvements in the country include designation of special magistrates to deal with among other measures, children in need of special care and protection.²⁵⁹ The Children's Act caters for many categories of children in the country and designates the different rights and care accorded by the government to those children. GoK adds that this group includes, orphans, child workers, destitute children, children in conflict with the law, neglected children, child mothers etc.²⁶⁰ The Children's Act establishes the NCCS which in turn creates other agencies like the Area Advisory Councils to handle children's affairs in lower localities.

²⁵⁹ GoK, *Committee on the Rights of a Child: Second Periodic Kenya country Report on Implementation of the UNCRC 1998- 2004*, (2005), p 4.

²⁶⁰ Ibid.

Child participation was introduced, advocated for and strengthened in Kenya. Children are granted the opportunity to contribute to the very issues that affect their lives. There is also the development of children assemblies from constituencies, districts, counties to national level. Children are also included during the development and implementation of policies in which their views are considered and noted. NCCS notes that child assemblies have given a voice to children to participate in the national and democratic process; the assemblies make use of child participation's guidelines.²⁶¹

The Syrian republic has also made strides of its own, there is a Children's Bill already drafted awaiting review and approval. There is also a policy to eliminate child labour; the SCFA has been working with UNICEF to ensure its proper implementation. Considering that child labour is one of the most serious child rights violations in Syria. Since the emergence of the current conflict in 2011, the SCFA has been working with UNICEF and other partners to cater for and protect children affected by the war. Although not finalized, the helpline developed by the SCFA is a notable effort that will benefit many children in the Syrian Republic.

The government has also made an effort to amend national laws like the Penal Code and the Personal status Code. Other laws include the Legislative Decree no. 51 of 2001 in relation to adults who misuse children in drugs related crimes. The Committee on the Rights of the Child also noted in 2011 that Syria had taken admirable steps in both legislative and political levels in relation to children's rights. Nonetheless, the same committee also noted that there were many areas in the Syrian nation that still required further effort on the authorities to ensure the best interests of the child.²⁶² Subsequently weaknesses in many parts of the system especially in national laws, impact a general weakness in the whole national child protection system. This then

²⁶¹ NCCS, *The National Plan of Action Against Sexual Exploitation of Children in Kenya 2013-2017* (Nairobi; NCCS, 2012), p 20.

²⁶² SCFA, *State Party Examination of the Syria's Third and Fourth Periodic Report 58th Session of the Committee on the Rights of the Child 19 September – 7 October (2011)*, p13.

boils down to the nation putting children's lives at risk and enhancing an unprotected environment for children. It also undermines child protection efforts that have taken many years to build. Notwithstanding, continuous efforts are currently portrayed in Syria slowly progressively strengthening the national child protection system.

4.3 CONCLUSION

Setting international standards and laws relating to child protection and advocating for ratification is only but an initial step towards enhancing child protection in ratifying states. Developing organizations to advocate for (UNICEF) and monitor (Committee on the Rights of the Child) that process is another commendable step to this initial stage. In essence that does not in any right guarantee that child protection will be enhanced as dictated by these mechanisms. Many States have ratified the UNCRC and other international child protection laws; even so, their child protection systems are still lacking in quality and efficiency. Precisely, both Kenya and Syria had ratified the UNCRC in 1990 and 1993 respectively, but it was until early 2000 that substantial development in child protection began to emerge significantly. It is at this time that a defined system of governance in child protection was implemented in both states. Yet, it would be unfair for the researcher to simply condemn these States for their failure or delay to fulfill that which they vowed to do without analyzing the causes. Research has revealed that funds, poverty, conflict, ideologies, external debts and weak institutions are some of the contentious issues that challenge child protection in the two States. These issues also challenge the role played by other organizations and actors both governmental like UNICEF and non-governmental, branding their efforts unsubstantial.

CHAPTER FIVE

CONCLUSION

5.1 SUMMARY

Chapter one introduced the study and displayed a skeleton of expectations for the whole study. The introduction section aligned the key issues of interest to guide the study and a brief background of the study relating to UNICEF, and the two case studies. The statement of the research problem examined the child rights violations as a result of weak governance hence motivating the research. Objectives and hypotheses were identified and utilized to guide the research process in the study. Scholarly input was important as it brought about different insights on Human rights, UNICEF and child protection. Liberal institutionalism theory examined the importance of international organizations like UNICEF in a global world. The justification section aligned the importance of the study academically and policy wise. The research methodology enlightened on the mode of research to acquired data in the whole study. Chapter one concludes with a brief input on what is to be expected in subsequent chapters.

Chapter two on the other hand displayed a historical background that touched on the development of child protection from early 1920s. It became evident that major world events like the World Wars and the German Blockade instigated States to develop international mechanisms for human rights and special ones for children.²⁶³ The League of Nations and its successor the UN vastly contributed to enhance human and children's rights by ratifying States. Skelton upholds that, the UN designated a global agency (UNICEF) to specifically advocate for and ensure children's rights.²⁶⁴ It followed up with the adoption of the UN Declaration on the Rights

²⁶³ Anthony Woodiwiss, *Human Rights* (USA and Canada: Routledge, 2005), p 23.

²⁶⁴ Tracey, Skelton. Children, Young People, UNICEF and Participation. *Children's Geographies*, Vol. 5, Nos 1–2, (February–May 2007), p 170.

of the Child in 1959, advanced in 1989 to the UN Convention on the Rights of the Child. The UNCRC hence created the Committee on the Rights of the Child to supervise its implementation by ratifying States. UNICEF has been present in Kenya and Syria for more than twenty years. The organization coordinates with local agencies (NCCS in Kenya and SCFA in Syria) affiliated to the government to strengthen the national child protection system.

Chapter three focuses on the case studies, Kenya and Syria, the presence of UNICEF in the two States and how the organization enhances child protection with the help of other key actors. The UN organization has participated in the development and the progressive improvement of child protection laws and programs in both States. The researcher also analyses the relationship between UNICEF and government agencies responsible for coordinating and controlling children's affairs. Other important actors involved and who vastly contribute to the national child protection system include NGOs both national and international. Okumu adds that, NGOs are also involved in capacity building, pulling together other local actors like FBOs and CBO.²⁶⁵ The chapter concludes by examining UNICEF's challenges in the two States, acknowledged as hindrances to the UN organization's child protection mechanisms.

Chapter four identifies key emerging issues from previous chapters which the researcher views as contentious and significant to the study. The issues involve, the influence of national laws on UNICEF's role, funds, ideologies, poor implementation of policies and improvements of child protection measures in the case studies. The researcher goes ahead to critically examine the issues through a scholars eyes in which their cause effect is exhibited. From the study it's evident that these issues act as serious challenges to both UNICEF and the national governments in the two States. Ebigbo Adds that, critical issues like inadequate funds limits a nation's capability to

²⁶⁵ Interview with Caroline Nalianya-Okumu, World Vision Kenya, Nairobi, June 10, 2013.

fulfill vital State obligations like child protection.²⁶⁶ Despite all these challenges, it is also evident that through UNICEF's assistance Syria and Kenya have continuously installed mechanisms and laws to augment national child protection.

5.2 KEY FINDINGS

In chapter one a literature gap was identified after a critical literature review, the researcher realized that most of the scholarly works focused mainly on the measures and laws developed by the international community to ensure international child protection. Notwithstanding the researcher observed that despite all these measures and laws there were still numerous cases reported in relation to child's rights violations. Leading the researcher to question what exactly was amiss if indeed all these laws and measures were installed, including UNICEF's physical presence in many States. Hence, the researcher sought to find out the challenge/disconnect between governmental agencies and UNICEF, after all, these agencies are the UN organization's main link in States.

Prior to the field work, the research developed some hypotheses, or assumptions which data acquired would either confirm or deny. The initial one states that, proper implementation of child laws/policies and strengthening of institutions is vital to improve national child protection. The subsequent one mentions that, conflict, weak institutions, and poor implementation of laws contribute vastly to UNICEF challenges. Finally, increase in child labor, abuse, exploitation and trafficking are the key child protection issues of grave concern in Kenya and Syria. From the research findings all the researcher's hypotheses have been confirmed.

²⁶⁶ Peter O. Ebigbo The Effect of Poverty On Child Protection in Africa, *Child Abuse & Neglect* 26 (2002) 587–617, p 593.

Ideological differences are some of the issues that challenge the collaboration between national governments and UNICEF. A Department of Children Services' official mentioned that sometimes Kenyan child protection officials seriously conflict with UNICEF. According to the official the UN organization imposes ideas and technical expertise without even consulting the Kenyan officials.²⁶⁷ Cultures and traditions in the two States also present an ideological avenue of conflict. Kenya and Syria are habitants of individuals who embrace cultures and traditions as sacred; some of these traditions compromise the best interests of a child. As a UNICEF child protection officer mentioned, it's difficult to coordinate with government officials who also happen to be conservative traditional leaders. Many of them don't share the same opinion on some traditions being harmful; this brings about a conflict of interests.²⁶⁸

Child protection laws drafted by the two nations also affect the relationship between the two bodies. This relates with fact that some countries' laws like Syria don't conform to the UNCRC. Hamner upholds that, UNICEF's activities in States are guided, influenced and directed by the UNCRC. In promoting the best interests of the child, the organization advocates for States to align its laws with the UNCRC.²⁶⁹ Although this role played by UNICEF is only a small role in a sovereign state, which does not guarantee definite results.

Both Kenya and Syria lack adequate and well trained officers to work in the child protection field. Logically these officials are supposed to work hand in hand with UNICEF's qualified officials. Regrettably, if these officials are not impeccably conversant with child protection, both in law and measure then they are not able to perform their duties as prescribed by law. An inadequacy in the number of child protection units and centers in the two states also challenges or limits UNICEF's intervention. These centers are very essential and can be utilized

²⁶⁷ Interview with Carren ogoti, Nairobi, June 12, 2013.

²⁶⁸ Interview with an anonymous UNICEF Child Protection Officer, Nairobi, July 10, 2013.

²⁶⁹ Stephen, Hanmer, *Child Rights Organizations and Religious Communities: Powerful Partnerships for Children. Association for Religion and Intellectual* (September 2010), p 452.

by governmental agencies and UNICEF to cater for all children with special needs. A UNICEF child protection official mentioned that, there are only three official child protection units in Kenya which are not enough for the whole country.²⁷⁰

Poverty, conflict, weak institutions, and poor implementation of laws also challenge this relationship. UNICEF and governments' child protection efforts are highly undermined by poverty and conflict in both Kenya and Syria. The two States' governments have not been able to tackle and eliminate vibrant poverty and conflict. Notably, it is in the poorest of areas that child's rights are highly violated. Lachman and Poblete assert that, when poverty persists violations continue to insist. Some of the most common violations in such cases include child labour, abuse, exploitation and trafficking.²⁷¹ Weak institutions and poor implementation of child protection laws and policies only serve as a supplement to these violations.

The researcher has also recognized the enhancement and improvement of child participation in the two nations during the selected research timeline. From an interview carried out on three school children, it emerged that child participation agendas and programs are endorsed in different schools in Kenya. During the initial report of the implementation of OPSC in Syria, the SCFA declared openly to the Committee on the Rights of the Child that a child's contribution was taken "as that of a child."²⁷² The same Committee congratulated the SCFA in 2011 for the effort of the Children's Parliament which considered children's opinions in the administrative of issues and decisions concerning them.²⁷³ Nonetheless, both Kenya and Syria still exhibit weaknesses in child participation implementation especially in rural environments and schools which tend to be marginalized and at times forgotten or ignored.

²⁷⁰ Interview with an anonymous UNICEF Child Protection Officer, Nairobi, July 10, 2013.

²⁷¹ Peter Lachman and Ximena Poblete Challenges Facing Child Protection I. Overview—lessons from the South, *Child Abuse & Neglect* 26 (2002) 587–617, p 590.

²⁷² International Service for Human Rights. *Committee on the Rights Of The Child, 43rd session Syrian Arab Republic, (Initial Report on the Optional Protocol on The Sale Of Children, Child Prostitution and Child Pornography)*, 2006, p 3.

²⁷³ Ibid.

5.3 RECOMMENDATIONS

It is evident from the findings that a lot needs to be done other than just advocating for the ratification and domestication of the UNCRC, the supreme international law on child protection. The researcher bears the opinion that Kenya and Syria should champion adjustments in their child protection systems. They should enhance their commitment to child protection in all levels and circumstances in their borders and help promote the same in neighboring countries.

Both states need to strengthen their legal, policy and law frameworks which should be developed with a comprehensive plan that is realistic and implementable. UNICEF affirms that Law based approaches need to emphasize much more than just implementation in theory. This includes promoting the comprehending, appreciating and embracing of legal measures on child protection by society.²⁷⁴ This should also include a suitable and effective monitoring and evaluation program to supervise and ensure effective policy implementation with accountability. The Monitoring and evaluation program should also examine the nation's child protection and promote strategic responses to the situation on ground.

National laws should be reviewed as often as possible; laws in conflict with the UNCRC should be amended without delay. Review would help identify gaps in national child protection laws, hence enhancing strict measures by law to protect children. Roles played by different actors like the NCCS, SCFA, NGOs etc, should be clearly defined to avoid an overlaps, misuse of time and resources. O'Donnell and Seymour maintain that, appropriate legislative framework, including consistent implementation that does not tolerate impunity are essential for an effective protection environment²⁷⁵

²⁷⁴ UNICEF, *Child Protection Information Sheets*, 2006.

²⁷⁵ Dan O'Donnell and Dan Seymour, *Child Protection: A handbook for parliamentarians*. (Switzerland: SRO-Kundig, 2004), p18.

The government in Kenya and Syria should address and allocate enough funds to Child protection programs and initiatives. They should also create a suitable environment for investors to attract Foreign Direct Investments. These investors' contributions can contribute immensely to the national child protection. They should also advocate for and strengthen child participation at all levels in the community. This would educate children about their rights and enhance their contribution at national and community level. O'Donnell and Seymour support that government commitment to child protection through strict measures for offenders can promote an effective child protection environment. Government officials should be proactive in their areas of leadership to include child protection on the agenda.²⁷⁶

Child protection centers and units should be increased especially in marginalized rural areas. More child protection officers need should be appointed. Existing officers need to be trained on all and emerging issues on child protection, legal frameworks and substantial approaches to policy and implementation. O'Donnell and Seymour insist that, child victims from violations of any form, physical and sexual, exploitation or neglect deserve the outermost care and admittance to social and health facilities.²⁷⁷ UNICEF adds that child protection systems should put emphasis on community based approach. This includes mechanisms to enlighten the illiterate public about children's laws to change their perspective about harmful traditions at family and community level.²⁷⁸ This should also include implementing the understanding of child participation.

If the above recommendations were taken seriously and implemented by national governments in Syria and Kenya, children in the two States can be guaranteed a safe protective environment where their best interests are taken into account. If not, there is a high likelihood of

²⁷⁶ Dan O'Donnell and Dan Seymour, *Child Protection: A handbook for parliamentarians*. (Switzerland: SRO-Kundig, 2004), p18.

²⁷⁷ UNICEF, *Child Protection Information Sheets*, 2006.

wasting efforts and resources leading to weak programmes that are unrealistic and difficult to implement hence creating an unsafe environment for children. However, the researcher did not address all key aspects and provide an in-depth study on child protection. Hence proposes some areas for further study: national child protection systems as well as the tools, institutions and mechanisms for the development, implementation and monitoring of child protection laws and policies.

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LIST OF INTERVIEWEES

- Mrs. Carren Ogoti, Department of Children Services
- An anonymous Child Protection Officer, UNICEF
- Mrs. Adelaide Ng'aru, National Council for Children's Services
- Mrs. Mary Gorret Lesumba, National Council for Children Services
- Mr. Michael Ng'ari, Getathuru Rehabilitation boys
- Miss. Divinah Manoti, Kirigiti Girls Kiambu
- Mr. Anthony Nd'ungu, Getathuru Rehabilitation boys
- Mrs. Caroline Nalianya-Okumu, World Vision Kenya

Mrs. Elizabeth Kegengo, African Network for Prevention and Protection against Child Abuse and Neglect

APPENDICES

APPENDIX 1: MAP OF KENYA



