

RESEARCH ON STREET

CHILDREN IN KENYA

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REPORT ON
A STUDY ON STREET
CHILDREN IN KENYA

Submitted to:

ATTORNEY GENERAL'S OFFICE

BY

ANPPCAN

MAY 1991

Urban Poverty Research and
Policy Evaluation on Street Children
and their Families in Kenya

ACKNOWLEDGEMENT

A study of this magnitude is not possible without the support of many people. The research team is most grateful to the Attorney-General's Office for having conceived the idea of the study; the Kenya National Academy of Sciences for requesting the team to conduct it and the Ford Foundation for making the study possible. The team is indebted to the children and their parents who participated in the study; all those research assistants who assisted with the interviews; all the Government of Kenya officials, managers and leaders of NGO programmes, who gave their valuable time for the study. Our thanks go to ANPPCAN for administrative support and to Eva Ndavu for her technical input. Last but not least we extend gratitude to Naomi Mariwa and Florence Shiundu for putting the report in order. To all of you and on behalf of children in Kenya we simply say, "Asante Sana".

Executive Summary

This study of the phenomenon of street children in Kenya gives a general historical background to the problem, followed by a brief survey of the scant literature available. The major part of the study includes a field survey of street children and assessment of the policies, programmes and laws affecting street children. The study sites included the urban centres of Nairobi, Mombasa, Kisumu, Narok and Kitui. The sample population included 634 street children, 32 parents of street children and 80 members of the general public. Interviews, questionnaires, observations and a study of secondary sources formed the methodology.

Interviews with street children and their parents revealed that the majority of street children are males aged 6-15 years who for the most part are illiterate, of varied ethnic and religious background and migrant to the urban centres. Most came from single-parent large families and chose street life because of socio-economic factors.

Most of the children had been in the streets for 2-3 years, and developed their own social groupings, worked at menial jobs and engaged in such socially undesirable practices as consuming drugs and alcohol and participating in illicit sex. Numerous health problems are noted.

Most of the children desired education and a better life, but they generally had a pessimistic attitude towards their future. Conditions for the minority but growing number of female street children were found to be especially deplorable.

Supportive and preventive programmes for street children were analysed. Only the Children's Department of the Ministry of Home Affairs and National Heritage runs public programmes for actual and potential street children. These are organised as rehabilitative and training programmes (approved schools and junior remand homes) and a family-based programme for maintenance of destitute children. Annual per capita expenditures range from KSh.30-400. Private programmes, on the other hand, number 110. Only three of these operate supportive programmes. A sample of eight preventive programmes revealed an annual per capita expenditure range of KSh.125-925. Obviously, a major problem of these programmes is budgetary constraints. Equally important are placement of graduate trainees and lack of public and government support.

Public policy regarding street children dates back to a handful of laws from the colonial period. Many government officials interviewed were aware of the growing problem of street children and offered useful suggestions that would necessitate government, parental and societal co-operation.

As regards the laws and street children, this study analysed over a dozen statutes. These are concerned with employment, contracts, essentials of life, sexual harassment, civil processes, protection and discipline. Another 40 laws deal marginally with children. Only four statutes deal specifically with child related issues, and these have to do with guardianship and legitimacy.

International law and children is reflected in the recent United Nations Convention on the Rights of the Child (1990), on which there is to be a special African Charter on the Rights and Welfare of Children. As regards street children, the Convention deals with the definition of a child, welfare and civil rights and issues of status. There is much that needs to be done regarding law reform and juvenile justice as they relate directly and indirectly to street children.

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1.0 BACKGROUND

1.1 Introduction

The present study has a fairly long history. One would argue that the origin of this study could be traced to the rise of the phenomenon of street children in Kenyan urban centres. However, the first real concern with this phenomenon dates back to the 1982 National Workshop on Child Labour in Kenya, sponsored by the World Health Organization. During this workshop, the issue of street children was discussed for the first time in a more organised manner (Onyango and Kayongo-Male, 1983). Although the discussions did not generate public interest as such, the Nairobi Provincial Children's Department, in conjunction with the Provincial Commissioner for Nairobi, constituted a committee to further discuss the problem of street children in Nairobi. Subsequently, the PC directed that a Task Force consisting of Key Ministries in Nairobi Province and major non-governmental organisations, such as Undugu Society of Kenya, be formed to study and write a position paper on the problem.

The Task Force produced a paper entitled "Street Wandering Children, " which was later presented at the '1985 Regional Workshop on Children in Especially Difficult Circumstances held in Nairobi and sponsored by UNICEF (Khamala, 1985). This paper was subsequently revised based on comments from the workshop and later presented to the PC's committee, which in turn forwarded the document to the Attorney-General. The presentation of the document to the AG coincided with growing public concern with the question of street children in Kenya.

It was with this background that the Attorney-General's office approached the Kenya National Academy of Sciences to constitute a research team to objectively assess the state of street children throughout the country with the major purpose of determining the nature and extent of the problem and appropriate courses of action in terms of policies and programmes that could be undertaken by the government to address the problem.

As these were taking place, a Task Force was also set up by the Regional Workshop to look into the possibility of starting an all-African Network on Prevention and Protection against Child Abuse and Neglect (ANPPCAN). Subsequently, the African Network was inaugurated in Enugu, Nigeria in April 1986. During its inauguration, street children in Africa again received increased attention (Ebigbo, 1986). These developments constitute the background of this study.

1.2 Statement of the Problem

Kenya's efforts to care for the less able members of our society and its poverty alleviation programmes have earned some admiration both at home and abroad. Even so, the problem of street children in Kenya's major towns still remains to be solved in its entirety. Increasing numbers of children are often seen roaming about on the streets as well as in residential estates in most urban centres in Kenya. Most of these children are involved in begging, pick-pocketing, drug trafficking, child prostitution, scavenging, directing motorists to parking spaces and hawking.

Available information tends to indicate that these children are either from poor or broken homes or are orphans (Wainaina, 1977; Wainaina, 1981). Fortunately, the problem in Kenya is not as severe as in other countries and can be arrested given commitment and proper planning (Tacon, 1988; Onyango 1988).

Various categories of street children can be identified. These categories include children who permanently live and work on the streets, those who come to work on the streets but go home in the evening and those who come to work on the streets on a part-time basis. It has been observed that some of these children live under more difficult socio-economic conditions than others. It has been stated that a large number of these children are from single-headed households (Wainaina, 1977; Wainaina, 1981). There are also those who depend entirely on their relatives and acquaintances. Information available highlights the exploitative situations these children find themselves in while on the streets (Khamala, 1985; Onyango, 1989; Bwibo, 1989).

When national policies were being formulated in the 1960s, the problem of street children was not anticipated. It was taken for granted that juvenile institutions inherited from colonial days would continue to redress the problem of juvenile delinquency (Khamala, 1985: 17-19). To-date this policy has not changed much, as is reflected in available literature (Ministry of Home Affairs and National Heritage, MHANH, 1990: 13-16). Hence, when street children appeared suddenly and in large numbers, existing official institutions and NGOs were unable to cope. The traditional institutional approach to the problem appears to have perpetuated the problem.

Therefore a need to identify alternative approaches to the phenomenon of street children became a necessity because the problem does not only have implications for the child but also for the country. Children on the streets may be faced with various problems. Firstly, they are separated from their families at a tender age to fend for themselves on the streets with no emotional support from their families. Secondly, street life itself is a major threat to a child's life. Therefore, the general purpose for this study was to determine the general situation of street children in Kenya.

1.3 Specific Objectives

Review of literature shows that only two studies have been done on parking boys by sociology students (Wainaina, 1977; Wainaina 1981). In fact, no extensive study has been done on the subject of street children. Hence, the purpose of the present study was to assess the nature and magnitude of the problem of street children in Kenya.

Both of the studies on parking boys suggest that street life is to a certain extent an alternative life style for some children. Therefore the present study sought to:

- (1) determine the extent to which street life is an alternative life style and to delineate factors that lead to the development of such an attitude;
- (2) analyse and assess existing government policies towards delinquent children and disadvantaged children with a view to suggesting the formulation of policy regarding street children in the country;
- (3) investigate administrative and political possibilities and constraints that formulation of street children policy would have to take into account;
- (4) examine how best to bring local authorities into the formulation of street children policy and determine what role local authorities can play in the implementation of policy goals;
- (5) investigate how KANU Youth Groups and the National Youth Service could be incorporated in the policy process aimed at solving the street children problem;
- (6) determine the governmental and non-governmental services available to these children both at individual and community levels and to assess their impact and effectiveness in handling the problem;
- (7) explore what type of programmes street children preferred since they do not readily accept the services being provided;
- (8) look into the linkages these children have with their families and their communities in general;
- (9) assess and analyse laws relating to children;

(10) carry out a financial analysis to find capital and recurrent costs to the government and/or non-governmental organisations of various projects that may be identified to help solve the problem;

(11) draw up a comprehensive five or ten-year plan (as appropriate) to solve the problem.

1.4 Justification for the Study

It is no longer in doubt that street children as a phenomenon of modernisation is indeed a social and security problem that requires attention in Kenya. Furthermore, its rapid increase calls for an urgent response. However, appropriate response requires sound and basic information. Currently, the information available is inadequate, mainly derived from programmes and to a large extent Nairobi-focused, thus the need for collection of information with a national perspective.

Although the problem of street children has been appreciated, efforts to redress it have for many years been left to a handful of NGOs. Above all governmental institutions such as approved schools were never designed specifically for street children. As such one wonders why there exists a discrepancy between perception of the street children problem and practice regarding phenomenon.

2.0 REVIEW OF LITERATURE

2.1 Nature and Magnitude of the Problem

Street children are defined as those young boys and girls who dwell on the streets with the purpose of making a living for themselves and their families. They are new phenomena in major urban centres such as Nairobi, Mombasa, Kisumu, Nakuru, Eldoret and Thika, nor are they unique to Kenya. These children are found in urban areas of all developing countries (Tacon, 1988; Onyango, 1989). Their presence reflects rapid industrialisation and urbanisation and the huge number of poor persons who flock to the major centres. The problem is not a new one, as it was very much present in Europe's major cities in the 19th century and during the times of economic upheavals in those countries.

Different names have been assigned to street children in different countries and places. The familiar name in Kenya, and in Nairobi in particular is parking boys (Wainaina, 1977; Dalape, 1987), and in recent years girls have also emerged, leading to the term parking girls. For the purpose of this study, a street child is any child who uses the street as a working place and carries out different activities to earn a living, either on a full-time or part-time basis.

According to researchers from various institutions, including the University of Nairobi, Kenya Institute of Administration (KIA) and the Nairobi City Commission (NCC), the problem in Nairobi was first noticed in 1969. These studies have revealed several facts:

Street children are of ages between 3-20 years. Most of them are boys, but girls have recently appeared. Often they look unkempt, have poor health and have stunted growth. (See Wainaina, 1977; Wainaina, 1981; Khamala, 1985.)

The family background of street children indicates that the majority of their parents are single. The parents have irregular incomes and for the most part are self-employed as street hawkers. Because of their low incomes the families tend to live in overcrowded slum areas of the urban centres. The majority of the families live on incomes derived from illicit trade in chang'aa brewing, petty businesses, tailoring and jua kali car repairs (Njeru, 1989; Nkonge, 1984). The families are constantly subjected to eviction by local authorities since their business locations and dwellings are regarded as illegal (Undugu Society, 1987; Gakuru et al., 1989; Onyango, 1989). For the most part they are seen as squatters. Yet information available indicates that most of these families have been staying in these slums for many years (Gakuru et. al., 1989; Onyango, 1988; 1989).

The majority of street children move in groups and even save funds through a group leader who makes sure that portions of individuals' earnings are put together for future use. At times the group leader is responsible for discipline in the group.

In most cases street children eat food on the streets. Often the food is inadequate and unbalanced as their means can only afford soda, bread and occasionally beans and maize. During occasions when their businesses are not lucrative, some of the street children eat from dustbins or help themselves to anything available in form of food (Wainaina, 1971; 1981; Khamala, 1985).

The majority of street children work and live on the streets, but there are a few of them who still have close ties with their families and return home for meals (Wainaina, 1981). There are also those who establish relationships with women who own kiosks in the towns and are able to get some food by offering services such as fetching water for such women or from their generosity. The shoe-shiners, out of sympathy, at times provide some children with money to buy food (Wainaina, 1981). The number of street children has been on the increase; the number of street children increased from 115 in 1975 to 200 in 1976 and to 400 in 1977 (Wainaina, 1977). It is now estimated that the increase is 10 percent annually (Undugu Society, 1989). Other sources indicate that by 1988/89, there were approximately 3,600 street children in Nairobi alone, while the national estimate was approximately 16/300 street children (Min. of Home Affairs and National Heritage, 1990: 9).

2.2 Causes of the Problem

Factors that lead children to the street are many and varied. These range from parental inability to cope with demands brought about by rapid social change to instabilities in families. In Kenya, the few studies that have been done show that most children take to the streets because of poor relations at home, leading to frustrations; overcrowded homes, hence the street is considered an alternative home to an overcrowded home life; to look for a job because there is no money for education; they are influenced by parents to go into the streets so that the government can help them; and to stay in the towns since town life is considered better than rural life (Khamala, 1985; Wainaina, 1971; Wainaina, 1981; Ebigbo, 1986; Dalape, 1987). Others are said to prefer street life to family life because of poor relations in their families. Some find their homes both materially and morally depriving. For example, their parents brew chang'aa, abuse alcohol and welcome as many boyfriends as possible (Wainaina, 1981). Thus, some children opt for street life because of their dislike of what goes on in their homes.

2.3 Impact of Street Life on Children

For the most part, street childhood is not considered as an alternative way of earning a living by the society since activities are not only informal but at times illegal. Hence, street children are often exposed to demeaning language, leading to low self-perception. For example, names such as scavengers, bastards and vagrants are often used when references are made to street children. Often, disparaged by the society, street children have been reported to suffer from low self-esteem, (Dalape, 1987; Khamala, 1985; Njeru, 1989; UNICEF, 1989).

The street children face many risks in the streets that can jeopardise their normal growth and development. Being away from their families, they lack the normal protection and supervision most children get from their families. Hence, they are exposed to exploitation by adults and young persons, which leads, at times, to criminal activities. There are situations where these children have been used to break into houses or peddle drugs for those older than them. In most cases, threats are used, and the children have to comply. In some studies when street children were asked what they feared most, the majority mentioned 'dying a violent death', as their major worry (Gutman, 1987). In Kenya, it has been reported that some street children were taken to Libya -for illegal military training as a prelude to attempted destabilisation of the legally constituted Government of Kenya (Daily Nation, 1987; 1988).

Studies have reported that these children face a lot of insecurity while in the streets. For example, most street children express lack of food, shelter and clothing and harassment as their major problems. Frequent fights and police arrests have been reported as the usual experiences of street life. All this

aggravates the situation of street children and may deny them the opportunity to grow and become useful members of society.

Furthermore, while on the streets these children also indiscriminately take drugs, inhale petrol and glue and drink alcohol, which obviously may endanger their mental as well as physical development.

3.0 METHOD OF STUDY

In order to address these objectives different approaches to data collection were employed. This consisted of:

- (1) a survey of street children;
- (2) an assessment of policies on street children;
- (3) an assessment of programmes regarding street children;
- (4) an assessment of the law as it relates to street children.

3.1 Study Site

The selection of the study sites was purposely done. Nairobi was selected because it is the capital city with reportedly the largest number of street children. Mombasa was selected to determine the impact tourism may have on such children. Kisumu Town is accessible by both water and road, hence the need to determine the impact of these routes, for example, on children coming from Uganda and Tanzania. Narok was chosen to determine the influence of pastoralism on children. Kitui was selected to determine the impact of drought and famine on the creation of street children.

Apart from the towns, a number of children's institutions and programmes were visited. These included: Dr. Christian Barnardos Children's Home, Mama Ngina-Children's Home, SOS, Salvation Army, Mji wa Salama, Undugu Society, Pand Pieri Children's Home, Starehe Boys Centre and Missions of Mercy, all run by NGOs, and three government children's institutions, namely, Kabete Approved School, Kirigiti Girls Approved School and Nairobi Juvenile Remand Home.

3.2 Study Sample

The sample for the study consisted of 634 street children, 32 parents of street children and 80 members of the public.

3.3 Sample Selection

Sample selection for street children was done in stages. First researchers visited the study sites to map out sites which street children seemed to frequent on a regular basis. Consequently, clusters were identified and listed. From this listing two types of clusters emerged: One group with fewer street children and the other with a large number of street children. The clusters included those operating from city town centres and those operating within estates. Second, the smaller clusters were eliminated, but all those with larger populations were retained for the study. This procedure resulted in 38 clusters in Nairobi, 13 in Mombasa, 11 in Kisumu, 7 in Kitui and 5 in Narok. Finally, all street children presenting themselves at the selected study clusters were interviewed.

During the interviews the children were asked if they would be willing to take the researchers to their parents. The names of those willing were recorded and a list kept for future in-depth interviews with their parents. Subsequently, 32 parents were purposely selected from the list based on the information already obtained from the children.

In order to gauge public sentiments regarding street children and government policy toward them, 80 members of the public in the study sites were selected for interviews. The selection was guided by willingness to be interviewed, age and sex.

Children's institutions and programmes were selected from Nairobi, Kisumu and Mombasa where preliminary visits had indicated that there were programmes catering for street children. A total of three government institutions and four NGO programmes were finally selected for the study.

3.4 Data Collection

Data for the study were collected through interviews using both structured and unstructured questionnaires. There were also in-depth interviews with parents and discussions with key informants. Simple observations were also conducted in the five study sites and eight towns in Kenya, namely Kiambu, Thika, Nyeri, Nakuru, Kakamega, Eldoret, Kajiado and Meru. Secondary sources were also used to collect information on policy, law and programmes.

3.5 Presentation of the Data

The findings are presented in five sections as follows;

- (1) The street children and their families;
- (2) Programmes and financial analysis;
- (3) Policy implications;

- (4) Legal implications;
- (5) Conclusions and recommendations.

4.0 STREET CHILDREN AND THEIR FAMILIES

4.1 Introduction

In this section an attempt is made to present and discuss the findings of the study on street children and their families, using descriptive statistics. Measures of central tendency such as mean, mode and median are used to underscore the data into manageable proportions. Simple tables and percentages are used at this stage mainly to illustrate and to elaborate on what is being discussed. An in-depth study involving 32 parents of street children is also included. Data presentation is divided into two parts. Part one (Section 4) deals with street children themselves while part two (Section 5) deals with their parents.

The data presented here cover 634 street children drawn from five locations in Kenya. The 5 locations included Nairobi, Mombasa, Kisumu, Narok and Kitui. Table 4 depicts the distribution of the study sample by location.

Table 4.1 Distribution of study sample

Town	No. of Respondents	Percent
Nairobi	349	55
Mombasa	104	17
Kisumu	101	16
Narok	40	6
Kitui	40	5
Total	634	100

As would be expected, Nairobi, the capital city of Kenya, made the highest contribution to the sample. Slightly more than half of the sample was from Nairobi. It can be observed that the larger the size of a town the more attractive it seems to be for the population in question. Big towns in general have been

viewed as good sources of opportunities by most people in Kenya, street children included. Migration from the rural areas to such big towns as Nairobi, Mombasa and others is based on the aforementioned popular belief that opportunities exist in such places.

4.2 Background Characteristics of Street Children

4.2.1. Sex and age

As mentioned earlier, this study covered five different towns of Kenya and interviewed a total of 634 street boys and girls whose findings are being presented. Of these, 634 (91 percent) constituted male children, while the remaining 9 percent were girls. This finding can probably be explained by the fact that girls appeared in the streets of the major towns of Kenya only in recent years, and the number is still small.

The age of the street children in the study ranged from 6 to 26 years. The mode was 12 years while the mean was 12.8 years (see Table 4.2).

Table 4.2 Distribution of street children by age

Age Categories	No. of Respondents	Percent
6-10	124	19.6
11-15	435	68.6
16+	75	11.9
Total	634	100

It clearly emerges from Table 4.2 that the majority of the street dwellers consist of children. Almost 90 percent of the sample were under 16 years and had not attained Kenya's adult age of over 18 years. This is a delicate age category of our population whose problems should be taken seriously.

4.2.2 Schooling

The study also attempted to find out whether the street children were in school or had attained any education at all. The finding of this study is that out of the 634 cases considered, 85 of them (13 percent) confirmed they were still attending school during the time of the interview. The remaining majority of 549 cases (87 percent) reported that they were not attending school. This finding confirms the observation that most street children are not in school. Indeed, as will be shown later, the majority

of them are what can be termed as school drop-outs. Sixty (60) of the 85 children (69 percent) reported attending school were attending school within the urban areas, while the remaining 25 (31 percent) reported doing so in the rural areas. Further investigation indicated that most of the 25 children were coming from rural areas bordering the towns where the study was conducted.

The study also attempted to find out why the majority of the street children were not attending school or why they had left school. It emerges that the major reason why most of them had left school was due to lack of money. This reason explained why 43 percent of the cases had left school. Table 4.3 gives detailed information of the reasons why street children had left school.

Table 4.3 Reasons why children left school

Reasons	* No. of Respondents	Percent
Lack of money	236	43.6
Own volition	65	12.0
Family-related problem	61	11.0
Teacher-related problem	26	5.0
Expulsion/suspension	8	2.0
No previous attendance	126	24.0
Others	19	3.0
N/A	93	14.7
Total	634	100

Table 4.3 shows that there exist several factors that can force a child to abandon schooling. While some factors pertain to the individual child, others are beyond their control. It is important to note that the majority of street children leave school due to factors beyond their control such as lack of money (44 percent) to buy uniforms, pay school levies, and buy books; teacher- and family-related problems

(16 percent) such as severe punishments and expulsion and/or suspension from school (8 percent). Only 12 percent of the sample confirmed having left school on their own volition, mainly being influenced by peers. These could probably be cases that can be considered as deviants. This particular finding suggests that if other factors were controlled, probably the 457 cases (62 percent) which did not leave school on their own volition would have continued with schooling. This would have prevented most of the children from flocking to the streets for alternatives.

An attempt was also made to measure the level of education among the street children. About 27 percent of the sample reported that they had not attained any formal education at all. The majority of them (71 percent) reported to have attained primary level of education while 2 percent had attained secondary school education. The generalisation that one would make on the basis of this finding is that the majority of the street children are primary school drop-outs. Most of them are unfortunate children who have been forced out of school by circumstances beyond their control (see Table 4.3). To halt the exodus of children from school into the streets as the findings indicate, may require a review of our schools to determine the part schools can play to retain these children.

Despite the fact that 71 percent reported having primary education, most of them could not read at all. Only 27 percent could read easily; 34 percent could only read with difficulty; while 39 percent could not read at all. This suggests that despite the efforts that have been made to curb illiteracy especially among children, the majority of street children are illiterate. This calls for special attention.

4.2.3 Ethnic group and religion

The total sample of 634 street children considered represented a cross-section of Kenyan ethnic groups and religions. The ethnic groups represented included the Kikuyu who constitute 44 percent of the sample, Luo (16 percent), Kamba (13 percent) and Luhya (9 percent). The distribution of street children by ethnic groups may have been biased by the selection of the five towns. The inclusion of Nairobi, which is dominated by Kikuyu, for example, may raise the percentage of the same ethnic group. The same may have happened to the percentages of the Luo and Kamba due to the inclusion of Kisumu, Kitui and Mombasa respectively. While Kisumu is dominated by the Luo, Kitui is dominated by the Kamba, and the Kamba also constitute a large percentage of Mombasa population. Nevertheless, the distribution of the street children by ethnic origin heavily borrows from the population of the same groups at the material level.

It was also noted that the street children in the capital city (Nairobi) were dominated by the Kikuyu. Indeed, 68 percent of the street children in Nairobi were Kikuyu. This is explained by the fact that Nairobi borders Central Province, a Kikuyu-dominated province. Further analysis of data shows that

36 percent of the street children in Nairobi claimed to have their original home in Central Province (mainly from Murang'a and Kiambu, two districts which are directly adjacent to Nairobi). What emerges clearly from the data, regarding representation of ethnic groups, is that the problem of street children is not a domain of one tribe. It is spread over all the ethnic groups we have in Kenya. However, the in-depth interviews involving 32 parents reveal a different picture. (See Section 5.)

Another finding of the study pertaining to the original home of the respondents is that most of them had migrated from elsewhere to the towns where they were during the time of the interview. Over 71 percent of the respondents confirmed having migrated from other districts to the towns where they were during the time of their interview. Most of them can therefore be regarded as migrants. This finding implies that though the problem of street children is taken as an urban phenomenon, factors contributing to the problem are located elsewhere. Consequently, strategies to deal with this problem may need to be focused not only in the urban centres but also in rural communities, which constitute their parents' original homes. This observation arises from the fact that parents of these children were found to have migrated from various rural districts such as Murang'a, Kiambu, Siaya, Machakos, South Nyanza and Taita-Taveta, among others. Murang'a, Kiambu and Siaya were over-represented (11 percent, 8 percent and 7 percent respectively).

The study also found out that most of the street children in towns reported belonging to several religious groups. Indeed, out of the 634 cases considered, only 25 percent reported not to belong to any religion at all. About 37 percent were Catholics, 27 percent were Protestants, while 11 percent were Muslims. From the above, one may suggest that the street children phenomenon favours Christianity, in which Catholicism is over-represented.

4.3 Parental State and Upbringing

4.3.1 Individual children live with

It was the interest of this study to find out the persons whom the street children live with. The study revealed that 30 percent of the 634 street children reported to be living with both parents, while 29 percent were either living with mother alone or father alone (22 percent). Detailed information about the living arrangements is presented in Table 4.4.

Table 4.4: Persons the children live with in towns

Person lived With	No of Respondents	Percent
Both Parents	186	29.5
Father alone	42	6.7
Mother alone	137	22.7
Friends	110	17.4
Relatives	67	10.6
Alone	62	9.8
Other ways	26	4.3
N/A	4	0.6
Total	633	101.5

As reflected from Table 4.4, 'both parents' were cited as the most popular providers of accommodation. They provided it to 30 percent of the sample. 'Mother alone' provided accommodation to 22 percent of the sample, while 'friends' provided it to 17 percent of the same. It is significant to note that 10 percent of the children were staying alone. Their tender age and poverty may explain why 17 percent of these children depended on others for accommodation.

It is important to note that 70 percent of the sample was not staying with both parents. Hence the majority of the street children were growing up being reared without the images of the two parents. It is important to state that the images of the two parents are essential in shaping the personality of this category of young people in question. This implies that the majority of them were being faced with the problem of skewed socialisation, due to the absence of one parent during the crucial period of primary socialization

Moreover, data in Table 4.4 also reveal that about 43 percent of the street children were growing up without getting any parental care at all, since they were not living with either parent. This category consists of those staying with friends, relatives or alone. The absence of such parental care may lead to

various psycho-social problems such as faulty socialisation, hunger, mental torture and child abuse and neglect, among others.

For those who reported to be living with a single parent, they were asked to state the marital status of the same. The finding of the study is that there were 191 cases of children living with a single parent. This constituted approximately 31 percent of the 634 cases. This can be regarded as the category of street children living with a single parent. On the basis of this, it seems that a substantial number of street children can be associated with single-parenthood.

Further, the study revealed that 34 percent of all the single-parents were women who never got married, 18 percent were separated parents, 16 percent were divorced and 19 percent were widowed.

4.3.2 Persons who provided early care

An attempt was also made to establish who cared for and reared the street children. As with accommodation, providers of care cited included both parents (53 percent), single parents (34 percent) and relatives (12 percent). Mothers alone took care of 30 percent of the children, while grandparents were cited by 7 percent. Fathers alone took care of 4 percent. What should be noted with interest is the fact that almost half (47 percent) of the sample did not enjoy the warm parental care normally expected from both one's parents. As has been noted elsewhere, lack of such care normally interferes with one's growth and development.

The study went further to find out those children who had fathers that they knew. About 344 children confirmed that they had fathers. This constituted about 55 percent of the sample. Out of the 344 cases responding, 19 percent confirmed that the father had two wives. This finding suggests that the majority of children in the study were not from polygamous families; 77 percent of the children with fathers came from monogamous marriages.

A great majority (77 percent of the sample) confirmed that their two parents were alive. Only 11 percent of the same reported that their parents were dead. Social problems such as divorce, separation and single-parenthood explained why a child was not living with the two parents. It is worth noting that at the time of this study only 30 percent of the children reported living with both parents.

The 490 cases (77.7 percent) who confirmed that 'the parents were alive mentioned several districts and towns as parents' places of residence. It was interesting to find that a substantial proportion (43 percent of the sample) reported that their parents were living in Nairobi. Since the majority of the

study sample (56 percent) was drawn from Nairobi, this suggests that most parents of street children also live in Nairobi. Other popular residential places for parents cited included Kisumu (7 percent), Kitui (5 percent), Mombasa (8 percent), Kiambu (5 percent), and Murang'a (6 percent), among others. The fact that some parents were staying far away from the towns where the children were found indicates the strength of the factors that explain their migration to the streets in search of survival.

4.3.3 Occupation of parents

In an attempt to measure the socio-economic status of the parents, we raised questions pertaining to their occupations. Detailed information on father's occupation is presented in Table 4.5.

Table 4.5 Occupation of fathers

occupation	No. of Respondents	Percent
Permanent salaried	96	15.1
Temporary wage earner	57	9.0
Self employed	85	14.4
Unemployed	3	6.0
Beggar	6	0.9
Peasant	55	8.7
Other	7	1.1
Unknown	118	18.6
N/A	172	27.1
Total	633	100

According to Table 4.5, 54 percent of the children knew the occupation status of their parents. However, few knew exactly what their parents were doing. A large number of the children had no idea what their fathers were doing for a living. This could be due to the fact that most of the children had no father or were living away from them. Only 15 percent of the fathers were reported by the children as having permanent employment and hence regular salaried income. About 44 percent of the fathers can be considered as irregular wage earners. These include those who were temporary wage earners, the self-employed and peasants, whose income fluctuates.

Given the age of children and the levels of interaction with their fathers, the reported low percentage of unemployment among their fathers (6 percent) underestimates the rate of unemployment among slum populations in the country. The categories of mothers' occupations out-numbered those of the fathers. Data on mothers' occupations are presented in Table 4.6.

Table 4.6 Occupation of mothers

Occupation	No. of Respondents	Percent
Permanent salaried	23	4
Temporary wage earner	16	3
Self-employed	149	26
Unemployed	136	24
Beggar	23	4
House/Domestic worker	67	12
Peasant	62	11
Bar-maid	27	5
Unknown	50	9
Other	16	3
N/A	65	10
Total	634	111

Unlike in the case of fathers' occupations, most respondents could specify mothers' occupations. This may indicate a closer relationship between mothers and street children, as compared with that between them and their fathers. Through such close contacts the children are able to ascertain the occupation of their mothers. It also emerged from the data that a very small proportion of the mothers had regular income (4 percent). The majority of them were self-employed and irregular earners constituting 88 percent of the sample.

A higher percentage of mothers was reported to be unemployed than fathers. While 24 percent of mothers were reported to be unemployed, only 6 percent were in this category in the case of fathers. This reflects family structure where these children come from as well as the present skill capabilities

and job opportunities available for women. This probably explains the higher percentage of reported mothers who were beggars (4 percent).

A small proportion of the mothers was also reported to be working as bar-maids. This is an occupation that is normally taken up by unmarried mothers. There was another small proportion (11 percent) of mothers who were said to be peasants. This could be the category of mothers who were living in the rural districts and those who live in slums and cultivate open spaces in the towns or rent small plots' out of the towns for cultivation purposes.

A significant finding to note is that almost one-third of the mothers (28 percent) were unemployed. It is equally important to underscore the fact that only 4 percent of the mothers were reported to have permanent sources of income. As already indicated, fathers are not different from the general picture, and 44 percent of the fathers were reported to have irregular incomes. This clearly illustrates the precarious socio-economic status of the families of these children.

4.4 Street Life for Children

Having looked at the socio-economic state of the families, the study attempted to look into the dynamics of street life for the children/ focusing on issues relating to life on the street.

4.4.1 Reasons for being in the streets

A range of factors was given by the children as to why they were on the streets. Out of 634 cases, 20 percent reported being on the streets because of lack of an alternative way of life, 16 percent did so because of desire to help their families, 10 percent because they were running away from their parents, 10 percent because of hunger, 10 percent because of peers' influence and 2 percent were born on the streets.

A perusal of the factors explaining why one was on the street shows that most children in the street are there due to circumstances beyond their control. Children tended to move to the streets because of socio-economic problems. Such socio-economic factors are push factors in forcing children to migrate to the streets.

4.4.2 Care in the streets

Numerous sources of care were cited by the respondents who were living on the streets. Such sources of care included oneself, parents/ mother alone/ father alone and others. Out of the 634 cases responding, about 50 percent reported to be taking care of themselves 19 percent cited their parents as

the source of care while another 19 percent cited their mothers. As would be expected, fathers were not as popular as mothers as a source of care as only 4 percent of the sample cited fathers as source of care. This finding further supports the observation made earlier that most street children in Kenya are rarely in touch with their fathers. Consequently, their socialisation process may be considered incomplete. Social problems such as divorce, separation or single-parenthood combined with economic problems may explain why care from the two parents is seldom available. This is the situation, despite the fact that most of the respondents are in dire need of parental care, since they are still young and delicate.

4.4.3 Length of time in the streets

The time stayed or worked in the streets stretched from just a few months to 15 years, with a mode of 1 year and an average period of 2 years. The study found out that about 16 percent of the sample had stayed on the streets for at least half a year. Another 23 percent reported to have been there for at least one year and about 24 percent and 40 percent reported to have been on the streets for at least 2 and 3 years respectively. Another 13 percent had been in the streets between 4-5 years. On the basis of the above finding, we can infer that better alternatives do not exist for street children. Even after working and staying in the streets for a whole year, 52 percent of the street children could not find a better alternative to street life and consequently continued to stay and work in the streets.

4.4.4 Activities in the street

Street children reported themselves to be engaged in a variety of activities while living on the streets. Distribution of street children by activities is presented in Table 4.7.

Table 4.7 Distribution of street children by activities

Activities	No. of respondents	Percent
Begging and loitering	135	21.3
Ferrying luggage /working	38	6.0
selling edibles	81	12.8
Collecting and selling waste papers/ bottles/ plastics	293	46.2
Car parking /washing guarding	61	9.6
Others (bring parents to beg /do nothing	26	4.1
Total	634	100

Table 4.7 reveals that the major activity engaged in by the street children is collecting and selling waste papers. This suggests that most of the street children can be viewed as self-employed and hence

working children. Indeed, almost a half (46 percent) of the 634 cases responding engaged in this activity. The fact that no initial capital is needed to start this 'business' explains why the majority of them are engaged in it.

Data on Table 4.7 also suggest that about 21 percent of the valid cases relied on outside assistance for or a living. This is the category of those who said that begging was their major engagement. It seems therefore that the he streets. Thus the majority of these children can be considered as children engaged in petty business within the framework of the informal sector.

As suggested by the major activities engaged in, the majority of the street children confirmed that such activities generated some income. Indeed, 94 percent of the sample declared that they were involved in money-generating work. It can therefore be concluded that most of the street children are concerned about making a living. This finding illustrates the survival needs of these children.

The study further attempted to measure the income of the street children per month. Their income was found to range from KSh.10 to KSh.3, 000 per month. Mean income was KSh.493 while modal income was KSh.300 per month. These figures suggest that the street children live far below the poverty line. This also reflects the activities they do on the streets. With an income of slightly less than KSh.20 per day, it is very difficult to meet even the basic needs in urban areas. The fact that their income is not regular also tends to exacerbate their socio-economic problems. This may explain why some of them at times engage in petty thefts and other deviant acts in an attempt to make ends meet. Others assume the role of street beggars and scavengers.

4.4.5 Expenditure patterns

As would be expected of poor people, a substantial part of their income was spent on basic needs such as food and clothing. Expenditure on these two basic needs accounted for 74 percent of their income. Food alone accounted for 64 percent of the total income. This finding suggests that most of the time the majority of the street children are engaged in work whose ultimate goal is to meet the basic need of food. This also supports reasons given for leaving home.

Table 4.8 Utilization of income

	No.	percent
Food	389	64.2
Clothing	60	9.9
Shared with family	93	15.3
Personal enjoyment smoking/drinking/cinema	14	2.3
All the above	5	0.8
Other uses	30	4.7
N/A	28	4.4
No answer	15	0.3
Total	634	101.9

It also emerged that the income of some street children was being shared with the family members. About 15 percent of the sample confirmed this phenomenon. Such an involvement further worsened the plight of the street children. In al, there was very little income that was left with the children for their personal use (2.3 percent)

4.4.6 Perception of street life

A casual observation suggests, the majority of the children described street life as hard, taxing and/or challenging. About 66 percent of the sample shared this view. Interestingly, almost one-third of the sample (28 percent) described street life as easy and/or interesting. This suggests that not all children hated street life. Those who found it to be easy and interesting may be reluctant to abandon it even when better alternatives are provided. This may explain why a good number of these children have been in the street more than 4 years (16 percent).

Among the 412 cases that described street life as hard (66 percent of the sample), 28 percent stated that street life was hard due to the tiresome activities one had to engage in for survival. Another 24 percent explained hardship in terms of lack of food and/or shelter while police and other authorities were also cited as sources of hardships (15 percent). At the same time, city conveniences were cited as a major factor that made life easy in the streets. Probably, the various ways of getting money

contributed to making life easy for some street children. Such conveniences were cited by 48 percent of those who described life as easy.

Existence of good friends was also a key factor that explained easy street life. This was cited by 18 percent of the sample as a factor that made life easy in the streets. Other minor factors cited to explain easy street life included the availability of varying daily occupations that generated money (20 percent) and freedom from parents (13 percent). This probably confirms the observation that the phenomenon of street children is both an economic as well as a social problem.

4.4.7 Children's views on others' perceptions

Street children seemed to be well informed of the various labels that are given to them by other people. Such labels suggest how the 'others' perceive the street children.

The most popular label given to street children was chokora, which was cited by 45 percent of the sample. Chokora is a Kiswahili word meaning 'clearing out a hole or working at a hard substance with a pointed instrument.' The label therefore tries to summarize the nature of activities in which the street children are engaged to sustain their survival. They use their fingers as pointed instruments to clear out dustbins and composite heaps in search of food.

Other labels that were reported used to describe street children included parking/street children, prostitute, mtoto malaya, dustbin kid or pickpocket/thief. All these labels suggest that other people look down upon street children. Indeed, most people view street children as social misfits or as social deviants or juvenile delinquents. Such perception could make street children change their normal behaviour in order to match it with the labels used to describe them, since labels have been known to influence peoples' behaviour. When asked to reveal how they felt when described using the aforementioned labels, three distinct categories of feelings emerged. The majority of the children (62 percent) reported that they felt bad and offended when such labels were used to describe them. Others (9 percent) reasoned that they did not mind since the public was justified in using such labels. Finally, about 14 percent of the cases stated that they were not bothered and displayed a don't care attitude.

4.4.8 Street children's self-description

When the street children were requested to describe a parking/street boy/girl, most of them attempted to do so by giving the activities in which such boys/girls are engaged. About 18 percent reported that those who collected waste paper in the street were the street children. Another 15 percent described

them as those who dwell /sleep on the street. Those who assist motorists in parking cars were cited by 6 percent while 9 percent described them as those who eat from the dustbins and/or garbage.

Further, the study asked the respondents to say what they considered themselves to be. It was interesting to note that 21 percent considered themselves to be chokora. This shows that they had internalised the label that the public had already assigned them. Another 13 percent reported that they considered themselves to be street/parking children, while 15 percent considered themselves to be like any ordinary children of their age. This suggests that not all children on the streets had internalised the labels.

4.4.9 Coping with street life

To be able to stay on the street, the respondents reported to behave and/respond in different ways. The majority (41 percent) of the cases reported that they were able to stay on the street due to their dedication to their activities on the streets. Others (17 percent) reported to have managed to stay in the street due to lack of an alternative. Patience and toughness was another aspect that was cited by 28 percent of the cases. What all this implies is that street life is not easy.

4.4.10 Food availability and source

Food is one of the basic needs of man. Lack of food is associated with many other problems such as malnutrition, poor health and sometimes death. The way food is secured and its adequacy or inadequacy is a good indicator of the level of living that has been attained.

Unlike what casual observation would suggest, the majority of the street children reported to be purchasing food from kiosks and restaurants (69 percent). Only a small proportion (22 percent) relied on left-overs that they collected from dustbins. Food donations from well-wishers were cited by another 8 percent.

As has been earlier indicated, the street children are no better than the urban poor. With an average of less than KSh.493 per month, they are not able to 'buy adequate, nutritious food. This suggests that the problem of being under-fed and malnourished could be widespread among this group of children. This condition could be observed in their physical appearance.

Getting food was described as a difficult task by the majority of the sample; 370 of the cases (59 percent) reported that getting food was difficult. Reasons given to explain this view include

inadequate income, proximity of source of food, difficulty of getting food itself and existence of too many recipients.

Further analysis of food-related behaviour confirmed the observation that the street children have difficulties in obtaining food. When asked to give the number of times they eat per day, a large number of them (43 percent) reported that they ate any time that food was available. This normally happens when the source of food is irregular. About 25 percent and 7 percent reported eating twice and once in a day respectively. Only 25 percent confirmed that they were eating three times in a day. In summary, about 75 percent of the street children were being under-fed since they were eating less than three times in a day. The nutritional status of these children may demand attention.

The study further looked at the type of food these children usually ate. The most popular types included ugali, bread, chips, fruits, maize and beans, among others. Accordingly, the food reported lacked adequate protein nutrients. Coupled with the obvious irregular eating habits of these children, this suggests that most of these children could be suffering from nutritional-deficient diseases.

Food was also reported to be shared with friends by 80 percent of the children. Most of these children were living and moving in groups (70 percent). Only 30 percent of the children reported living alone. The frustrating and challenging life of the street demanded assistance from each other. The fact that sources of money and food were irregular suggests that friends could be of great use, especially, in times of scarcity. Hence, tough street life unified the street children. It seems life was probably easier when living in groups.

4.4.11 Groups dynamics and networks

As noted above, most respondents (70 percent) accepted that they were living in groups. Therefore, an attempt was made to establish the sizes of such groups. The sizes of such groups ranged from 2 to 40 people. Average size of the groups was 6 people, while the most frequent size of the groups was 3. Over 78 percent of the sample had 5 members or less. This suggests that most of the groups were small and cohesive.

It was further discovered that such groups were known by specific names. In all, the study was able to identify 18 different groups within the 5 towns. The most popular groups identified include Yuma Mifupa (named by 39 children), Urafiki Stars (named by 21 children), Wazalendo (named by 6 children), Survivors (named by 8 children) and Young Muslims (named by 8 children). What can be inferred from the names of these groups is that most of the groups are reactive groups. Possibly, the major goal of most of these groups is to unite the members so that they can help one another in their

struggle to make ends meet. Other names suggest that these groups are 'tough' in pursuing whatever goal(s) they have. However, although 70 percent accepted that they were, members of various groups, some could not specify their groups. Only 122 cases (28 percent) of the sample could specify their groups. Perhaps, some were afraid of revealing their group to strangers.

Another finding related to the groups identified was that most of such groups were dominated by friends and relatives. About 81 percent of members of such groups were said to be friends, while a small proportion (13 percent) constituted relatives. Therefore group members tended to know one another personally. Such small groups, which consist of friends and relatives, can be very effective in achieving their goals. Besides, the hostile environment on the streets demands such arrangements.

Unlike formal groups, which must have a leader, it was surprising to learn that the majority of the groups did not have a leader. Only 35 percent of such groups were reported to have leaders. However, street children may have deliberately refused to specify their leaders for fear of being victimised. It is worth noting that the children seemed to operate in an extremely orderly manner, suggesting the existence of an informal type of leadership.

4.4.12 A future on the street

The majority of the children would not wish to continue with street life if given an alternative; 77 percent reported that they would not wish to continue with street life, while only 23 percent wished to continue with street life. The number, although small, poses implications for rehabilitation programmes. Various reasons were given to justify why the majority of them would wish to discontinue with street life. They included the fact that street life is bad/tiring, desire for better life, desire to go to school and to enjoy other conveniences elsewhere.

4.4.13 Problems faced on the streets

As would be expected, a range of problems were given by the street children. Table 4.9 presents data depicting the various problems faced by the street children while on the street. The items being presented as the first problems mention by children.

Table 4.9: Problems faced while on the streets

Problems	No. of Respondents	Percent
Lack of sleeping place	84	13
Poor weather condition/boredom	36	6
Harassment and abuse	200	32
Hunger/water	175	28
Poor health	21	03
No problems	88	14
N/A	30	05
Total	634	101

Table 4.9 reveals that the most common problems among the street children include harassment by police or other authorities and hunger. Indeed, more than half of the cases (60%) were reported to be facing the two problems while living on the streets. The problem of harassment may consequently give rise to other psycho-social problems such as aggression, fear of society, suspicion, unruliness and theft. Such problems prevent street children from living peaceful lives. They are probably unsettled most of the time, trying to spot any intruder whose aim is to harass them.

The problem of hunger also has its consequences and implications. Probably to meet the need for food and to prevent hunger these children are forced to engage in deviant acts. This may explain why some of them become juvenile delinquents. Further, the problem of hunger may also be associated with many other problems, for example poor health.

4.4.14 Sleeping places

Two distinct sleeping places were identified by this study, that is, home and the street. Home was more popular as a sleeping place than the street. About 67 percent of 634 cases confirmed that they were sleeping at home while about 27 percent reported to be sleeping on the street. Another 6 percent reported to be using both the home and the street as their sleeping place. It was also found that those children reporting sleeping at home or street did so all the time (80 percent of the cases).

The above finding suggests that most street children (67 percent) operate from home. They probably come to the streets in the morning to engage themselves in income-generating activities such as

collecting and selling waste papers and the like. This may also explain why only 13 percent complained of lack of a sleeping place. However, this should not hide the fact that more than a quarter (27 percent) of the street children, considered, were operating and sleeping on the streets. This category of street children can be considered to be more at risk. Cartons/sacks/papers were cited as the most popular sleeping materials. Other sleeping materials included mats and mattresses. There was also a small group that slept on bare floors. About a quarter (27 percent) of the sample reported to be sleeping on a bed. These were those who reported to be sleeping at home.

Since most of the street children reported sleeping at home (67 percent), it was not surprising that 57 percent of them considered their place of sleep to be safe. Only about 43 percent felt that their place of sleeping was unsafe. What emerges clearly from this finding is that not all those who were sleeping at home considered it to be a safe sleeping place. Indeed, almost half of the sample can be said to have a problem related to their sleeping place. The question regarding safety of sleeping place highlights the problem of shelter.

4.5 Street Children's Health and Personal Habits

The health status of street children has been of major concern to advocates of child rights. Similarly, research highlights the negative behaviour these children acquire while on the streets. Therefore this study made an attempt to look into the health status and personal habits of street children.

4.5.1 Health status

As would be expected of such a vulnerable group, 22 percent of the sample reported having health problems that needed some attention. This percentage could possibly be higher if medical examinations were carried out on these children. Among the health problems that were identified by the children included bronchitis and cough (12 percent), skin infections (14 percent), malaria (7 percent) and abdominal problems (8 percent). Bronchitis/cough and skin infections were the most common diseases reported to be affecting them. There was one case of venereal disease reported. However, as will be shown later, the incidence of venereal diseases among female street children is common.

Period of suffering from the specified health problems ranged from one week to 48 weeks (almost 1 year). However, the majority of them had suffered from such problems for an average period of 8 weeks. This suggests that such problems/diseases could have reached their chronic stage.

Of the 137 cases, which confirmed facing a health problem, only 40 percent of them had sought treatment. The remaining (60 percent) had not done so. This implies that most of those who had a health problem suffered for long periods without seeking any treatment. This is an indicator that street children, given their status in our society, are poor utilisers of the present health care services available.

For the few cases that had sought medical care, most of them (38 percent) had attended government hospitals while 8 percent had gone to private hospitals and clinics (mainly run by NGOs). A small proportion (3 percent) reported to have bought drugs for their own use. However, a large proportion (47 percent) did not give an answer explaining where they went to seek medical care.

To complete health assessment of these children, the study attempted to determine whether these children were aware of AIDS and what they knew about it. It was found that 78 percent were aware of the disease and most of them knew the conventional modes of transmission

4.5.2 Providers of assistance when sick

The most common sources of assistance when sick were oneself (37 percent), parents (27 percent) and friends/group members (22 percent). Well-wishers and siblings were not very popular. What emerges clearly is that though a large number of street children were sleeping at their homes, only a few parents seem to provide them with assistance when sick. This reveals the type of relationships or interactions these children have with their parents. It may also reflect the pre-occupation of the parents with the demands of survival (meeting basic needs).

4.5.3 Habits on the streets

Investigation into personal habits revealed that 28 percent of the children knew a street child who was taking alcohol, 36 percent knew those who sniff glue, 31 percent knew those who sniff petrol, 23 percent knew those who smoke bhang, 55 percent knew those who smoke cigarettes and 20 percent knew those who were stealing.

Further investigation as to whether the children themselves participated in what they reported others doing, 41 percent answered in the affirmative. Thus 32 percent of these children reported sniffing glue, 9 percent taking alcohol, 5 percent sniffing petrol, 2 percent taking bhang, 50 percent smoking cigarettes and 2 percent stealing.

It is evident from the findings that street children indulge in risk-taking behaviours. Thus a large number of them admitted smoking cigarettes and bhang. These reported activities may further jeopardise the health of street children as well as compromising their future lives.

4.6. Aspirations of Street Children

For the purpose of this study an attempt was made to ascertain what these children would like to do in life, especially taking into consideration the assumption that any human being lives for something. Therefore the children were asked to state what they would like to do in life. The results are presented in Table 4.10.

Table 4.10. Activities/Occupations that street children would like to engage in

Activities/occupation	No of Respondents	Percent
Business	75	12
Go back to school	181	29
Join police force/army	23	4
Become a doctor/nurse	11	2
Become a carpenter/ tailor/ plumber	57	9
Be employed/get job	66	10
Become a driver/sailor /pilot	76	12
Become a mechanic	54	8
Become a teacher	56	9
N/A	35	6
Total	634	101

Table 4.10 reveals that almost a quarter of the children in the study expressed their wish to go back to school if given a chance. The majority of children in this category consisted of those who had dropped out of school voluntarily but later realised the value of schooling. This finding suggests that almost every street child interviewed wished to change the mode of life he/she was leading. The findings further suggest that most street children are eager to abandon street life. Just like other Kenyans, street

children tend to hold similar aspirations. The above data support the view that peoples' aspirations are dictated by their education and background.

From their own point of view, street children cited several ways in which they could be helped. It was interesting to note that 52 percent of the children wanted to be assisted to go back to school. Only 13 percent expressed the wish to be given jobs or loans for business. Accordingly, schooling emerged as the dominant wish of the children. The wish is consistent with the predominant age of these children. They are basically school-age children, and therefore their wish is quite realistic.

The modern traditional approach of putting such children in institutions, which is often advocated by many authorities, was not favoured by the street children. Only 9 percent thought that such a move would help them. This probably explains why most of them run away from such institutions which are meant to mould them into good citizens.

In summary, taking the street children back to school seemed to be the most appealing way of helping them. As such, organising these children to join both formal and informal schools and assisting them with skill development could be the most practical way of responding to their felt needs.

4.6.1 Future aspirations

As would be expected, after staying in the street for a while, the majority of the children (57 percent) were quite pessimistic about leading a bright life in the future. Only about 10 percent could foresee a bright future in their lives. Others (22 percent) reported to have no knowledge about their future. The implication of this is that most of these children have despaired. This has implications for their stated aspirations and rehabilitation.

4.6.2 Rehabilitation attempts

The study also attempted to establish whether the street children had ever been to any of the rehabilitation programmes that exist in Kenya. Such programmes include remand homes, approved schools and Undugu Society of Kenya, among others.

The findings show that 105 children have been to a rehabilitation programme. Most of these children have been to a remand home (67 percent of 105). Only 9 percent and 15 percent had been to Undugu Society and to approved schools, respectively. It can be concluded that a large number of street children not been to any programme (524 respondents) and this seems to confirm their feeling of despair.

5.0 THE PARENTS OF STREET CHILDREN

The study attempted to look into the background of street children as well as to assess the views of their parents regarding the causes and solutions regarding the street children phenomenon in Kenya.

A total number of 60 children were selected for this purpose. The selection was purposefully done since not many children wanted to involve their parents in the study. At the time of interview, only 32 street children (20 in Nairobi; 7 in Narok and 5 in Kitui) agreed that their parents should participate in the study. Subsequently, parents or guardians of 25 male and 7 female children were interviewed.

Although the study had intended to conduct focus group discussions with the parents, this was not possible because language caused a major problem. Also, individual problems and the level of articulation of most parents were at variance. This, therefore, called for in-depth interviews. Consequently, 32 cases were followed and interviewed in their homes.

5.1 Place of Residence

A visit to where street children live revealed that the majority of the children and their parents stayed in slum communities (all cases in Nairobi and Narok and 3 cases in Kitui). Almost all of them were living in one-roomed houses (made of mud, tins and paper. The commonest dwelling was made of a tin or polythene paper roof with mud walls and floor. These dwellings had no water, electricity or toilets, causing residents to use public utilities. The inside of these dwellings reveals stark poverty: hardly any furniture, tattered bedding, a small bed, few cooking utensils, a tinned lamp and a stool. It was apparent that the majority of the family members were sleeping on the floor. Due to large family sizes (average of 6 children), the rooms could not comfortably contain family members which meant overcrowding. Most of these dwellings appear extremely temporary and vulnerable to torrential rains and fire. Only 2 parents (both females) owned the houses they were living in. The chiefs in the areas saw their plight and allowed them to put up temporary dwellings. The rest of the families were paying for their dwellings. Rents ranged between KSh.200 and KSh.300 per month.

The rooms were used for sleeping, cooking as well as living. They appeared poorly ventilated and extremely filthy. In fact the street children who appeared unkempt while on the streets, looked very clean while inside these rooms. Even their parents failed to notice the filth, and during all these visits only 2 parents complained of the appearance of their children. The streets appeared cleaner than most of the dwellings where these children came from.

5.2 Environmental Conditions

The physical environment where these children live also left a lot to be desired. Open sewage systems, stench from mountains of garbage, litter scattered everywhere, human faeces, narrow and dusty or muddy roads and paths were common features in the residential places of the majority of street children. Smell of local brew (chang'aa) and disorderly, drunk adults and young persons were the order of the day in most of these communities. The communities appeared to be the dens of chang'aa - brewing. In Narok, 5 parents were interviewed while under the influence of alcohol and 2 families were found selling alcohol. In Nairobi, 5 parents were tipsy at the time of the interview while 4 were nursing the effects of alcohol. Three families were in the process of selling alcohol at the time of the visit. The environment hardly showed any open space, as most of the time adult and children alike roamed aimlessly, with the drunkards yelling abusive and obscene words indiscriminately. Hawkers selling foods of all kinds, clothes, utensils and stationery also found themselves in the scenario. The children and their parents interviewed simply described their environment as insecure and hostile. A visit to these communities confirms this. The insecurity is further exacerbated by the fact that street lights rarely exist in these areas.

The public utilities reflect the state of the environment. The toilets (latrines) are overflowing with faeces and reveal poor maintenance and utilisation. Public bathing places hardly exist and residents reported having baths at night. Although water is available, it is not accessible to all since it has to be bought by the residents. Though charges appear little (20-50 cents a tin), most residents, given their low socio-economic status, could not afford it.

5.3 Family Composition

Although most children reported having both parents alive and in fact living together, a visit to their homes revealed that only 2 children had fathers living with their mothers. One child was being taken care of by his maternal grandparents, since his mother had just died of AIDS (he had 2 brothers also on the streets). Twenty-seven (27) children had their mothers only. Two children were orphans.

One, a mother who had been on the streets had daughters who had been on the streets and were now themselves mothers. One "had 2 children and had her first child when she was 12 years old. The other had one child and had the child when she was 11 years old.

The family size ranged between 3-10 children, giving an average of 6 children. These families are considered large in relationship to room sizes and the issue of single parenthood. Most families reported having some contacts with their original homes whenever possible. The findings indicate that a large proportion of these parents are Kikuyu (23 of the 32 parents), most of whom have their

original homes in Murang'a (19 of the 32 parents). A large number of these parents are of Christian faith (29 parents), with Catholicism being over-represented (24 parents belonged to the Catholic religion).

Only 3 parents were married at the time of the study (one of the three had just lost a husband and a brother-in-law had inherited her). Twenty-nine (29) parents had never been married or were separated. The age range of the parents was between 22 and 55 years as shown in Table 5.1. Most parents fall within the range of 22-37 years. The 55-year-old cases (3) were grandparents staying with the children. In one case, the daughter who was the mother of 4 children (illegitimate and 3 were in the street) had died of AIDS. Another had a daughter who disappeared, leaving behind 2 female children, both of whom were on the street, while the other was a grandmother with 9 grown-up children. Most of these children had been on the street. While the sons were hawking and selling charcoal and chang'aa (mother's report), her two daughters had children who were now parking boy/girl. Both were not married. One of the daughters had already had 2 grandchildren.

Table 5.1 Ages of parents

Years	No.
22-29	12
30-37	9
38-45	7
46+	4

All of the parents except two were urban dwellers who either migrated to towns many years ago or were born and brought up in the towns. As such, over 90 percent could be considered to be permanent urban dwellers and had no intention of going back to their rural homes. None of the 30 parents (2 men; 28 women) reported to have any property (land) in their rural communities.

5.4 Schooling and Occupation

The education of the children was not different from that of the parents, and the majority of the parents had dropped out of school. This explains why a large number of the children reported not

being helped with their homework. Only one mother had not gone to school at all. Their lives were characterised by early marriages, that is those getting married and later separating reported doing so when 16 years old. The former street children who were now parents started having babies at an early age ranging between 11 and 14 years, a situation that made the majority of the mothers leave school between Std 3-4. This explains the unskilled nature of the majority of these parents.

The majority of these parents ended up doing manual jobs (all the female and two male respondents). The most common occupation was hawking, mainly of foodstuffs, working in bars as bar-maids and selling illegal alcohol. A large number of female respondents revealed brewing and selling chang'aa (19 cases), while others reported abandoning the trade because of police harassment. Two mothers were working as domestic workers while 3 were cleaners with the local authorities.

The incomes were very low and irregular. While those selling liquor reported earning KSh.1, 000-6,000 a month, they also reported equally using the same in paying fines and buying their way out of trouble. They also admitted that such incomes were very irregular. Thus, the majority of the parents reported getting monthly incomes between KSh.350-600 per month from their small business activities. The low earnings were reflected in the type of life the majority of these parents were living and the skills they had developed. A significant proportion of these parents, especially those who have been on the street, continued to beg and scavenge in the town markets (collecting thrown away vegetables and fruits). Four mothers reported indulging themselves in commercial sex to earn a living.

A significant number of women in Nairobi (7 mothers) reported going to work in neighbouring farms as casual workers to subsidise their low incomes, especially during week-ends. They also use empty spaces in the city to grow food crops such as beans, vegetables, roots and maize.

Because of the illegal economic activities such as brewing chang'aa and hawking without licence or in wrong places, a large number of these mothers reported having been to prison (15 respondents). Equally, their older children have also been to prison. Almost 90 percent of the children have been arrested, re-arrested and taken to remand homes.

5.5 Utilization of Community Resources and Networks

An attempt was made to find out whether the parents belonged to any form of groups, since 'women groups' is a popular movement in Kenya. All those interviewed reported not belonging to any group at the time of the interview. The popular reason for not doing so was lack of money to pay membership

in groups. Three women had joined some groups in Nairobi but had to leave, allegedly because the group funds had been misappropriated.

Although there are development and welfare programmes in the communities in which these parents lived, they seemed not to be aware of these programmes. When asked to name any organisation they knew handling adult's or children's problems, very few knew of any programmes. Only mothers whose children had been to Undugu Society of Kenya (8 mothers) knew of this programme, and 3 mothers had been to an Undugu group programme but later dropped out. A few mothers had been to family planning clinics and practised it for a year (6 mothers). A significant number reported problems of bus fare to the clinics and membership fee (11 mothers). A large number left their human reproduction to fate, a fact that explains why some of these mothers were still having babies after age 40.

The social network support was reported by these parents to be strong among themselves, mainly to provide assistance during arrests or deaths. However, by and large these parents seem to be removed from their rural kin because of transport problems. Thus they hardly visit their rural homes. Given their deprived economic status, they do not remit their earnings to rural areas and consequently they seldom receive visitors from home.

5.6 Parents' Perceptions of Children

All parents except two saw their children as being difficult. All of the children were reported stealing, telling lies, taking drugs (gum) and the girls were reported to have indulged themselves in what parents called 'bad behaviour', that is sexual overtures.

A common cry from the parents was, 'Before he/she used to take things from others...we had the complaints from people...but now he/she takes from me.' Others would only observe, 'he/she has become a mnyama [an animal] - not human any more.' The popular description was 'he/she is tough-headed and does not listen.' Where there was more than one child concerned, parents would say, shetani ameingingilia nyumba 'the devil has entered my house'.

In Narok, the parents blamed peer influence, and the researchers were confronted with a group of 10 women begging to be interviewed since their children were listening more to the peers than themselves. Consequently the children had abandoned school and taken to street life. All of them requested the government to take the children to approved schools or anywhere for discipline.

5.7 Interactions between Parents and Children

From simple observation the relationships between the children and the parents were indeed poor as reflected above, and a large number of children prefer their grandparents.

To begin with, the study attempted to find out whether parents get support from these children (as previous research has indicated). There was only one instance where one child gave his sister KSh.10 to give to his grandmother to assist them.

Most of the children were thrilled to reach their communities and happily responded to their siblings, but they were not happy to enter their houses. Two wept as we entered their houses (both female). The male children displayed a don't care attitude, while the girls defied their mothers' questions regarding where they had been. The strained relationship between the children and the parents was demonstrated by the way these children responded to their parents. Some children went ahead and changed their clothes and went back to the research vehicle, while others, having nothing to change into, just stood looking down until the researchers released them in order to allow for the parent interview.

Only three mothers expressed concern about why their children run away. The rest appeared to have despaired and given up. Everywhere the researchers went, the children were very reluctant to remain at home, a situation that led them to be dropped back to the streets. Only 2 parents in Kitui went back with their children. The girls in particular showed great disrespect to their mothers. A large number of the boys opted to take the researchers to their grandmothers. It was the grandmothers who directed the researchers to the mothers of the children.

As the researchers were travelling to the homes, the children accompanying them made derogatory statements about their parents and displayed total lack of discipline. They reported being beaten severely as reflected in the scars most children had on their faces and heads, claimed by the children to be inflicted by parents. The parents also confirmed the punishments inflicted (often physical) to curb behaviour but with no change. A common statement from some parents was nimetwanga huyu mtoto mpaka nimechoka, hasikii, 'I have beaten this child so much, but he doesn't listen'.

In a family where there were several street children, the beatings were fewer, but the parents tended to abuse alcohol or brew and trade in alcohol (8 families).

It was interesting to note that as children grew older, parents seldom knew where they were as illustrated by these cases:

Ms X, 55 years with 10 children, 6 grandchildren and 2 great grandchildren, during the discussions;

'Two of my sons are thugs and one goes to jail everyday (jailbird). One of my girls disappeared after leaving 4 children with me. I have no idea where she is. The other 2 girls left home three years ago and they have never contacted us'.

Another, Ms Y, 49 years old, said: I left my husband and he went back to Tanzania. I stayed with 3 children, two of whom are now criminals and he went with 2. Later I decided to have one child. One of my sons went to stay with my parents. I was told that he left the place, but he has not contacted me. I had thought that I had got rid of difficult children. But this little one seems to have followed the others' (13-year-old boy now under Undugu programme).

Ms W, 51 years old and has lived in Nairobi since 1969. She has 11 children with 5 grandchildren:

'I came to Nairobi after a bad marriage. At that time I had 3 children. Since then God brought 8 more. Most of them are girls; 9 of them are now big people; 7 are scattered in Kenya. I hear one of my daughters is in Mombasa. Two I hear are in Makuru. The rest I have no idea. My own remaining 2 children, one is a hawker and the other brews liquor. It is the grandchildren who are now creating problems. Three of my daughters had joined Father Grol's programmes but did not finish.

Ms M, 22 years old with 3 children: "Madhe" is somewhere. She brought us kids from Nyahururu. We are six. It is hard to know where the others are. Two of us were in Father Grol's programme but as we were young we left. My brothers also were at Undugu. They too did not complete what they were doing. I have no idea where they are. Life has always been difficult. To be honest we do not know our father and my children are the same. Will the Government think of us and help us from this situation?'

5.8 Assistance for their Children

The majority of the parents interviewed were concerned about their children refusing to attend school and did not mind their children being with their friends on weekends. Parents, however, recognised the fact that the streets were bad places for children, especially for the female children, and requested assistance from the government. Most of them preferred approved schools to street life. However, if the children had to be on the streets, they preferred them to come home at least once a week to greet their parents. That way, the parents were able to check on their health and welfare.

The children, on the other hand, requested that they be taken to boarding schools by the Government or any well-wisher. Thus, such statements were given, 'the government can help us and take us to a boarding school. We need some Good Samaritan to build a boarding school for us. It is very hard for

us to learn when coming from home. Failing that, the government should build us our own school, and a place like Kariuwa to live in'.

The children lamented lack of playing places and above all of adequate shelter where they could sleep. The big boys in particular expressed concern sharing small sleeping places with their mothers. While on the street they have no problem of overcrowding; as some put it: 'When here we can breathe some fresh air and what we lack are blankets. Imagine sharing such a small room with your mother; it will be better if we have a sleeping place of our own'.

Discussions regarding what parents thought should be done to arrest the problem they were facing with their children did not yield much. The majority of the parents abdicated their responsibility to the government, and the following expressions were very common: 'Many people have come to talk to us about these things. Me tell them the state of our poverty, hoping that something will be done. So far nothing has happened. We would appeal to the government to help us. The government should step in and do something' (summary of many statements regarding what should be done).

When further questions were posed to parents as to why they felt they themselves could not solve the problem, most parents felt that the children had gone beyond their capabilities, while others observed that in their state of poverty they have very little to offer these children. This statement illustrates the point: 'Children will only respect you if you can feed them, clothe them and have something to show them...a woman in my situation has nothing to show these children and the government should help me, come to my aid.

The above statement was very true when one observed the interaction between these children and their parents. While one can observe that age perhaps might have aggravated the relations (most of the children were adolescents), it was apparent that most children did not find the parents useful in meeting their basic needs and hence their hostile response to their parents.

The majority of the children expressed the wish to go back to school but not in their home communities. It was obvious that most of the children wanted a change from these places.

5.9 Home Visits

After the interviews, the majority of the children wanted to return to the streets. Their wish, especially in Nairobi, was also supported by the researchers who felt that since the children belonged to groups while on the streets, it would be a betrayal of trust and hence damage the good working relationship the researchers had developed with these children if they were not returned to where they came from.

While on the streets, the children sleep in groups along what is known as 'corridors'. In the 'corridors' the children have constructed paper dwellings resembling Maasai huts. In most cases 5-10 children sleep in these huts. In the same 'corridors' there are adults who also live on the streets. These street adults are supposedly former street children who have nowhere else to go. Hence, they also make dwellings on streets in Nairobi. Almost all street adults have paired with female street children. At the time of the study, the two groups had paired and were calling themselves 'husbands' and 'wives'. The researchers visited the homes of 6 such girls of age range 8-11 years in Nairobi.

While the male children at least have some residential programmes to go to and desperate cases could be taken the female street children have nothing. It was most depressing to see female children being taken back to the streets for adults to sexually exploit them.

The study took the researchers to a den of former and present street children known as Kariuwa Village in Nairobi. Almost everybody in this community had been on the street and few had been squatter settlers in the city of Nairobi. The population is composed of young adults, the majority of whom are single, adolescents and children.

The dwellings in this village are made of paper, and many single-parent families share accommodation. It is not uncommon to find young girls between 14-27 years already having 2-3 children sharing a room. Equally, one gets young girls of 10-13 years also sharing accommodation. In other situations children from 3-7 years both girls and boys and adolescent boys sleep in one room. The village is not only a den of street children, but it is also a place for peddling drugs, alcohol, stolen goods and the like. This village is actually on a murrain road between two residential areas surrounded by dilapidated concrete walls; it was not surprising when some adults and children lost their lives in the March rains. The adults in this street village are unemployed and reportedly get their daily bread from begging and scavenging. The street children living here are from slum communities in Nairobi and go to beg at night in the streets. The majority of the young girls, both those already mothers and those not yet mothers, seem to be involved in commercial sex. It was most sad to see children and babies left on their own without any supervision among rowdy crowds of young boys appearing to be under the influence of drugs.

What came out very clearly is that a large number of female and possibly male street children get sexually abused by adults who live on the streets; this is supported by the fact that 2 girls at the time of interview had venereal diseases. The children live under deplorable conditions on these streets and are exposed to all forms of exploitation. Almost all children interviewed and visited reported sniffing cow gum (glue) in order to sleep.

The children appeared very unkempt. They faced water and food problems. Older children harass and abuse the younger children. Although some children take refuge at Kariuwa Village, the village is not a place for children and in fact exposes its residents, children included, to danger of loss of life.

5.10 Programmes for Children on the Street

The study was able to identify one major programme catering for children who live on the street. The programme is spearheaded by Father Grol in conjunction with the Undugu Society of Kenya and mainly operates in Nairobi. Here the Undugu and Fr. Grol's team meets with street children on Monday evenings (night). The team makes attempts to know the children and win their confidence with the hope of directing them to the many Undugu programmes in the city. During this time, the needs, especially the health needs, of these children are ascertained. The process takes time and may take up to 2 years, according to Fr. Grol.

On Wednesdays children with health problems are always taken to the hospital under the assistance of Fr. Grol. Further investigations revealed that the children are often taken to Sisters of Mercy Dispensary based in Eastlands. The Dispensary offers free treatment to these children. The majority of the children treated at this dispensary, according to the sister-in-charge, are female children of various ages. According to Sr. Francis Cassidi, the age range of the children attending treatment is between 11-15 years and between March 1990 and March 1991, 60 such children were treated with venereal diseases, and many children reported with skin diseases.

A visit to this dispensary by one of the researchers revealed that the figures were extremely conservative. This was so because the dispensary had not been keeping records of these children at that time. An interview with a clinical assistant who actually attends to these children indicated that an average of 5-10 children are often taken to the dispensary by Fr. Grol every Wednesday unless he is outside the country. Most of these children are female children of age 8-15 years and often present with venereal diseases, namely gonorrhoea and syphilis, in that order.

The main problem faced by the dispensary team is follow-up regarding treatment. It is indeed difficult to ascertain whether these children complete the provisional dosage. To overcome this, sometimes a high dose of antibiotics is prescribed at once. The follow-up is made difficult by the fact that the children are always taken back to the streets. In the absence of records, it was equally difficult to determine re-infections. The children, being aware that they are not expected to indulge in early sexual activities, often do not report to the dispensary staff that they have VD. The staff often simply check them or depend on Fr Grol's driver, who seems to be extremely free with these children and

whom the children confide in. In summary, the impact these efforts have on the health of street children, especially the girls, is unknown.

Male children who wish to join Undugu programmes often do so. They can join Undugu Informal School in Eastleigh where there are residential facilities for approximately 60 boys if their home conditions are found to be unfit. There is also a community-based residential programme, which caters for about 20 children in Eastleigh. There are other programmes being run by Undugu and other organisations as well.

What comes out clearly in discussions with those involved in Undugu programmes is that the demand is higher than supply. A large number of street children are now involved in scrap selling, a situation which has brought in a new dimension of child labour. Some of the male children in this category go to attend open programmes like that run by the Catholic sisters at St. Theresa's Church, Eastleigh. The children here mainly do sports and learn music. It is worth noting that female children are the most disadvantaged group regarding programmes. The study failed to identify any residential programme for needy cases, those without parents or guardians and those coming from totally disorganised homes. Therefore, most girls end up being left in the streets.

5.11 Summary of the Findings

What emerges from Sections 4 and 5 can be summarised as follows:

1. The majority of street children fall within the age range of 6-15 years (88 percent), most of whom are male children (91 percent). However, the number of female children tends to be on the increase.
2. Schooling seems to be a major problem of street children. A large number had not only dropped out of school at primary level of education but equally a large number of those who have been to school could not read at all. Most of the reasons children offered for leaving school were beyond their control. The children's level of education was not at variance with those of parents.
3. The problem of street children seems to be widely spread in Kenya, representing almost every ethnic and religious group. However, Central Province and the Catholic faith appear to be well represented in certain situations.
4. Although the street children phenomenon is obviously an urban-slum problem, the majority of the victims trace their origins from rural communities, and Murang'a, Kiambu and Siaya districts are

over-represented. Thus the majority of parents and grandparents of street children migrated from rural Kenya to slum communities in most urban centres in the country.

5. Although a large number of children (77 percent) reported having both parents alive, this seems to be wishful thinking of the majority of these children. The picture that clearly emerges is that single parenthood is a common feature and the majority of street children have their mothers only. Thus the majority of these children are being looked after either by their mothers alone or by their maternal grandparents, mainly grandmothers.

6. The families from which street children come are large, consisting of their mothers and their siblings. These mothers never attended or dropped out of school and have no skills at all. The family incomes are very low as reflected in the occupations these mothers are involved in, namely hawking, brewing chang'aa, working in bars and to some extent prostitution. A large number of parents were considered by children to be unemployed (29 percent of mothers and 7 percent of fathers). The 32 cases corroborated this.

7. The majority of these children take to the streets not only for socio-economic factors pertaining to their families such as the extremely low incomes, poor relationships between them and their parents, overcrowding, but also because of environmental conditions that appeared depriving, demeaning and hostile.

8. Most children were found to have stayed on the streets for long periods (2-3 yrs) and had failed to find better alternatives to street life. While on the streets, the children take care of themselves either by themselves or using their social networks on the streets. This is supported by the fact that these children move in groups.

9. The majority of these children work on the streets ferrying luggage, collecting and selling waste papers and edibles or begging (85 percent), earning an average income of KSh.493 per month. The hard earned incomes are used to buy food and clothing. However, given the low earnings, the basic needs of the majority of these children are not adequately met. The majority of the children find life in the streets extremely hard; main reasons given include the difficult activities children engage in on the streets, lack of food and shelter, police and other authorities harassment, poor weather. The few who found life on the streets to be good did so because of the work opportunity the streets provided them. The majority of these children still face problems of shelter and food while at home.

10. While on the streets, some of these children indulge themselves in taking drugs and drinking alcohol. At home the children were known to be stealing. A large number, especially female children, are sexually exploited by adults who live on the streets, a state that leads to high incidence of VD

among female children on the streets. A large number of children reported health problems ranging from pneumonia to coughs. Although the majority of the children were aware of AIDS and how it is transmitted, this was not reflected in practice and a large number of these children were reported to be suffering from venereal diseases, an indication that sexual contacts were common among the children.

11. Given the difficult nature of the streets, most children would not like to continue with street life. The majority of the children desired a better life and wished for education and training. This was corroborated by the children's aspirations. Most children did not want to go to institutions such as approved schools. Although a large number of these children wanted to be taken back to school, they were quite pessimistic about their future. The attitude held by most parents regarding helping these children was equally pessimistic, and they simply relegated their responsibility to the state and well-wishers.

12. While male children at least have places to go to in case of dire need, this is not the case for female children, and programmes addressing the needs of female children on the streets or those female children in need of care and protection are still to be developed. At present, the tendency is to take them to Kirigiti, the only female approved school.

6.0 PROGRAMMES AND FINANCIAL ANALYSIS

6.1 Introduction

In this section we examine supportive and preventive programmes which exist in the country for street children. The results of the examination are then used to derive projections of budgetary implications for future intervention programmes to curb the problem of street children. The section is based on data derived from interviews with the management staff of the programmes and government officials directly concerned with children's programmes and policies. The interviews, based on a questionnaire, solicited basic and budgetary data on the operation of the programmes. The respondents were also asked to make suggestions for future intervention measures for street children. The section sought basic information on the general backgrounds of programmes presented; how they identify and screen the beneficiaries; the population size and age structure of the beneficiaries; the services provided; the outcome of the programmes regarding graduates; constraints faced.

The budgetary data solicited covered the structure and financing of the expenditures of the programmes. Budgetary information on public programmes was obtained from printed estimates since efforts to obtain actual budgetary data were unsuccessful. Budgetary data on the NGO programmes was not publicly available. The data situation was explained by the registration status of the NGOs as

non-profit making organisations. In this status, they are not required to submit financial returns to either the Registrar of Societies or the Children's Department. The management staff of the programmes, however, provided estimates and recurrent expenditures.

6.2 Programmes

Street children fall in the age bracket of 3-18 years. They are covered by the provisions of the Young Persons Act (Cap.141) and allied legislations. These provide an institutional framework for intervention programmes for needy children, including street children. The framework provides for both public and private (NGO) programmes. Each subset of the programmes includes both supportive and preventive programmes.

6.2.1 Public programmes

Only the Children's Department under the Ministry of Home Affairs and National Heritage (MHANH) runs public supportive and preventive programmes for the benefit of actual and potential street children. Although most of the country's local authorities (municipals and county councils) are approved under the Act to run both types of programmes, none currently runs a supportive programme.

6.2.2 Rehabilitation and training

This is an institutionalised supportive programme for delinquent juveniles and youngsters of ages 6-18 years. Although the programme was not initially set up for street children, their delinquent nature has made them the programme's main beneficiaries. The programme is organised into two types of institutions: Approved schools and juvenile remand homes.

Approved schools are custodial schools for the rehabilitation and training of delinquent juveniles and youngsters. The Department runs 8 such schools in the country, with a capacity of 3,000 children (MHANH, 1990). It is estimated that about 90 percent of the children in these schools are derived from streets via Juvenile Courts and remand homes. It is important to note that all except one of these institutions (Kirigiti) cater for boys. The gender bias in the number of the schools is historical as female delinquent children are recent phenomena. Admission into these institutions depends mainly on the recommendations of Juvenile Courts.

Although the focus of these institutions is rehabilitation, they offer formal primary education alongside vocational training. Some of the graduates of the institutions proceed to normal secondary

schools, while others remain and are prepared for Government Trade Tests for gainful employment on discharge.

Remand homes are short-term holding institutions for delinquent juveniles and young persons in the process of being committed to either responsible persons, foster homes or approved schools. There are 10 such institutions in the country, serving an average of about 1,000 children at any one time. Almost all the children in these homes come from streets. Approval for the (temporary) holding of children in the homes also comes from the Juvenile Courts. The homes are often congested as the processing of children through the courts for release or appropriate placement can take up to more than 3 months.

6.2.3 Maintenance of destitute children

This is a family-based preventive programme in which the state provides minimal support for the maintenance of destitute children (under 18 years old) within their natural family. Each child qualifying for the support receives KSh.60 monthly. Under the programme, a maximum of 5 children per family can be supported at any one time. Put differently, the programme provides for a maximum of only-KSh.300 monthly per family in maintenance support at any one time. The maintenance support, under current inflationary situations, appears too little to have any significant impact on the socio-economic status of the benefiting children and their families. In addition to maintenance support, the programme subsidises school fees of some needy children. About 800 children have irregularly benefited from the programme.

Identification and screening process for potential beneficiaries of the above two public programmes is both long and tedious. Needy cases are identified by the Department's field officers (at the district or sub-district levels) directly or indirectly through reports of parents/guardians, community leaders, local administration and NGOs. After investigations, the field officers send their recommendations to the Department headquarters for further processing and approval. The screening process for public programme potential beneficiaries often involves long time lags, with the implication that the situation of identified needy cases could worsen or the cases be lost. This observation is supported by the views of field officers outside Nairobi that most beneficiaries of the programmes come from Nairobi and its immediate environs.

Figures available on both of the above public programmes indicate that in 1990 the government was catering for about 4,500 poor and needy children. The care involved large sums of money in recurrent and development expenditure. For reasons already given, the analysis is based on expenditure estimates data covering the 1979/80-1990/91 fiscal years (see Table 6.1). From the data, the annual average total expenditures by public programmes was K£ 468,509 of which K£ 1, 413,063 was in

recurrent expenditures and the remainder (K£ 325,446) in development expenditures. Assuming an average of 4,500 beneficiaries, these annual average expenditures translate into K£ 26.3, K£ 254.0 and K£ 72.3 in per capita terms, respectively. These statistics, expectedly, varied among and within programmes.

Over the period, estimated total expenditures for the rehabilitation programme averaged K£ 1,462,600.5 per annum of which K£ 1,137,154.2 were recurrent expenditures and K£ 572,107.8 in development expenditures. Assuming an average of 4,000 children in the rehabilitation programme, the aggregate statistics translate, in per capita terms, into K£ 365.6, K£ 284.3 and K£ 81.3, respectively.

For the approved schools total estimated expenditure averaged about K£ 197,096.4 per annum of which K£ 890,492.7 was in recurrent expenditures and K£ 306,603.7 in development expenditures. Assuming 3,000 children in this rehabilitation sub-programme, the figures translate into K£ 399.0, K£ 296.8 and K£ 102.2, respectively in per capita terms.

For the juvenile remand homes total expenditure estimates for the period averaged K£ 265, 504.2 per annum of which K£ 246, 661.5 was in recurrent expenditures and K£ 18,842.7 was in development expenditures. If we assume an average of 1,000 children in this rehabilitation sub-programme, in per capita terms, the figures become K£ 265.5, K£ 246.7 and K£ 18.8, respectively.

Expenditure estimates data for the maintenance of the destitute children's programme are presented as a sub-vote of the administration vote in the Department's headquarters. Prior to 1983/84 fiscal year the name of the sub-vote was 'Miscellaneous and other charges', while thereafter it took the programme's name. All of the programme's expenditures are recurrent. With 800 beneficiaries, its aggregate and per capita average expenditures were estimated at K£ 5, 000 and K£ 30 annually, respectively.

The above aggregate and per capita average expenditure data for public programmes are summarised in Table 6.1.

Programme overall								
Rehabilitation programme								
Maintenance of Destitute children			Approved Schools			Juvenile Remand Homes		
Year	recurrent	Recurrent exp.	Developme nt est.	Recurrent exp.	Develop est.	Recurrent expe.	Dev estimate	Total
1980	15,000	474,649	165,000	102,893	40	592,542	165,070	757,613
1981	15,000	600,000	100,210	137,224	40	752,574	100,210	852,824
1982	15,000	726,200	110,040	190,000	40	931,200	110,080	1,041,280

1983	15,000	803,000	119,150	189,700	40	1,007,700	119,180	1,126,880
1984	15,000	860,600	275,070	188,400	40	1,064,000	275,110	1,339,110
1985	15,000	725,000	460,060	226,870	40	966,970	460,000	1,427,070
1986	15,000	907,390	475,080	233,950	25,040	1,156,340	500,120	1,656,460
1987	15,000	838,050	573,000	248,150	-	1,201,200	573,000	1,774,200
1988	15,000	1,014,868	150,000	278,450	-	1,308,318	150,000	1,458,318
1989	15,000	1,358,125	500,000	396,933	-	1,770,058	500,000	2,270,058
1990	15,000	1,387,088	445,000	520,000	182,000	1,922,788	627,000	2,549,788
Total	117,600	9,795,420	3,372,640	2,713,276	207,270	12,573,690	3,573,910	16,153,600

Source: Government of Kenya, 1979/80 - 1990/91, 1989/81 - 1990/91

Table 6.2 Averages of aggregate and per Capita Public Expenditure Estimates for street children programmes (Kshs)

Programmes	recurrent Average	Estimate per Capita	Developmen t Average	Estimate per Capita	Total Estimates	
					Average	Per Capita
Rehabilitation	1,137,154.2	284.3	572,107.8	81.3	1,462,600.5	365.6
Approved schools	890,492.7	296.8	306,603.7	102.2	1,197,096.4	399.0
Juvenile remand homes	246,661.5	246.7	18,842.7	18.8	265,504.2	265.5
Maintenance of destitute children	15,000	30	-	-	15,000	30

6.2.4 Private programmes

There are over 110 NGOs running supportive and/or preventive programmes for over 100,000 actual and potential street children through provision of fostering, rehabilitation and training services. The supportive programmes are institution-based while preventive ones are family (community)- based.

6.2.5 Supportive programmes

There are only three NGOs running supportive programmes for street children. They include the Undugu Society of Kenya, Salvation Army and Nyalenda Catholic Church.

6.2.6 Undugu Society of Kenya

In its present form, Undugu consists of supportive and preventive sub-programmes with a capacity for 1,000 children. There are 137 staff in the programme, among them 20 KIA/university trained social

workers. These are spread out over 8 locations. They work in 5 different areas, 4 of which are in Nairobi, namely in Kibera, Pumwani, Mathare/Eastleigh and Kariobangi. The fifth area is located outside Nairobi in Katangi. The supportive sub-programme, focusing on rehabilitation and training of street children, is both institution- and community-based. About 50 of these children are institutionalised at its three community homes, two located in Eastleigh and one in Dandora; about 23 live in the community while being rehabilitated and trained at organisation facilities. The institutionalised children are provided with food, shelter, health care, counselling and training services, while non-institutionalised children are provided with only counselling and training.

The sub-programme's potential beneficiaries are identified by its social workers on the streets and in the slums. Street work, usually carried out at night, constitutes the sub-programme's main strategy for identifying the needy cases among street children and for maintaining contacts with street children. Identified cases are taken to the sub-programme's reception centre at Dandora for temporary shelter and screening for appropriate placement. The placement may take the form of institutionalisation at the programme's hostels (homes) or re-integration with the community, or with the nuclear family. Only orphans, difficult cases and children whose parent(s) cannot be traced are institutionalised in the homes. All the children taken to the residential homes are male. For deserters from regular schools, the programme provides counselling for both parents and children and negotiates with the children's schools for reinstatement. In addition, the sub-programme sponsors the education and specialised training of the affected children through partial payment of fees and cost of uniforms. The regular education and specialised training of about 200 children is being sponsored in the sub-programme.

The sub-programme's beneficiaries, who on account of age and other impediments, cannot be absorbed into the regular formal education systems, receive functional literacy education based on the Undugu Basic Education Programme (UBEP). The UBEP has been approved by the Kenya Institute of Education (KIE) and is organised into three phases. Currently, there are four community-based UBEP schools located in the slum areas of Ngomongo, Mathare, Pumwani and Kibera catering for more than 600 children. The drop-out rate in UBEP was estimated to be very low, with more than 90 percent of the enrolled children graduating.

Graduates of UBEP and regular school drop-outs are provided with vocational training based on closely supervised apprenticeship with local artisans. The artisans are compensated in-kind through upgrading of their skills at the programme's Production Units. The graduates of the vocational training find employment in public and private sectors or enter into self-employment. It was reported that both the rate and speed of absorption of the graduates into employment were low, implying possible retreat of the children to street life.

The total annual programme budget was estimated at about KSh.30 million of which 30 percent is generated locally from the sale of commodities (goods and services) of its Production Units and the

remainder from donor sources. The supportive sub-programme's budget was estimated at about KSh.3 million of which about KSh.1.5 million (averaging KSh. 2, 400 per child) was spent on functional literacy, KSh.925, 000 (averaging KSh.18, 500 per child) on up-keep and training of children in the homes, KSh.275, 000 (averaging KSh. 2, 500 per child) on apprenticeship training, and, KSh.500, 000 (averaging KSh.2, 500 per child) on education and training sponsorships.

The preventive sub-programme aims at integrated slum development. Its range of activities covers the youth, community primary health care, urban agriculture, dryland-agriculture (in Katangi, Machakos) and small enterprises advisory. The sub-programme absorbs about 90 percent of the total programme budget. The number of children and families covered by the sub-programme was not available. Hence, it was not possible to estimate the sub-programme's per capita expenditures.

6.2.7 Salvation Army

This is a small street children programme with a capacity of 60 children. It is based at Thika Boys Centre in Thika Township. Started in 1980, the programme is patterned on the Undugu Society of Kenya's supportive sub-programme. The programme caters for 47 children and has 8 members of staff.

The street children in the programme are provided with all basic welfare services, including functional literacy and vocational training. The programme offers the children a two-year vocational training course currently covering agriculture, carpentry and masonry leading to Government Trade Tests. Training in motor mechanics is temporarily suspended. Placement of the Centre's graduates occurs with delays, threatening their retreat to street life. The programme gets children from a variety of sources, including social workers and Juvenile Courts.

Financing of the programme is wholly dependent on public support based on donations. Annual per capita recurrent expenditure in the programme was estimated at about K£ 250.

6.2.8 Hyalenda Catholic Church programme

This is a small street children project with a capacity of 60 children. It is also modelled on Undugu Society of Kenya's supportive street children sub-programme. It is located at Pand Pieri Catholic Church. The average age of the children is 9-18 years. These are provided with health care, shelter, functional literacy and vocational training. The programme also provides nursery facilities for children in Pand Pieri.

The programme is organised in terms of a Reception at Pand Pieri and a Halfway House and Rehabilitation Centre at Nyalenda. The Halfway House accommodates boys who are almost adults and are undergoing vocational training. Since its inception, the programme has expanded in terms of both facilities and number of beneficiaries.

The potential beneficiaries of the services are identified and screened by the street worker. The identified needy cases are first talked into returning home and to school. Where this fails, the cases are introduced into voluntary residence at the Centre for rehabilitation and training.

The average annual recurrent expenditures are estimated at KSh.400,000 per annum (or about KSh.7,000 per year per child). Of these, over KSh.100,000 is for food; KSh.75,000 for clothes, shoes and bedding; KSh.50,000 for maintenance of the Centre and 2 cars; KSh.20,000 for the street worker; KSh.40,000 for rehabilitation; and KSh.20,000 for miscellaneous expenditures. The Catholic Church finances 70 percent of the recurrent expenditures, while well-wishers (donors) finance the remainder (30 percent). Currently, the project is not undertaking any income-generating activities, and, therefore, all of its expenditures are financed from donations.

6.2.9 Preventive programmes

Over 90 percent of the children's programmes in Kenya, deliberately or otherwise, target potential street children (that is, poor and needy children) and are therefore preventive. Due to time, budgetary and other considerations, we only examined a purposive sample of these programmes. The sample consisted of the following:

1. Child Welfare Society of Kenya (CWSK)
2. Christian Children's Fund (CCF)
3. Action Aid Kenya (AAK)
4. Starehe Boys Centre and School
5. Salesians of Don Bosco
6. Disciples of Mercy
7. SOS Children's Home
8. Barnardo's Children's Home

These together serve well over 100,000 poor and needy children and their families country-wide.

6.2.10 Child Welfare Society of Kenya

The Child Welfare Society of Kenya was set up to care for, discipline and protect needy children between the ages of birth and 16 years. Currently, the organisation serves 39,234 needy children in about 10,182 families country-wide." The target group for this organisation includes orphans, abandoned children, children abused by parents /guardians, emotionally disturbed children, neglected children and truant children.

The organisation operates programmes through paid staff and volunteers. It has branches and sub-branches all over the country. These are co-ordinated and supervised from the organisation's headquarters based in Nairobi. The organisation's programmes are being reduced due to budgetary constraints; all its sub-branches have been closed, while four of its branches were due for closure at the time of this study.

Sponsoring the education of poor children in their natural homes is the major thrust of CWSK activities. Other services to poor children include adoption and fostering as well as assisting needy children and their families with food and clothing. The sponsorship of education has recently been extended to cover 46 street boys in CWSK Meru Branch. The children are also given soup from a community kitchen run by the mothers of these boys.

Fostering and adoption of needy children are important activities of the organisation. Needy children are placed in the organisation's eleven Children's Homes spread all over the country (including the baby wing in Nairobi) or with foster parents. Either form of fostering is, however, short-term as the children are eventually returned to their natural home environments. The organisation is gazetted to provide adoption services to needy children and parents. Since 1985 the organisation has been serving pre-school children, indirectly, through a three-month training programme for baby-sitters and domestic helpers. The students pay 100 shillings per month. So far about 130 girls have graduated from the school, and the organisation has employed some of the graduates into some of its child development programmes.

Potential beneficiaries of the programme's services are identified by the case-workers in the branches and sub-branches, social workers, churches, administrators - parents/guardians and relatives. In some cases the beneficiaries solicit help, directly, from the case-workers.

The case-workers prepare detailed reports on the identified cases based on thorough investigations which include home visits. The case reports are forwarded to the organisation's headquarters in Nairobi. There, the national case-worker and relevant case committees review the reports and select those to benefit from the services. The results of the review and selection are communicated to implementing officers at the branches and sub-branches for appropriate action.

Financing of the organisation's activities are derived almost wholly from public support, mainly based from funds obtained from memberships, harambee fund-raising events (flag day, entertainment shows and open harambee meetings) and both internal and external donations. It has little or no significant income-generating activities. The little-income generated from the organisation's nursery schools and

shambas is put back into the branches or individual homes to improve the quantity and quality of services provided. 'Annual per capita recurrent expenditure on the organisation's homes was estimated at K&360.

6.2.11 Christian Children's Fund

This is a sponsorship programme promoting the welfare of about 36,000 needy children from poor families together with their families all over the country, through 91 affiliated schools, churches, community self-help, children's homes, and other social welfare programmes. The majority (62) of the projects are located in the arid and semi-arid lands (ASAL) of Eastern, North-Eastern and Rift Valley provinces.

The child-centred and community self-help development projects, known as family helper projects (FHPs), constitute the thrust of the programme's affiliated projects. This was justified on the belief that the natural family provides the best environment for the development of the child. In these projects and similar ones the programme only plays a catalytic role based on community mobilisation, training of project committees and partial funding of project activities. Put differently, the programme plays no implementation role in any of its affiliated projects. The programme's staff, based in Nairobi, mobilise communities in target areas to diagnose and prioritise their problems in line with those of District Development Committees (DDCs); select project management committees; institute project financing; monitor and evaluate projects and develop selection criteria for the children in need. In addition to community mobilisation, the programme facilitates training of project management committees and provides short-term financial support to the projects. The projects are expected to be self-sustaining in the long term.

The child-centred and participatory community development projects affiliated to the programme are multi-sectoral covering areas of fostering, education, health, water and sanitation, shelter, food security, environmental conservation and income-generation. The projects on education include establishment or supplementation of facilities in primary and secondary schools and vocational training institutions. The projects on the supplementation of facilities in existing institutions include construction of toilets, recreational -facilities, study halls, home science and carpentry workshops provision of teaching materials and lunch snacks.

The programme's potential beneficiaries are selected on the basis of need only. The cases in need in the programme's target areas are screened and selected using individual communities' criteria. The selected children are enrolled in the programme, which undertakes to find them sponsors. The relationship between the sponsor and the sponsored child is person-to-person based mainly on

correspondence. In addition to finding sponsors, the programme assists the children and the sponsors to strengthen and maintain their relationship. This is done through sending sponsors regular progress reports of the children and assisting the children to correspond with their sponsors.

The programme's funds are derived wholly through public support based on voluntary sponsorships from international sources. The sponsor of a needy child makes a monthly contribution of US\$21 until the child attains the age of 18 years or beyond. About 80 percent of the total income generated from the sponsors' monthly contributions is spent on the programme's child-centred development projects while the rest goes to administration. Annual per capita direct recurrent expenditure in the programme was estimated at Ksh 150.

6.2.12 Action Aid Kenya

This is a sponsorship programme promoting the welfare of about 24,000 needy children and their families in the country's poorest areas. It has about 350 staff serving both in the field and at headquarters. Prior to 1986, the programme was organised in terms of 8 projects and 5 special projects spread country-wide. The projects were located in Nambale and Webuye in Western Province; Ikanga, Mwingi and Kibwezi in Eastern Province; Isiolo in North-Eastern Province; Kiboswa in Nyanza Province; and Kagio in Central Province. The special projects, on the other hand, were located in West Pokot (P'Sigor), East Pokot, Kipsaraman, Mogotio, Kariobangi and Mandera. In addition, the programme provided support to 36 indigenous voluntary organisations (IVOs). In line with the Kenya Government's District Focus Strategy, the programme's approach to promoting the welfare of needy children shifted from being both child-centred and-centralised to being an integrated, community-based and multi-sectoral development programme in 1987. This meant a shift away from providing relief benefits to sponsored children in terms of uniforms, meals at lunch time, fees for children in schools or vocational training institutions and (top-bottom planning. The programme's initial approach was found to be discriminatory and perpetuated a dependency syndrome. With the shift in approach the target areas were redefined and reduced to five, including Ikanga and Kyuso in Kitui; Kibwezi in Machakos; Kapsakwony in Bungoma; and Kariobangi in Nairobi (provisional). Planning and implementation of development projects in the target areas is done by the programme's field staff in collaboration with the DDCs and sub-DDCs. The programme only supplements government's development efforts in the target areas through support of multi-sectoral projects including those in education, health, agriculture, small-scale enterprises, water, appropriate technology and environmental conservation.

The programme's potential beneficiaries are selected on the basis of need only. The needy cases are identified, screened and selected by the programme's technical staff with the assistance of guardians,

community leaders, administrators and other NGOs. Detailed case histories of the selected cases are sent to the programme's headquarters for further processing.

The programme's finances are derived mainly through the public support based on voluntary sponsorships of needy children. Other sources of funding for the programme are regional fund-raising activities held in the U.K., official and corporate funding targetted to specific projects (ODA and EEC projects), tax recovery from deeds of covenant, as well as from community links. About 80 percent of the programme's total income is spent on child-centred community development, 10 percent on administration and 10 percent on special projects. Annual per capita direct recurrent expenditure in the programme was estimated at about Ksh360.

6.2.13 Starehe Boys Centre

Starehe was started in the 1930s to rescue street (displaced) children. However, with the changing character of the street children in the post-independence era, the focus of the programme shifted to that of maintenance, education and training of bright and destitute boys. The programme is organised in terms of a centre for fostering destitute boys and a school for providing excellent formal education and technical training to both destitute and non-destitute boys. There are about 1,148 boys in the programme of which 75 percent (844) are institutionalised destitute boys and the remainder (26%) boys from rich family backgrounds. Participation of the latter type of boys in the programme was justified in terms of minimising stigmatisation of the former.

Plans to expand the programme through establishing its girls equivalent at an estimated cost of about Ksh6 million are at very advanced stages. A plot for the expansion has already been set aside at Kasarani in Nairobi. Implementation of the planned expansion has been delayed because of lack of funds.

The destitute children in the programme are provided with all basic needs, including food, shelter, clothing, health care, formal (primary and secondary) education and vocational training free of charge. The non-destitute boys, however, pay fees varying between KSh.5, 000 and KSh.25, 000.

The programme's beneficiaries are identified through recommendations by churches, children's homes, children's field officers and administrators. The identified needy boys are subject to the programme's rigorous screening process for determining genuine cases for support.

The programme's operation and development expenditures are financed through public and government support in the form of donations and grants. Save the Children Fund of U.K. and Kenya

Shell Ltd. are the largest sources of external and local donor funds for the programme. The government makes a massive financial contribution to the programme in the form of payment of salaries for 75 percent of the teaching staff. The programme also receives a small grant from the Ministry of Culture and Social Services (MCSS). Excluding the salaries of government teachers, per capita recurrent expenditure for the destitute boys in the programme was estimated at about KSh600 per annum.

The estimated annual recurrent expenditures for the above private supportive and preventive programmes are summarised in Table 6.3.

6.2.14 Salesians of Don Bosco

This is a rehabilitation and vocational training programme for poor and needy boys, especially school drop-outs from the slum areas of Nairobi. The programme is organised in terms of a main training centre known as Don Bosco Boys Town located in Karen, Nairobi, and satellite training sub-centres located in the slum areas of Makuu, Dagoretti Corner and Kibera. The main centre has a capacity of 320 students and offers a two-year vocational training course in nine skills including carpentry, electricals, - masonry, mechanics, tailoring, turner, fitter, mechanist and welding. The training is based on a very closely supervised" apprenticeship with students having to sit grade III and II Government Trade Tests held every year. The Trade Tests fee is the only payment by students in the programme. The programme is run by a management team of five priests with the help of 15 instructors and a group of supervisors.

About 145 students are institutionalised in the programme's hostels while the remainder are commuters living in slum areas surrounding Nairobi. Some of the commuting students benefit from the programme's free pick-up transport. Institutionalised students are expected to perform all basic cleaning functions and to fend for themselves, with only food being prepared for them.

The programme's current placement rate of its graduates is about 50 percent. However, with the growing unemployment in the country, this rate of placement is expected to decline in future.

Each of the training sub-centres is manned by two instructors and has a capacity of 40 students. The training is elementary and covers carpentry and masonry trade skills. The students here also sit for Trade Tests. The sub-centres serve as screening centres for potential students of the Main Centre. These are screened for dedication, aptitude and willingness to learn. Admission into the programme is by application. The criteria for admission into the centre and its sub-centre include economic stress, absence of a moral support network, long-term ineffective residence in a slum area, aptitude for

vocational training (preferably with primary education completed) and ability to live communally. The age limit for residential students is 16-20 years.

The programme's expenditures are financed through public support in the form of donations. The programme's workshops also generate some income through sale of furniture such as wardrobes, chairs and stools and minor motor vehicle repair services provided by qualified students. Annual per capita recurrent expenditure for institutionalised and non-institutionalised students in the programme estimated at about KE400 and Ksh 150, respectively.

6.2.15 Disciples of Mercy

This is a small programme promoting the welfare of destitute children. It was started in 1988 and is located at Kondele in Kisumu. It has a total capital investment of KSh.100, 000 and caters for about 19 children all of whom are over 5 years old. It has no permanent staff and uses volunteers to run it.

The children in the programme are provided with material needs and/or better home environment. The support to the children includes food, health care, school fees, shelter and applied skills. Of the 19 children in the programme, 16 are in the regular school system, while the other three are undergoing vocational training in the programme's workshop. The programme has rented a house for one family in need of shelter.

The programme's operational expenses are derived wholly from missionary sources. Annual per capita recurrent expenditure in the programme was estimated at about Ksh240.

6.2.16 SOS Children's Home

This is an institutional and long-term fostering programme for homeless (orphans and abandoned) children based on the concept of a village. There are three villages in the programme located in Nairobi (1973), Mombasa (1979) and Eldoret (1990) offering homes and long-term support to about 400 children. Of these, about 200 are in the Nairobi SOS Village, 140 in the Mombasa SOS Village and 40 in the Eldoret SOS Village.

Each village consists of a group of family houses occupied by about 10 children of both sexes and varying ages. Each family is mother-headed with the Village Director and his assistant providing the all important 'father image'. The mothers are well-trained in the care and upbringing of the programme's target children. New (trainee) mothers undergo training in child development, health and nutrition, family life education, as well as practical subjects of sewing, house-keeping and budgeting

before being assigned a family. Old mothers undergo regular refresher courses to update their family care skills.

In addition to, basic home care services, the programme's children are provided with regular education and vocational training. The programme's schools in the villages provide the children with nursery, primary and technical education. There are currently two primary schools in the programme (in Nairobi and Eldoret) and one technical school (in Nairobi). The technical school provides technical skills to about 100 young people in woodwork, metalwork, electrical work, garment making, and food and beverages. Some of the primary school graduates proceed on to high school, while the others undertake technical training. Graduates of the technical school secure gainful employment in both the public and private sectors or enter into self-employment.

Over 90 percent of the programme's recurrent and development expenditures are financed through external public support based on global fund-raising. The villages in the programme operate a few income-generating activities including gift shops, fees by outsider children attending the programme's schools, and sale of goods and services produced in the programme's workshops. Annual per capita recurrent expenditure in the programme was estimated at about K£ 800.

6.2.17 Dr. Barnardo's Children's Home

The programme provides short-term institutional and non- institutional fostering services to needy children ranging from birth to 19 years old. The programme's institutional fostering is based at Dr. Barnardo's House in Langata, Nairobi with a capacity of 80 children. Of the children in the House, 20 percent are under 1 year old, 25 percent are 1-5 years old and 55 percent are over 5 years old. In addition to shelter, the children are provided with food, clothing, health care, formal education and technical training services.

The programme's non-institutional - fostering, on the other hand, is based on foster parents. Sources of the programme's potential beneficiaries include references from government agencies, churches, individuals, local leaders and relatives. Selection of the identified needy cases and foster parents is based on a rigorous screening process consisting of interviews and home visits.

Over 90 percent of the programme's budget is financed through public support based on generous donations. Annual per capita recurrent expenditure in the programme was estimated at K£ 300.

Table 6.3 Estimates of Annual Per Capita Expenditures of Private Supportive and Preventive Street Children Programmes in Kenya (Kb)

Programme	Per Capita Expenditure
A. Institutional	

Salvation Army	250
Undugu Society of Kenya	925
Nyalenda Catholic Church	350
CWSK Children's Homes	360
SOS - Kenya	800
Starehe Boys Centre and	650
Salesians of Don Bosco	400
Dr. Barnardos	300
B. Non-Institutional	
Undugu Society of Kenya	125
CWSK	360
Action Aid Kenya	360
CCP, Nairobi Office	150
Salesians of Don Bosco	150
Disciples of Mercy	240
Mean 387.1	387.1

Source: Field interviews

Except for the institutional programmes or sub-programmes by Undugu Society of Kenya, SOS-Kenya and Starehe Boys Centre, the per capita expenditures data in Tables 6.2 and 6.3 compare well with those of public programmes. On average, it costs at least twice as much to foster and educate/train a needy child in the three programmes as in either the remaining private or public programmes.

6.3 Problems and Constraints of Programmes

All the programmes discussed above experienced relatively similar problems and constraints in their operation and expansion. These included budgetary constraints, delays in placement of graduates and lack of public and government support. Some of the programmes lacked funds to even service their existing capacities while others lacked funds to expand. The budgetary constraints in the operation and/or expansion of capacities of existing programmes were explained by their undiversified and unsustainable financing systems. Financing of public programmes are wholly dependent on the government's budgetary allocations and are, therefore, often affected by budgetary cutbacks while that of NGOs was almost entirely dependent on external donor sources. Neither the public programmes nor those of NGOs operated any significant income-generating activities, making their financing highly risky and unsustainable.

Secondly, most of the programmes experience considerable difficulty in placing their graduates into productive employment. In view of the unemployment situation in the country, graduates of the two-year vocational training courses offered by the supportive programmes were finding it increasingly

difficult to secure jobs in both public and private sectors. Even those who had secured some self-employment appeared to experience difficulties in selling their goods and/or services due to the saturation of the market. The labour and commodities ' situation in the country implies possible retreat of the graduates to street life.

Management of most NGO programmes enjoyed very limited internal public and government financial support, making them wholly dependent on external public financial support (donations) to finance their operations. This kind of financing is risky and complicates planning and implementation.

Finally, nearly all the programmes indicated no difficulty in obtaining land for purposes of expansion. Slum-based programmes such as the Undugu Society of Kenya's shelter and education improvement activities were reported to have suffered tremendously from indiscriminate slum demolitions as reflected in Kanuku in Kitui, Pumwani and Kariuwa village in Ngara (Undugu, 1989).

6.4 Budgetary Projections for Intervention Measures for Street Children

A key measure suggested by the respondents for the future intervention for street children was the expansion and spread of the existing supportive and preventive programmes. Other suggested measures included improvement in operational efficiency of existing intervention programmes, enactment of street children legislation, reduction of the cost of education, control of population growth, increased youth employment opportunities, greater co-ordination among NGO-sponsored programmes and of awareness campaigns to increase public and government support for the programmes. Two reservations were made regarding the expansion of the existing supportive programmes. First, the present placement of non-delinquent and delinquent street children in approved schools was clearly anomalous as the institutions were geared to the latter type of children. Second, expansion of the programmes implies expansion of vocational training opportunities for needy children. The expansion of opportunities, however, appears to be inconsistent with the already saturated labour and product markets in the country.

Implementation of any one or combination of the suggested future intervention measures can have either expenditure-saving or expenditure-increasing implications. Estimates of such expenditure implications would provide a rational basis for selecting alternatives of the suggested measures. Owing to data and resource constraints, we estimated and made ten-year (1992-2002) projections for the expenditure implications only for implementing the existing supportive and preventive street children programmes. The projections were based on the annual per capita expenditure data derived from the respondents and summarised in Tables 6.2 and Table 6.3 above, and projections of the size and growth of the population of street children.

6.4.1 Projections of street children populations

Existing estimates of the population of street children in Kenya are unreliable and under-estimate the size of the problem. Hence, efforts were made to obtain a correct "estimate and projections of the population. The population of street children was defined broadly to include both actual and potential street children. Hence, the population of street children consists of all school-age children (6-18 year olds) not enrolled in any school. Average enrolment and drop-out ratios of school-age children in Kenya are estimated at 80 percent and 40 percent, respectively. Using these ratios, we estimated annual average population of street children to be about 3 million, of which about 10 percent (or 300,000) are in the street. Given the estimated annual population growth and drop-out rates of 4.1 percent and 6 percent, we estimated the average growth rate of the street children population at about 10 percent per annum. Finally, we assumed that only about 10 percent of the population of street children are delinquent. The ten-year projections of the size and structure of street children in Kenya are presented in Table 6.4.

Table 6.4: Projections of the Size and Structure of Street Children Population in Kenya, 1991-2001 (million)*

Sub Population	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
delinquent children	0.3	.33	.36	0.40	0.44	0.48	0.53	0.59	0.64	0.71	0.78
non delinquent children	2.7	2.97	3.27	3.59	3.95	4.35	4.78	5.26	5.79	6.36	7.00
Total	3	3.3	3.63	3.99	4.39	4.83	5.31	5.85	6.43	7.07	7.78

Source: Based on ministry of Education, Statistics Unit.

In making the above projections no allowance has been made for the escalation of costs due to inflation.

The above projections imply that for existing intervention programmes to cope with the projected size of the population of street children, their capacities will need to expand twenty-five fold and grow by about 10 percent per annum.

6.4.2 Expenditure projections

Owing to the problems with recurrent per capita development expenditure data, we only made projections for implementation of the measure of expanding the existing intervention programmes. To

make the projections we used annual per capita expenditures of K£ 284.3 and K£ 387.1 for penal and non-penal programmes, respectively. We also assumed that custodial programmes for delinquent children will be 100 percent public and that the government participation (directly or indirectly) in other supportive and preventive programmes will rise to about 50 percent.

Table 6.5 Recurrent Expenditure projections for Existing Conventional Street children Intervention programme, 1991 - 2001 (K£ Million)

Programme	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
Penal	85.2	93.82	102.35	113.72	125.09	136.46	150.68	167.74	181.95	201.85	221.75
Non-penal	1045.17	1149.69	1265.82	1389.69	1529.05	1683.89	1850.34	2036.15	2241.31	2461.96	2709.70
Total	1130.46	1243.51	1368.17	1503.41	1564.14	1820.35	2001.02	2203.89	2423.26	2663.81	2931.45

Source: Based on Tables 6.2, 6.3 and 6.4 above

The above projections reveal that implementation of the measure will imply massive annual recurrent expenditures. The statistics reveal that over the ten-year period a total of K£ 20,853.47 million (or K£ 2,085.35 million per year) in expenditures will be needed to expand the existing programmes to cope with the projected population of street children. Of the total expenditures, K£ 580.70 million (or an average of K£ 58.07 million per year) will be incurred on penal programmes and K£ 9, 272.77 million (or an average of K£ 927.28 million per year) on non-penal programmes.

Design of a financing strategy of the projected expenditures was beyond the scope of the present study. However, the present over-reliance on external donor funds by the NGOs to finance their programme activities was both risky and unsustainable in long-term. With increased awareness campaigns most of the programme funds would be sourced internally. The programmes should also aim at being self-sufficient in financing their operations and development activities through the running of viable income-generating activities.

7.0 PUBLIC POLICY AND THE STREET CHILD

7.1 Introduction

During the 1980's one heard a lot about concern to the welfare of Kenyan children. The period witnessed the introduction of the short-lived school buses in Nairobi. The school milk programme was introduced with a view to providing primary school children with adequate daily intake of protein. The National Fund for the Disabled was also initiated by His Excellency President Daniel T. arap Moi. At one point, in 1986, some lone voices in Parliament called on the Attorney-General to introduce measures that would curb the 'menace' of street children in Nairobi and other urban centres.

Earlier, during the 1970s, the government, with the help of the International Labour Organisation (ILO) and foreign government aid agencies, embarked on programme of establishing rural-based appropriate technology training institutions popularly known as Village Polytechnics. These were conceived as micro-level programmes to address the training and therefore economic needs of young primary school - leavers, If successful the programme hoped to reduce the flow of youths to urban centres in search of jobs, Because the idea looked so attractive, it was also adopted in urban areas such as Nairobi to meet the needs of slum children (for details see Orwa, 1982). Able to earn a living out of self-employment as village artisans, young children would keep out of towns and probably out of the streets.

Therefore, at the start of the study it was assumed that the government's policy towards Kenyan children would be both broad (macro) and at the same time specific (micro). The latter policy level would be expected to focus on children with special characteristics and needs. In fact, this expectation arose out of knowledge that for many years the Children's Department of the Ministry of Home Affairs and National Heritage used to operate a welfare fund.

Therefore, public policy, for the purpose of this study, refers to those actions formulated and executed by both the central government and local authorities in the furtherance of the welfare and interest of those children who have been defined as street children. In order to assess the nature of and the extent to which such a policy exists, the study set its research objectives at two levels of investigation and analysis: Short-term and long-term.

The short-term objectives are to:

- (1) identify current policies relating to street children;
- (2) determine the nature of existing policies including their effectiveness;
- (3) identify current public institutions dealing with the problem of street children.

The long-term objectives are to;

1. identify administrative and political factors that formulation of new policies would have to take into account;
2. determine other public institutions and bodies which may be incorporated in efforts to deal with the problem in the future;
3. recommend a possible policy line that might be adopted.

In order to address these objectives the study examined relevant public documents as the first sources on policy information. Second, interviews and discussions were held with key individuals, selected because of the position they hold or held in the public service with the intention of getting information on government policies and programmes. Finally, a questionnaire was administered to a total of 80 adult Kenyans selected from the five study sites. The objectives of the questionnaire were to:

- (1) get an overview of what the ordinary person knows about measures being taken to address the phenomenon of street children in Kenya, either by the central government or local authorities;
- (2) help determine public opinion on who should ensure that children are kept out of urban streets;
- (3) assess the extent to which the public would be disposed in support of legislation on this problem.

The emerging picture from the study suggests that post-independence policy towards children in Kenya has not gone very far beyond the position prevailing in the colonial period. In some instances, such as with street children, the policy is a draw-back. The present policy is still patterned on the colonial statutes of the 1930s. The most outstanding of these statutes are the 1933 Employment of Women and Young Persons and Children Ordinance and the 1937 Employment of Servants Act. Collectively, these two statutes had two objectives. First, they defined who was a child in the colonial context. Secondly, they established the policy on the employment of children. These statutes were thus primarily concerned with the relationship between the African child and the broader objectives of the colonial system.

7.2 Colonial Setting

In the colonial those below ten years of age period, children were put into two categories: and those who were ten years and above. Those under ten years of age could not be employed (Employment of Women and Young Persons and Children Ordinance, 1933). Although the colonial government did not allow the employment of children under ten years of age, the same system permitted the employment of children over ten years. Therefore, the colonial policy permitted child labour. Above all, there seems to have been no legal requirement that all children of school age should be in school. It seems that the colonial administration assumed that such juveniles would remain at their parents' homes and attend school. Also not addressed in the policy was the condition of employment of those children the law permitted to engage in employment. While the 1937 Act largely affirmed the provisions of the 1933 Ordinance, it went a little bit further by providing that children under the age

of 16 years could not be employed in high-risk jobs such as operating machines (Employment of Servants Act), thus according child workers in industry some legal protection.

The importance of these statutes was found not in their concern for the welfare of children but in their ultimate goal of ensuring that sufficient labour supply was available to sustain the emerging colonial system. These statutes, along with the Hut Tax, Pole Tax and forced labour ordinances, created a new pattern of labour to service the colonial settlers' economic needs and labour demands (Onyango and Orwa, 1990). Accompanying this policy was a process of rural-to-urban migration of male, female and child workers.

The colonial policy on employment of children in European farms and households (especially in Central Province), combined with the taxation burden and forced labour, introduced for the first time the concept of paid child work among the African population. Parents realised that children could work and bring money home. Children's income increasingly became important to families, and many parents encouraged their children to leave home and seek gainful employment in the growing modern economic sector (Kayongo-Male and Waiji, 1984: 41-44). This marked the beginning of children leaving for employment in the plantations and urban areas. With time, loitering children became a common sight, forcing the East African League of Women to call for remedial action. The League's advocacy led to the establishment of the Child Welfare Society of Kenya in 1946 to provide assistance to the growing number of rootless children (interview with Grace Onyango, November 1990; see also, Onyango and Orwa, 1990: 10). In 1957 Save the Children Fund (Kenya Branch) began to provide assistance through the CWSK. The colonial government also responded to the growing problem of unprotected and unemployed urban children through the instrument of vagrancy laws by which such children would be arrested by police and repatriated to rural homes. Vagrancy laws became the main instrument by which the colonial government attempted to deal with the problem of urban children. Once arrested on the streets, the child would be taken to court and subsequently repatriated to the rural home. Any African child found on the streets of any town, who could not show that he/she had parents or was working for someone, was a vagrant and subject to repatriation. At the same time a social welfare programme for a limited number of destitute families was introduced. It provided minimal financial support for one to three children in the identified families. Approved schools and borstal homes were reserved mainly for delinquent children with criminal tendencies.

7.3 policy In Independent Kenya

7.3.1 Broad policy position

Post-independent Kenya has not deviated very much in *its* children policy from that of the colonial period. The policy is still largely expressed in terms of law rather than in terms of the needs of different children in the country. Concern has been with the position of children within the realm of employment, criminal responsibility and education. For purposes of employment/ children are regarded to be those who are under the age of 18 years. The protection accorded to working children under this classification remains more or less the same as provided for under the 1937 Act. (See Children and Young Persons Act, Cap. 141, Laws of Kenya; Employment Act, 1978; Employment (Children Rules), 1977.)

Another policy, which relates to children concerns criminal responsibility. It is a legal position that that Kenyan children would, under certain circumstances, be held criminally responsible for their acts if they are 8 years old and above (see Penal Code, Cap. 63, Laws of Kenya), but such children cannot be held responsible under the hanging provision of the criminal code. This legal position leads to stigmatization of children as criminals very early in their lives. It is therefore not surprising that very young children are found in Kenya's approved schools and other related custodial institutions. The Matrimonial Causes Act (especially Cap. 152) also permits young girls under the age of 16 years to contract marriage. While this implies that young girls under the age of 16 years are protected, it is only a limited improvement on the colonial position, which never interfered with indigenous traditions of marrying children out.

It is also a generally accepted position in Kenya that a Kenyan child is an individual and a member of the human family with indivisible and inalienable rights that can neither be taken away nor infringed (Muthoga, 1989: 96). These rights are legal rights which are also protected by the Constitution, which in Chapter Five accords Kenyan children all the fundamental rights and freedoms accorded to any adult individual in Kenya. In this context a child is to be treated as an individual in his/her own right, without reference to other individuals (see Murungi, 1988:15). He/she is entitled to protection when such protection is deemed necessary see Penal Code, Cap. 63 Laws of Kenya; Children and Young Persons Act, Cap. 141, Laws of Kenya, Parts II-XI; Adoption Act, Cap. 143, Laws of Kenya; Guardianship of Infants Act, Cap. 140, Laws of Kenya; Law of Succession Act, Cap. 160, Laws of Kenya; Widows and Children's Pension Act, Cap. 195 Laws of Kenya. These rights include freedom of movement. Yet more often than not, youths found on the streets are subject to arrest as vagrants.

The Education Act embodies government policy on education. Implicit in the Act is the perception of education as a right to which all children are entitled. This right has been explicitly stated in the Kenya African National Union's (KANU) education policy. From its inception in 1961, the ruling party committed itself to eventual provision of free education so that every child in Kenya would have access to education (see KANU Manifesto, 1961; 1963; 1969; 1979). The policy of free education for

all was implemented in two stages in the 1960s and 1970s starting with lower primary and then upper primary. All national Development Plans have put emphasis on provision of education to Kenyan children. It has been assumed as a matter of policy that by educating Kenyan children, the country would be developing its human resources for future sustained development. 'In terms of national resources these youths represent the most single potential resource, human capital for future national development, let alone the simple fact that they form the bulk of our population' (Ministry of Culture and Social Services, 1983: 18).

In these children, according to President Daniel T. arap Moi, lies 'the hope of our country and economic, political and social development programmes should acknowledge that the future belongs to the children. As the President put it, Kenyan children are 'an effective organic entity of the nation. They constitute future consumers and productive manpower and womanpower. Children represent the government's and the nation's best efforts in preparing for the society of the future' (Moi, 1986: 22, 123).

From these perspectives have emerged the policy of providing Kenyan children with relevant education and proper medical care. The policy also calls for the provision of adequate nutritional intake (see Economic Survey, 1989: 149-150; Development Plan, 1984-88: 6,33). What is lacking is a clarification on how each Kenyan child would be ensured of this education and care. The policy does not consider Kenyan children who might find themselves in very difficult socio-economic circumstances to take advantage of this open-ended education policy. While fees can be remitted as in the colonial period or abolished as in post-independent period, demands for building funds, school uniform and supplies can prevent such children from pursuing education. Lack of food at home is another obstacle (*see. Urban Children in Especially Difficult Circumstances, 1991 forth-coming*).

Kenyan children have been, for policy and planning purposes, classified into: (a) pre-school children who are under the age of 5 years; (b) primary school-age children whose ages range from 5 years to 13 years and (c) secondary school children who are between the age of 14 years and 17 years. However, there is no evidence that policy and development planning in Kenya accounts for children with very special socio-economic needs, a category in which street children fall.

The classification has apparently been based on the fact that these children constitute the majority of the Kenyan population. By 1983, it was estimated that 'more than 50% of [Kenya's] total population was under fifteen years' (MCSS, 1983;18). Other estimates put the figure at-over 60 percent. This high proportion of children in our population has implications for policy. For example, in 1990 children under the age of 15 years accounted for about 11 million people in an estimated national

population of 234 million. Less than 6 million children were enrolled in primary schools. This would suggest that over 3 million Kenyan children were not in nursery or in primary schools.

Further policy implications arise from Kenya's education policy. First, the policy of universal primary education could not be said to have been achieved as many children do not attend school. Second, enrollment in primary schools grew faster in the 1970s to the extent that (a) free primary education has had to be supplemented with what is now called 'cost-sharing and (b) a large number of primary school-leavers could not be absorbed into secondary schools or intermediate training institutions. These two factors mean that a large number of children are too idle and bored to remain at home. Apart from the village polytechnic programmes and a few rehabilitation centres established under the MCSS for disabled young persons and needy mothers, the government has not formulated micro-level policies and programmes which would respond to the outflow of primary school-leavers. As is already apparent in the discussion above, governmental policy assumes that all Kenyan children of school age are in school. But the policy has made no major provision for those completing primary school education or those dropping out of school before reaching Standard 8. Evidence indicates that 25 percent of all primary school children in Kenya drop out before reaching Standard 8.

Public policy documents such as Sessional Paper No.10 of 1965; Sessional Paper No. A of 1986 and Development Plans have not made policy provision for such children. This position seems to derive from the general policy perception that Kenyan children are normal children coming from stable families and suitable social and economic environments, and therefore only a few delinquent children would be found loitering about as vagrants. The latter group would therefore be handled under established laws. The policy emanating from vagrancy laws assumes that vagrant children are returned to the protection of parents. Those found to need care and protection would be committed to approved schools if a guardian could not be found.

Between September and December 1990, a survey of 100 children aged between 6 years and 19 years was conducted at Kabete Approved School, Kirigiti Girls Approved School in Kiambu, Nairobi Juvenile Remand Home and Getathuru Reception Centre in Kabete. The survey found that over 90 percent of all children in these institutions were committed for being vagrants in want of care and protection. Over 90 percent had at least one parent. Nearly all had dropped out of school before reaching Standard 7. An overwhelming number (came from single and female-headed households (Onyango and Orwa, 1991 forthcoming). Most of the children came from the age group of Kenyan children who have been identified as being highly vulnerable to the scourges of malnutrition and disease (see Development Plan, 1979/83; Mwarania and Ayako, 1988).

Since these children are already out of school, the school milk scheme does not reach them. And given the fact that they are already staying away from home, immunisation (programmes, if any, do not incorporate them. Therefore they cannot be captured by any macro-level policies except those that are enforceable in law. Such micro-level programmes as village polytechnics have failed to attract these children, probably because they do not guarantee gainful employment at the end of the day (see Orwa, 1982). It is some of these children who have and will in the future become street children.

7.4 Street Children and Present Policy

Street children all over the world are products of socio-economic and political conditions and environment. Kenya's experience is therefore not unique in this respect. However, political stability in Kenya and the general socio-economic well-being have significantly minimised the intensity of street children compared to countries such as Sudan and Ethiopia which have experienced many years of famine and civil wars.

In Kenya the growth in street children has been gradual, corresponding to growth in urban population. In the colonial period rural-urban migration was slow due to racial policies, which made enforcement of vagrancy laws against Africans more strict. At the same time, it was colonial policy on employment of women and children, which marked the beginning of the phenomenon of street children in Kenya. As early as the 1930s Starehe Boys Centre was established in Nairobi to cater for some of these children.

Independence in 1963 accelerated the phenomenon in a number of ways. First, independence enabled every Kenyan to fully enjoy freedom of movement. Second, independence raised socio-economic expectations of Kenyan men and women beyond what the post-independence Kenya could provide (see KAMU Manifesto, 1961; 1963). Third, the colonial work ethic in which formal employment became the sole means by which the African could raise her/his socio-economic status has persisted. Fourth, where colonial education was extremely selective, post-independence education produces a mass of young Kenyans who cannot get employment. Collectively, these policies have led to rapid urban population growth that outstrips both central government and local authorities provision of social services and job creation. These have in turn led to unemployment (especially among young men and women) and falling standards of living, a condition which, according to Mr. Griffith, the Director of Starehe Boys Centre, has brought to the streets, children who would normally not be on the streets - primary and secondary school-leavers.

The rapid rise of street children in Kenya's urban centres in the 1970s and 1980s appears to be linked to the conditions outlined above. Of the individual Kenyans who were interviewed in the five study

sites, 98.4 percent acknowledged that street children existed in these centres. Another 63.3 percent reported that these children began coming to the streets more than ten years ago, while 27.4 percent dated the phenomenon ten years ago. Since 90 percent of our respondents were aged between 25 years and / 55 years, with the latter constituting only 10 percent, their knowledge of the existence of street children must be' from the post-independence experience (Field Survey: Computer Data: 63:71). According to existing secondary studies on Nairobi, the problem began to be acute in the 1970s (see Wainaina, 1977; Wainaina 1981; Dalape, 1987). The establishment of Undugu Society by Father Grol in 1975 was therefore a clear recognition of an obviously emerging and growing social problem. The first and only workshop held in Kenya on street children took place in 1985 (see Khamala, 1986). Khamala was the Provincial Children's Officer in Nairobi and her article suggests acknowledgement that street children would become a policy issue at some stage.

However, no pre-1980 evidence was found indicating that central government, leave alone municipalities and townships, ever contemplated formal policy responses to the issue of street children. A study of parliamentary Hansards between 1977 and 1390 also found no substantive debate or motion on this matter. Interviews with civic leaders found no evidence that municipalities have ever considered street children as a policy concern. The exception in this respect is Nairobi, Mombasa and Meru. But in these three municipalities, concern began in 1990. (See Daily Nation, October 11, 1990; October 12, 1990; August 3, 1990 for developments in Meru; for Mombasa, interviews with Mrs. Karisa, Director of Social Services and Mr. Kaitany, District Commissioner; and for Nairobi interview with Mr. Waiganjo, Provincial Commissioner.) It was not until early 1990 that the Children's Department, MHANH, established a task force on street children and collected provincial data on the population of street children in Kenya with a view to formulating policy and programmes. The report, still confidential and using children's institutions' data, estimated street children to be over 17,000, obviously a gross underestimate of the propensity of the problem. The Nairobi figure was put at over 3,000 street children, a figure which Mr. Fred Waiganjo, Provincial Commissioner for Nairobi, has acknowledged to be very low. At the time of our survey, the four government institutions identified above together held about 800 children. Of these, over 90 percent were children who had been arrested on the streets. Officials of these institutions estimated that government children's homes account for less than 10 percent of the street children in the country. Collectively, all government-run children's institutions held a total of 4,000 children in 1989 (MHANH, 1990).

This apparent awakening seems to have been caused by two events. First, in 1987, the Kenya Government, when breaking diplomatic relations with Libya, asserted that a number of street children had been transported through Uganda to Libya for military training so that they could return to destabilise the government. Uganda has also been accused of colluding with dissident Kenyans to attack Kenya (see Daily Nation, May 8, 1987; May 14, 1987; September 30, 1988; September 19,

1987). The second factor in this belated desire to address the problem of street children is the ongoing UNICEF project on child survival in which the MHANH and a number of municipalities as well as town councils are involved.

The steps being contemplated by the MHANH involve expansion of the existing custodial institutions and come at a time when there is a growing concern that the number of street children in Kenya's urban centres is increasing rather than decreasing. Our survey of the public found that 90.3 percent believe this to be the case. A further 54.2 percent believed the number was increasing either very fast or fast. The respondents also believe that street children are a problem to the public, tourists and government (Field Data: Computer Print-out, 1991:72-73, 81-84). All the District Commissioners interviewed (they are chairmen of District Security Committees) observed that street children already represent a security problem to the state. As Mr. Kaitany put it, 'Street children will increasingly become a serious security problem as their number will grow enormously in the future unless preventive steps are taken. Mr. Ogongo, the DC for Kitui, also underscored the same point as did Mr. Thomas N. Mwalwa, the executive officer of KANU Branch, Kitui District and former Member of Parliament for Kitui Central constituency. Mr. Waiganjo underscored the revelation that some street children had been sent to Libya for military training, a clear confirmation of the security threat represented by these children. Until now, however, both central government and local authorities have been mainly indifferent observers of the unfolding problem. Interviews with government officials, civic leaders and the KANU officials revealed that at these two levels of government nothing short of police action has been done. The fact that politicians and provincial administrators rarely address the issue during their public functions underscores the point. Only 8 percent of our respondents reported having heard a Member of Parliament talk about street children; 16.1 percent heard a chief/sub-chief, while only 6.4 percent reported having heard a DC or a DO talk about the issue. An overwhelming majority (51.6 percent) have heard about street children from other sources such as personal knowledge (Field Data: Computer Print-out 1991; 102). Furthermore, all government officers, former Members of Parliament, current ones, KANU leaders as well as civic leaders admitted that the government and local authorities have never done much. Where the government was said to be doing something it was in relation to the role of the police in trying to keep children out of the street and the running of approved schools and other related institutions by the government. Only in Kisumu and Mombasa was it claimed that Municipal Councils were doing something through their involvement in Mama Ngina Children's Home for Kisumu and Mji wa Salama and SOS homes for Mombasa.

According to former mayor and MP for Kisumu Town, Grace Onyango, and the immediate past mayor of Kisumu, Councillor Olilo, the Kisumu municipality gives a financial grant to Mama Ngina Children's Home. In the case of Mombasa, Mrs. Karisa, the Municipal Director of Social Services, acknowledged that the municipality used to provide some financial assistance to Mji wa Salama and

SOS. However, due to lack of funds this no longer happens. Nevertheless, the municipality still participates in the activities of these homes through representation in their Boards of Directors.

Among our respondents there is a belief that central government and local authorities are doing something about the problem of street children: 21 percent for government, 9.7 percent for local authorities, 16.1 percent for children's homes and 14.5 percent NGOs (Field Data: Computer Print-out, 1991:92). This apparent high score by the central government is explained by the fact that the public accepted the role of the police as important. The public also associates government provision of education with efforts to redress the problem. Finally, in the survey there was a very high score for rehabilitation homes which, of course, include approved schools, borstal homes and remand homes, which are government institutions (Field Data: Computer Print-out, 1991: 98). At the same time, however, there was a strong feeling among our respondents that the government should do more (51.6 percent), since what is being done is generally not adequate to solve the problem (34 percent) as opposed to 21 percent who felt that what is being done is adequate/moderately adequate (Field Data: Computer Print-out. 1991: 95, 101). In this context 80.6 percent of our respondents said they would strongly support their Members of Parliament if they proposed to introduce legislation on the issue of street children (ibid: 103).

Central government policy approach has always assumed that parents should bear the sole responsibility for the welfare of their children. This perception finds support among our respondents, of whom 75.8 percent endorsed this view (ibid: 104). However, this sentiment arises from the general lack of knowledge about the socio-economic status of households that produce street children, even though 19.4 percent of the respondents thought that the families of these children need financial assistance (Field Data: Computer Print-out, 1991: 105).

However, there did not arise a consensus among the people surveyed and interviewed as to what should be done to deal with the problem of street children in Kenya. Table 7.1 lists respondents' suggested solutions.

Table 7.1 Suggested solutions to the problem of street children

Suggestion	percent
financial help	19.4
admission to schools	14.5
population control	14.5

more responsive actions	14.5
rehabilitation institutions	14.5
create awareness	6.5
further research on the problem	1.6
missing value	14.5

Source: Field Data: Computer Print-out, 1991:105

The key informants also offered different approaches to the solution of the problem. The former Kitui District Commissioner, Mr. Z. Ogongo, while admitting that the government is greatly concerned with the problem of street children, suggested that 'Wananchi should see it as a community problem not just government issue' (Interview, Kitui, August 1990). Adding that most of the problems associated with street children have developed recently, Mr. Ogongo noted that current laws do not adequately address these problems and therefore the relevant laws need to be reviewed to take into account the 'rapidly changing circumstances in our society'. He thus observed that the government should identify the root causes of the street children problem and try to resolve them in a variety of ways as these causes cannot be homogeneous.

Thomas Musyoka Mwalwa, the Kitui KANU Branch Executive Officer who is also a former Member of Parliament for Kitui Central, observed that the government has established Technical Schools 'but these are not geared to the needs of street children. Parking boys do not have any reasonable education and therefore cannot be expected to take advantage of such institutions. Yet there is a need to get them occupied in doing something, which will keep them out of the streets'. He therefore suggested that (a) they could be employed in tea and coffee estates, (b) that the government needs to consider the possibility of establishing integrated educational institutions involving formal, technical and ethical education for these children, (c) KANU branches should establish youth centres for street children where they could be housed and fed to enable them to attend school. Accepting that resources are of course limited, he emphasised that this can be done and that the success of such a programme would require decentralisation so that programmes could be made to address unique environmental conditions (Interview at KANU offices, Kitui Town, 1 August 1990).

Grace Onyango, the former mayor of Kisumu and also former Member of Parliament, talked from personal experience of many years when she declared that approved schools do not reform many of these street children. In her view approved schools destroy children who would otherwise have been helped. These children become hard-core criminals as a result of their confinement to approved schools. Therefore she suggested that vocational training facilities should be provided by municipalities and the government to train these children in trades of their own individual preferences.

Having been an official of the Child Welfare Society of Kenya, she felt that more children's homes should be built to cater for children who would otherwise end up on the streets (Interview, Kisumu Town, 26 October 1990).

Mrs. Onyango's position was shared by Mrs. Mutuku, the Co-ordinator of KANU Maendeleo ya Wanawake, Kitui Branch, who called on the government and local authorities to 'build useful institutions for vocational training for street children even if it means organising a national harambee fund drive for that purpose'. (Interview, Kitui Town, 1 August 1990).

Councillor Olilo felt that street children will in the future constitute an unmanageable problem for the government, and therefore the problem must be dealt with. In this respect he suggested that the government should plan ahead to pre-empt a future crisis. Whatever approach adopted should be a joint effort of the government and local authorities. Accordingly, a holistic approach would be required: More children's homes should be built, parents should be made to take the first responsibility in ensuring that their children remain away from the streets, the government should provide complete free education and make education compulsory and a programme for financial assistance to families with needy children should be established. At the secondary school level, the colonial system of fees remission should be re-introduced and undertaken by both the government and local authorities. These actions should be accompanied by an effective programme of responsible sex education focusing on both youths and adults whose children are likely to be street children. 'Until our girls are able to say no, we have a problem'. Councillor Olilo emphasised. To help these young mothers with unwanted children, the government should re-introduce the Affiliation Bill, he concluded (Interview, Kisumu Town, 2 October 1990).

Councillor Baraka Bakari of Kitui town concurred with Councillor Olilo. Referring to the welfare fund that used to be operated by the Children's Department of MHANH, he lamented: Until seven years ago the government used to do something to assist poor families. But now there is nothing. Even Children's Officers cannot do their work because they are under-staffed and lack transport and funds to carry out their field duties. Even Approved Schools, which used to be good, producing individuals who would be gainfully employed, today make good children society's worst enemies. The government is not doing much for the children. They [government] deal with foot and'-mouth disease but not the problem of children (Interview, Kitui Town, 1 August 1990).

It is the responsibility of the government not only to make" education compulsory but to make it accessible to every child by outlawing debilitating charges by schools under the. guise of cost-sharing. Councillor Bakari observed. Similarly, those who lure children to the streets by employing them as scrap metal and paper collectors should be dealt with Mrs. Agina, the National Secretary, KANU

Maendeleo ya Wanawake, regards street children as a problem for every Kenyan, a problem whose solution calls for public education to create awareness; for aggressive family planning advocacy; for a clear governmental policy on slum settlement; for better urban planning policy to pre-empt the development of slum communities in emerging urban centres; for resettlement of population already living in-' slums; for programmes which would enable street children families to start small businesses; for programmes to provide these families with facilities for business education. Above all, schools that cater for this category of children should be kept open longer during the week and during the weekends to allow slum children to do their homework at school and to have places to play during weekends.

F.K. Keitany, District Commissioner for Mombasa, offered to the rest of the country what he considers as the Mombasa approach. Over the last year, Mombasa District Development Committee has discussed the problem of street children in the District particularly in Mombasa Municipality and a number of programmes have been formulated. These include:

- (1) The establishment of youth polytechnics through the DDC. These will be based at the sub-locations. Each sub-location would allocate land while the DDC and the government would provide funds.
- (2) Rehabilitation of beach-boys by establishing beach-boy trading zones. For this purpose the DDC has set aside 3 acres of land where stalls will be built with funding from the government and Municipal Council. Once the project is completed, hotels in Mombasa will not be licensed to trade in curios.
- (3) A loan scheme has been proposed to enable youths to start their own businesses. The proposed budget runs to KSh.150 million and the scheme calls for organising-youths into co-operative groups based at the locational levels. The government, in addition to providing the loan money, will also post a District Industrial Development Officer to advise the various youth groups.

According to Mr. Keitany these approaches should in the long run reduce, if not eliminate, the intensity of the presence of street children in Mombasa. Similar approaches which take into account the actual situation of each locality, could be adopted in other towns and would reduce the problem overall.

The 634 street children interviewed were also asked to state who they thought should be concerned about the plight of the street children. They identified three key authorities. The most popular authority was the government, which attracted 29 percent of the 634 cases responding. Parents attracted 26 percent of this sub-sample, while well-wishers attracted 15 percent of the same. However, it is worth noting that 12 percent of the children felt that nobody could help them. From the children's point of view, the government and parents should lead others in assisting street children to improve their conditions.

7.5 Summary and Conclusions

What emerges in Section 7 can be summarised as follows:

1. Although there has never existed a policy on street children in Kenya, it is now being recognized that street children are already and will in the future be a serious security threat to the government and the public.
2. According to the District Commissioners interviewed, the government seems to have already become concerned. However, up to now the government has not developed policy or programmes whose specific objectives are to address the problem of street children.
3. Arising from Ministry of Home Affairs and National Heritage's 1990 Report on the status of street children in Kenya, the government does not know the exact population of street children in Kenya. However, according to the views of the people interviewed, the street children phenomenon is on the increase and needs immediate attention.
4. Apart from District Development Committees in Mombasa and Meru and the Provincial Commissioner's task force in Nairobi, there is no evidence to show that other DDCs in the country have initiated actions to address the growing problem of street children.
5. People interviewed made specific suggestions on what actions to be taken with regard to the street children problem, both at the micro- and macro-levels.
6. The findings of this section indicate that the people of Kenya are already well disposed in favour of legislation whose objective would be to redress the problem of street children.
7. Finally, there emerged a general consensus that the solution to the street children problem cannot be left to parents or government alone. The NGOs, churches and the whole society have a role to play. There also emerged a consensus that policy to address the problem should be holistic, taking into account both micro- and macro-level factors.

8.0 CHILDREN UNDER THE PRESENT LAW

8.1 Introduction

This section of the broader study addresses the operations of the law in relation to the child. It firstly seeks to identify the existing laws affecting children and to examine their mode of application. Secondly, the study addresses itself to wider questions such as the impact of the laws on children and other family members; the case for reform of the law; law's best course in the promotion of the well-being of children; the quest for greater public awareness on children's rights; international law and the rights and welfare of children.

8.2 Demographic Background

The pre-colonial and colonial periods were practically wholly wanting in demographic statistics on children, a situation, which however has changed since independence. Table 8.1 reveals the considerable improvement that has recently been realised, in respect of demographic statistics on children; it gives the clear impression that Kenya is a youthful country, a condition that may remain true for at least some decades.

Table 8.1 Demographic statistics on children in Kenya

	1979	projections for 1990	projections for 2000
Total population	15,300,000	24,000,000	37,000,000
Children (0-14 years)	7,400,000 (48%)	(51%)	(52%)
Children (6-12 years)	(22%)	(21%)	(21%)
Children (0-4 years)	(18%)	(21%)	(22%)

Based on the 1979 projections by the Central Bureau of Statistics.

Mortality, as a proportion of the total population, is likely to continue to fall on account of improved health care. At the same time, and for the same reason (in so far as it affects mothers), fertility is likely to remain relatively high, especially in the light of operative social, economic and philosophical considerations which will be considered below.

8.3 Children in African Society; A philosophical background

The position of children in African society rested not just on the economic or psychological needs of a family; rather it formed an integral part of the scheme of inter-dependence of the extended family and the clan, and of the world-view and religious practices of the ethnic group as a whole. The child's position in African customary law (which however is currently undergoing major adaptations ²) is thus stated by Kayongo-Male and Onyango ³: 'According to customary law, the children were actually in the custody of an extended family unit, so that illness or death of the parents simply entailed a relative taking over responsibility for the child'. Perhaps the locus classicus on this pervasive spirit of social accommodation for children, is by B.P. Kubo:

Under traditional African society, mutual social responsibility was manifested in many and varying ways. One such manifestation was found in the extended family notion whereby each adult treated his neighbour's children as his own to the extent that any adult was, by convention, empowered to chastise any child he found misbehaving, without fear of reprisals from either the child's parents or the social system. As a corollary to this.... the Giryama people of the Coast Province of Kenya had a saying: Mwana mutsanqa kalashwa hombo.

This means that a young baby has a right to the breasts of any suckling mother—they regarded a child as a sacred gift from God and believed it to be so innocent by customary law that it could be fed by [any] suckling mother.... ⁴

What economic or social considerations, what world-view and what philosophy would explain this traditional African social accommodation of children?

The bare-nature-dependent economies of the traditional era must have been an important factor in the development of social and religious attitudes, which treated man as subject to a supernatural order of things. The interplay with this supernatural order and the concern about death led to spiritual orientations focused on marriage, procreation and children as the only way to recoup for the loss brought by inevitable physical death. The scenario is clearly set by J.S. Mbiti:

...marriage and procreation in African communities are a unity: without procreation marriage is incomplete. This is a unity, which attempts to recapture, at least in part, the lost gift of immortality.... It is a religious obligation by means of which the individual contributes the seeds of life towards man's struggle against the loss of original immortality. Biologically both husband and wife are reproduced in their children, thus perpetuating the chain of humanity. ⁵

The essential point is that the traditional African society sought to accommodate itself to the workings of nature, and it regulated itself so as to meet the terms of nature. Death was perhaps the most disturbing of nature's terms. The society accommodated itself to the inevitability of death by laying emphasis on the renewal process, procreation and child raising. Children, of course, helped to support daily life through collaboration with adults in providing labour for managing the economic system. The child's renewal function and his economic contribution made a clear case for his being cherished and esteemed.

Such deep-rooted social and philosophical orientations die hard and cannot be entirely dislodged by modern social developments. Modernity today takes several notable forms, for instance: new economic pursuits; money as a medium of exchange; new systems of social security; increased use of scientific technology in daily chores; formal education; urbanisation and urban life styles; easy communication and the free flow of ideas; new religions of foreign provenance; adoption of a centralist political system; new modes of administration; adoption of received legal systems. The advent of modernisation dates back to the beginning of colonisation, in the last quarter of the 19th century. African social practices thus have functioned in competition group in the society. The determining factor in this change was the new economic system sponsored by and accompanying the state; this destroyed the pre-existing clan and ethnic insularity and the self-sufficiency of clans in the management of social welfare, including the nurture of children. A more individual-centred economy was brought about with radically different requirements, which were hemmed in by the demands of the centralised state for tax; physical labour, military enlistment and, above all, obedience and loyalty. The effect, given the sanction-orientation of the state, was to seriously undermine the communal framework of child care as the sole factor in the management of children's affairs.

The new economic system frequently removed clan members from their physical and social habitat and brought them into the employ of the state, or of European settlers under terms that were dictated either by penal laws or by Western-type contractarian arrangements. The effect was to undermine the collective scheme of the clan for the management of its social affairs. In many cases the demands of the colonial economy led to the temporary migration of families, who in consequence brought their social life, and committed them to a state-organised or state-superintended scheme of social life.⁹

Not only was the tranquil clan environment disrupted by such authoritarian demands from outside, the connections with the 'outside world' thus forged became a new source of values, and brought an aura of psychological dependence; the upshot being a warping of the original value-scheme which sustained child-nurture and other normal social activities. In effect, the importance of the traditional set-up (in its own right), and of its once dominant priorities, were being jolted to disintegration against the new realities ushered in by the colonial order.¹⁰

The effect of the money economy upon the social context of child-care was that a new factor, with scarcity as its hallmark, was introduced into the means-capacity of the people for caring for children. It can be assumed that the insufficiency of money was destined to condition the nature of the care that many people would, in the course of time be able to accord children. Moreover, the competitive atmosphere and the sacrifices accompanying the quest for money were destined, in the long term, to have a bearing on the capacity of many people for tolerance and generosity vis-a-vis the traditional social obligations such as caring for children without misgivings. Resort to monetary transactions was, in the circumstances, likely to come into competition with social generosity in the assumption of responsibilities towards children.

The overall effect of such developments, which followed hard on the heels of the new economic order, was to undermine the previous social psychology of accommodation, appreciation and sharing, with regard to losses or advantages. Slowly but surely, the social understanding and magnanimity of the traditional community was being impaired, and this was bound to have notable consequences for the position of the child, just as it was having for the other members of the family and clan.

The colonial authorities asserted legitimacy for the new order, despite its manifest detriment for the traditional social order, by according it the sanction of the law under a centralised legal system, which did not countenance rivalry. This approach to institution-building and institutional management would, doubtless, lead to attempts to replace the traditional scheme of social welfare with official laws of a *Gesellschaft*-type (in place of the 'traditional society').¹¹ Children were, in this scheme, destined to be dealt with as a general policy issue, 'regulated by specific laws designed to correct particular, perceived mischiefs. Certainly, such a formula would not, 'at least for some time, provide the sole framework for child nurture, as traditional society in its evolving form would continue to apply its changing norms relating to child welfare.

8.5 State Laws Affecting Children

In the larger society following in the train of the centralised colonial state, children soon became visible as an identifiable group in respect of which state policy should be adopted and given effect through law-making. However, since the colonial government was primarily concerned with orderly governance rather than with popular social aspirations, its legislative intervention was essentially mischief-oriented and not positively geared towards the amelioration of the condition of the child. Colonial legislation tended to be negative, merely seeking to stop an apparent impropriety and to touch on children as an incident rather than as the subject. And when such legislation appeared to be dealing more squarely with children's affairs, its effect was blurred by a racial outlook, which dictated

that children be seen as members of specific racial groups (European, Asian or African), and on that basis made or not made subject, in operational terms.

These characteristics mark most of the laws which have been passed and which affect children (and most of such legislation has been passed on from the colonial to the post-independence period). The concern of the relevant statutes falls under the following descriptive headings:

- (1) laws affecting employment techniques which exploit children;
- (2) laws prohibiting contracts oppressive to children;
- (3) laws requiring that children be accorded essentials of life (nutrition, shelter, apparel);
- (4) laws prohibiting sexual harassment or exploitation of children;
- (5) laws determining the status of the child and his standing in relation- to civil processes;
- (6) laws providing for protection and discipline.

Specific legislation will now be considered under the several headings.

8.5.1 Children and employment

The Employment Act¹² which sets out a controlling framework for employment relationships, devotes one of its parts to women and juveniles as specific targets of protection. It provides that no child may be employed in an industrial undertaking, except where this is done under a deed of apprenticeship conceived within the framework of a scheme of learning.¹³ This proviso notwithstanding, a prohibition is imposed on children attending machinery.¹⁴ Children may also not be employed to work in industry during the twelve hours running from 6.30 p.m.¹⁵

8.5.2 Children and contractual obligations

The Employment Act falls in this category in so far as it seeks to protect the child by prohibiting contracts, which impose unapproved employment burdens on the child.

But more important is the Infants Relief Act of England (1874)^{15a}, which applies in Kenya as 'Statute of General Application' by virtue of the Judicature Act¹⁶. It is well established under this Act, and by the case law interpreting it¹⁷ that an infant has in general no capacity to enter into a contract; he is only bound by contracts for necessities, and contracts for his own benefit; he is not bound by trade or loan contracts.

8.5.3 Children and essentials of life

The Penal Code¹⁸ places a duty on any person having custody or responsibility over a child to provide the child with necessities of life. Such custody or responsibility may first be determined in the terms of other statutes (as will be seen further on); and a penalty is imposed for breaches of the duty imposed. The relevant section provides:

It is the duty of every person having charge of another who is unable by reason of age, sickness, unsoundness of mind, detention or any other cause to withdraw himself from such charge, and who is unable to provide himself with the necessaries of life, whether the charge is undertaken under a contract or is imposed by law, or arises by reason of any act, whether lawful or unlawful, of the person who has such charge, to provide for that other person the necessaries of life; and he shall be deemed to have caused any consequences which adversely affect the life or health of the other person by reason of any omission to perform that duty.

Of course, the terms of the provision are much broader from the strict requirements of the child; they cover many categories other than children, as well as a wide array of circumstances in which a person may be deemed to be under legal obligation.

8.5.4. *Sexual exploitation or harassment*

The Penal Code prohibits sexual abuse of children. Section 143 of the Penal Code states:

Any person who unlawfully takes an unmarried girl under the age of sixteen years out of the custody or protection of her father or mother, or other person having the lawful care or charge of her, and against the will of such father or mother or other person, is guilty of a misdemeanour.

And Section 144(1) provides:

Any person who unlawfully and indecently assaults any woman or girl is guilty of a felony and is liable to imprisonment with hard labour for fourteen years, with or without corporal punishment.

It is not open to the accused to rely on the consent of the victim or a defence; the only defences are: (1) that the victim is the wife of the accused, and (2) that the accused did believe (and on reasonable grounds) that the girl was above the age of sixteen years.¹⁹

Section 145(1) of the Penal Code provides that 'Any person who unlawfully and carnally knows any girl under the age of sixteen years is guilty of a felony and is liable to imprisonment with hard labour for life, with or without corporal punishment. An attempt to commit such an offence is punishable by imprisonment with hard labour for fourteen years, with or without corporal punishment²⁰. The only defences are: (1) that the victim was the wife of the accused, or (2) the accused did truly believe (and on reasonable grounds) that the girl was of or above the age of sixteen years.

Section 147 of the Penal Code prohibits, on pain of imprisonment with possible corporal punishment, the procurement of girls for purposes of unlawful carnal knowledge, prostitution or association with activities in brothels. Section 148 makes it an offence to procure the defilement of a woman or girl, through fraudulent designs, or through the stupefying influence of drugs.

Section 149 of the Penal Code provides that any owner, occupier or manager of premises who induces, or knowingly suffers any girl under the age of thirteen years to resort to such premises for the purpose of being unlawfully and carnally known by any man, is guilty of a felony punishable by five years imprisonment. The only defence available is that the person charged had good cause to believe and did truly believe that the girl was of or above the age of thirteen years.

Section 150 of the Penal Code, once again, imposes a duty on owners, occupiers or managers of premises. Any person in that category who 'induces or knowingly suffers any girl above the age of thirteen years and under the age of sixteen years to resort to or be upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally', is guilty of a misdemeanour. The only defence available is that the man charged did actually believe, and on good grounds, that the girl was of or above the age of sixteen years.

Section 164 of the Penal Code gives protection against indecent assault, for boys under fourteen years of age. An accused person, if found guilty, is liable to imprisonment for seven years, with or without corporal punishment.

8.5.5 Child's status in relation to civil processes

The child is in the first place a human being like the adult, and on this account he is entitled to the normal rights of the Constitution.²¹ The rights in question, which substantially overlap with the terms of certain instruments of international law.²² are as follows: the right to life²³; the right to personal liberty²⁴; freedom from slavery or forced labour²⁵; freedom from inhuman treatment²⁶; freedom of property²⁷; freedom from arbitrary search and entry²⁸; right to the protection of the law²⁹; freedom of conscience³⁰; freedom of expression³¹; freedom of assembly and association³²; freedom of movement³³; and freedom from discrimination³⁴

Within the terms of the Constitution, various statutes have been passed which also have a bearing on the status of children. An example is the Magistrates' Courts Act³⁵, which confers upon Magistrates' Courts the jurisdiction to determine claims under the customary law. Section 82 of the Constitution

validates differential treatment for parties, if authorised by customary law, in the face of the prohibition against discrimination (already referred to). It is on this basis that the Magistrates Courts Act authorises the treatment of matters relating to 'guardianship, custody, adoption and legitimacy', as customary law matters.³⁶

But such a legislative approach leaves unanswered some moral issues, since (as will be seen further on) there are formal statutes devoted to those very matters affecting children. It must follow that different moral standards and different cultural values are capable of applying to different children depending on their racial or ethnic origins and with respect to such overwhelmingly important subjects as custody, guardianship, adoption and legitimacy!

A similar jurisdiction (which therefore must attract similar criticism) in respect of Muslim parties is created by the Kadhis' Courts Act.³⁷ Section 5 of the Act confers upon such courts the jurisdiction to determine questions of personal status, marriage, divorce and inheritance, where all the parties profess the Islamic faith. The Kadhis' Courts have in practice also determined questions of custody, guardianship, adoption and legitimacy.³⁸

One of the most important statutes affecting the child is the Legitimacy Act³⁹. It deals with cases of children born out of wedlock, and as already stated, operates in parallel with such rules of customary law as may be in force, to be determined by magistrates under the Magistrates Courts Act. The Act provides for the legitimation of a child by subsequent marriage of its parents to each other. Legitimation under the Act is not an automatic process, and- an application for it must be formally lodged with the Attorney-General as the respondent⁴⁰. A child, once thus legitimated, enjoys the same rights of inheritance as an originally legitimate child. The parents of the legitimated child are placed under the same obligations of maintenance, support and legal protection as would accrue in the case of an originally legitimate child.⁴¹ But where a child is not legitimated in spite of a marriage between its mother and a man, the child's rights of succession are confined to the mother's property. In such a situation the child and the mother have reciprocal rights of succession upon intestacy.

Another leading statute on children's status is the Guardianship of Infants Act⁴². Its basic object is to provide for the custody and guardianship of infants. It is provided that on the death of a parent, the surviving parent becomes the guardian of the infant; and where there is no guardian, the court may take the initiative in appointing one⁴³. This law (like the Legitimacy Act) is modelled on the law of England and expressly states that guardians have the same powers as guardians under the law of England have⁴⁴. The Act confers wide powers on the court to make any orders it deems fit, with

regard to the custody of the infant, and access to the infant, but bearing in mind in particular the welfare of the child, as well as taking into account the conduct and wishes of the infant's parents.⁴⁵

The question of children's custody is provided for also under other statutes, namely the Subordinate Courts (Separation and Maintenance) Act⁴⁶ and the Matrimonial Causes Act⁴⁷. The first of these permits custody orders for children up to the age of sixteen years⁴⁸. Those covered by this Act are all the children of the marriage, as well as 'any child of the wife born before such marriage (whether such child is legitimate or illegitimate) until such child attains the age of sixteen years or until the death of its mother, whichever event first occurs'⁴⁹. The Act is essentially for the protection of wives against their husbands, and makes provision for a wife to apply for separation and maintenance for herself and for the children as described above, on the grounds that the husband has been guilty of persistent cruelty to her or her children, or has been guilty of wilful neglect to provide reasonable maintenance for her children whom he is under duty to maintain⁵⁰. The court however has no authority to make such orders where the wife is found to have committed adultery.

It is to be noted that this Act applies only where the marriage in question is a statutory marriage.⁵¹
Children born of customary marriages, thus, cannot benefit from such protection.

The Matrimonial Causes Act, which again only applies to statutory marriages, provides that in proceedings for divorce or nullity or judicial separation, the court may make such provision as appears just, with respect to custody, maintenance and education for the children of the marriage⁵². Alternatively the court may direct the taking of proper proceedings leading to the placing of the children under the protection of the court. The court may order the husband, or if he is of unsound mind, the wife to secure a lump sum for the benefit of the children. But it is to be noted that the definition of the child under this Act entails a strange differentiation; for Africans, child means a male child under sixteen years of age, and a female child under thirteen years of age; for the other races the reference is to any child below the age of majority.

Yet another highly important statute on child status, and related matters, is the adoption Act⁵³. This Act provides for the adoption of children, as well as the registration and control of adoption societies. An adoption order may only be made if the court is satisfied that it is in the best interests of the child. Appropriate consideration must be given to the ability of the applicant to maintain the child, as well as to the wishes of the child if it is able to make them known.⁵⁴ A relative of the child is to be accorded preference in the making of adoption orders, where such a relative is an applicant⁵⁵. As an approach to the protection of the child's interests, an adoption application is required to be based on a genuine familial concern, and must not be founded on the profit motive. It is an offence, punishable

by six months' imprisonment or a fine to make adoption arrangements for purposes of monetary gain⁵⁶

Another statute affecting the civil status and activities of the child is the Law of Succession Act⁵⁷. This statute makes provisions for testate as well as intestate succession. Dependants (and in practice these are, under Kenya's current demographic conditions, mainly infants) may apply to court for reasonable maintenance where this is not adequately provided for by will or through arrangements under intestate succession.⁵⁸ Dependants are defined to include grandchildren, step-children, foster children, brothers and sisters and half-brothers and half-sisters who were being maintained by the deceased immediately prior to his death⁵⁹

Mention may also be made of the Widows and Children's Pension Act⁶⁰, which provides for the grant of pensions to widows and children of deceased public officers. The term child is defined to include a step-child, an adopted child and a foster child under customary law; but illegitimate children are excluded.

Lastly, note should be taken of certain provisions of the Penal Code which accord children special kinds of protection. Section 14 of the Penal Code provides that a child under the age of eight years bears no criminal responsibility for an offence; and from the age of eight years, and below the age of twelve years of age, a child bears criminal responsibility only if he has the capacity to know that he ought not to have committed an offence. A boy of under twelve years of age is, moreover, presumed to be incapable of having carnal knowledge.

The Penal Code also seeks to protect the infant by prohibiting infanticide, the concealment of birth, the killing of an unborn child, the procuring of an abortion, and the imposition of the death penalty on pregnant women⁶¹.

8.5.6 Protection and discipline

It is under this heading that one finds the most substantial legislation concerning children, the Children and Young Persons Act⁶². Its objective is set out as the protection and discipline of children, juveniles and young persons. Part II of the Act provides for the establishment of juvenile courts, and Part III makes specific provisions for the protection and discipline of children. Part IV directly reinforces the courts' jurisdiction given by other statutes (already considered) in custody matters. This Part empowers courts to commit children, who they consider to be in need of care and discipline, to a fit person, or to an approved school. Part V of the Act provides for the establishment of remand

homes and approved schools, and for the management and supervision of such schools. Part VI of the Act provides for the supervision of children entrusted by the court to a fit person. Part VII provides for the appointment of children's officers and specifies their powers. Part VIII of the Act provides for the care of orphaned or deserted children by local authorities. Part IX makes provisions for ministerial authority in respect of voluntary children's institutions. Part X contains provisions regarding the reporting, arrest and return of children who desert their authorised places of custody. The Act empowers the courts to order parents to contribute towards the maintenance of children committed to particular institutions or persons for custody and care⁶². The Act takes the age of childhood to be under eighteen years, and provides that the court is to pay prior attention to the welfare of a child, and is to ensure its proper maintenance and education⁶⁴. The Act provides that it is an offence to assault, ill-treat, neglect or abandon a child or expose him to insecurity or subject him to conditions of indiscipline⁶⁵; the penalty of fine and imprisonment is prescribed for the offence. Where the court finds a child to be in need of protection or discipline, the court may take any of the following decisions: order return of the child to the parents; or order the parents to execute a bond for the child's proper care and guardianship; or commit the child to the care of a proper person, or to the care of an appointed local authority; or place the child under the supervision of a children's officer; or commit the child to an approved school.

Partly overlapping with the Children and Young Persons Act is the Borstal Institutions Act⁶⁶. The object of this Act is to make provision for the establishment of borstal institutions for child-offenders⁶⁷. The Act requires such borstal institutions as may be established, to provide adequate sanitary arrangements, water and food; to give proper education and training for the inmates; and to make available to the in-mates necessary health facilities. The Act operates along with detailed ministerial rules, which provide for management and discipline in the borstal institutions.

8.5.7 Other legislation affecting children

While the statutes considered above represent the core of children's legislation, they give only an incomplete picture of the totality of legislation touching on children at some point or other. A fuller picture is given by Table 8.2.

Table 8.2 Children's Legislation⁶⁸

title of statute	Chapter number	Relevant sections
1. African Christian marriage and divorce Act	151	8,13
2. Age of majority Act	33	2, 5

3. Asian officers Family pensions Act	194	2, 7, 13
4. Asian widows and orphans	193	2, 4, 12, 23-25 31, 34
5. Betting, lotteries and Gaming Act	131	28, 43, 48, 50, 54
6. Births and deaths registration Act	149	2, 7-14
7. Bills of Exchange Act	27	22
8. Chief's Authority Act	128	15
9. Civil Procedure Act	21	Rules 1-4, 12
10. Cooperative Societies Act	490	14
11. criminal Procedure Act	75	185, 186
12. Evidence Act	80	118, 124
13. Fatal Accidents Act	32	2
14. Film and stage Plays Act	222	2, 17
15. Firearms Act	114	32
16. Hindu Marriage and Divorce Act	157	3, 4, 11
17. Immigration Act	172	2, 3, 4,
18. Interpretation and General Provisions Act	2	3
19. Industrial Training Act	237	2, 8
20. Judicature Act	8	3
21. Kadhis' Courts Act	11	5
22. Kenya Boys Scouts Act	219	all
23. Kenya Girl Guides Act	219	all
24. Kenya Citizenship Act	170	2-5, 18
25. Law of Contract Act	23	2
26. Law of Domicile Act	37	3-6, 9, 10
27. Limitation of Actions Act	22	2, 42
28. Liquor Licensing Act	121	14, 30
29. Marriage Act	150	11, 19, 21, 22, 35
30. Merchant Shipping Act	389	53, 86, 89, 96, 97
31. Mohammedan Marriage and Divorce Act	155	9
32. National Hospital Insurance Act	255	5, 10
33. National Security Fund Act	258	2, 19, 21
34. Oaths and Statutory Declarations Act	15	19
35. Partnerships Act	29	13, 14
36. Parliamentary Persons Act	196	3, 14
37. Penal code	63	14, 25, 27, 142-161, 164, 166 , 167, 174, 210, 211, 214, 216, 217, 227, 239, 255, 257, 262
38 Pensions Act	189	15, 17
39. Public Health Act	242	2, 46, 47, 103-109, 112
40 Prisons Act	90	66, 67
41. Probation of offenders Act	64	4
42. registration land Act of persons Act	300	113 - 115
43. registration of persons Act	107	2, 9

44. sale of Goods Act	31	4
45 Traffic Act	403	33
46. Traditional Liquor Act	122	27
47. Trustee Act	167	46, 47, 54
48. Trusts of Land Act	290	10, 13
49. Workmen's compensation Act	236	3, 11, 12

8.6 Commentary on the Laws Relating to Children

8.6.1 General remarks

The fact that the core of children's law rests on four crucial statutes (Adoption Act, Children and Young Person's Act, Guardianship of Infants Act, and Legitimacy Act) which the rest of the child-related issues are covered in some other statutes, makes it manifest that there is no single policy on children that has governed the process of law making. It may well be that the many manifestations (child problems have not been seen as an integral unity, are so children as such have not been the inspiration behind the general concept of law-making. This perception is fortified by the fact that the overwhelming bulk of the relevant legislation is of colonial origin and would have been informed above all by colonial administrative requirements in that case, such legislation would not be designed in the context of a new social policy designed in tune with the needs of Kenya's youthful population. It is relevant to note, in this respect, that both the Adoption Act and the Guardianship of Infants Act came into effect in 1959, the Children and Young Persons Act in 1963, and the Legitimacy Act as far back as 1930.

8.6.2 The Law of Custody and Guardianship

Custody and guardianship are not identical legal concepts. Guardianship merely expresses the legal authority, which a particular person has over a minor, but it does not necessarily suggest that that person has actual custody over the child. The term custody refers to actual physical control over a minor, and such direct control will be accompanied by the obligation of day-to-day maintenance over the child. In practice, it is generally unnecessary to draw a distinction between the two terms because the responsibility for both custody and guardianship falls on the same person or persons. The need to draw the distinction arises whenever a child is placed in the custody of a person who is not at the same time a guardian. In such a case, the guardian has priority over the custodian in relation to certain important legal situations, such as, for instance, rights of succession.⁶⁹

Both custody and guardianship are governed by the Guardianship of Infants Act, which is traceable in its basic outlines back to the colonial Custody of Children Ordinance of 1926⁷⁰, the latter itself having been based on England's Children's Act, 1908.

Naturally, the main principles of the Guardianship of Infants Act are based on English law and practice. Perhaps the main principle here is that which makes the welfare of the child the main concern in determining appropriate custody for a child. In the British case, *J V. C*⁷¹, it was held that the paramountcy of the infant's interests would even justify placing an infant's custody in the hands of persons other than members of the family. Kenyan legislation also allows this approach to custody, as the court may see fit.⁷²

Now although the courts have applied the principle of child's - welfare -as-paramount - concept, and within that principle generally vindicated parental claims,⁷³ it "has been apparent that there is no full agreement as to what makes the best interests of the child. For example, in *Karuru V. Njeri*⁷⁴, the best interests of the child were held to require that, as between father and mother, custody should be given to the father. In the words of Simpson, J.: 'I... feel that if children are left in the hands of the father they would later on become better persons than if they were left to be looked after by the mother.' But a short while later, in *Wambua V. Okumu*⁷⁵, the Court of Appeal held that a rule of customary law that gave the right of the custody for an illegitimate child to the putative father did not take adequately into account the welfare of the child, and for this reason it was in conflict with section 17 of the Guardianship of Infants Act.

It is clear then that there is a shortcoming in the law, in so far as it is not plain what the welfare of the child truly entails.

In the individualistic countries of the West, such as Britain, it does make sense that the court should have a completely unfettered discretion as to the prescription of custody for a child, and the court is free to overlook possible claims emanating from the wider family. But such an approach would not truly reflect the African reality. The trends towards individualism in the African countries, which have become increasingly prominent with the advent of urbanisation and the monetary economy, have not completely broken down the larger African family, and in practice the welfare of children, in the matter of custody, should still be taken to lie mainly within the family.

More fundamentally, it should be noted that the judicial initiative as the exclusive basis for determining child custody, is not capable of meeting the practical needs of children in Kenya or other African countries. The judicial infrastructure is too limited to capture the totality of the child-custody problem, and the structured and elitist design of the courts will for sure keep out many cases deserving of custodial placement. If this is a valid argument, it follows that a new, less formal community based entity should be designed to reach the large numbers of children who need proper

custody and care. It then becomes necessary to deal with the question of custody not just as an incident of adult relationships (divorce, separation, etc.) which are expected to come before the regular courts, but as a general social problem arising directly from the needs of the children. Unless such an arrangement is made, many children must remain displaced and marginalised and, as will be again restated, such children are to be expected to drift into urban centres as street children, begging for alms to satisfy survival needs.

8.6.3 *Birth out of wedlock*

The colonial Legitimacy Ordinance, of 1930⁷⁶ was based on the English Legitimacy Act of 1926. The English legislation was based on cultural orientations somewhat alien to Africa. England's attitude to the 'illegitimate child' was stated by Denning, L.J. in *Re M.*⁷⁷ as follows: '[The] law of England from time immemorial looked upon the bastard as a child of nobody, i.e. as the child of no known body except its mother'. The mother, therefore, was the sole custodian of such a child, but she had the right, by deed or will, to appoint a testamentary guardian for the child after, to take over responsibility after her death; she also had the right to give or withhold consent to marriage, for the child, in the event she desired to marry before attaining the stipulated age of marriage.

Kenya's Legitimacy Act reflects the terms of the English statute, a fact which was found in the colonial period to be untenable as birth out of wedlock became increasingly widespread. Thus in 1959 the Affiliation Ordinance⁷⁸ was passed in an attempt to resolve the hardships associated with birth out of wedlock. The Affiliation Act, which was repealed in 1969, enabled the mother of the child to seek a court order for maintenance against the putative father. The repeal of the legislation meant that increasing numbers of children born out of wedlock could no longer be maintained by their mothers, and many of them drifted into the streets of the urban centres as street children, begging for alms. The repeal of the Affiliation Act is viewed among scholars as being retrogressive and pernicious to the welfare of children. One writer thus comments on the repeal of the Act:

The repeal may be regarded as one of the most irresponsible actions that a mature, responsible legislature could have committed; no alternative remedy was provided to help mothers of illegitimate children to seek for maintenance support from the responsible fathers. One of the 'reasons' given by the parliamentarians during the debate on the repeal of the Act was that it proved difficult to track down mothers who abused the system by claiming help from more than one man for a single child in different courts. This... meant that the government had accepted defeat in dealing with criminals just as if it had been argued that since robbers are too numerous, the law against robbery should be repealed! The other argument by some legislators was that illegitimacy is an alien concept that had no place in Kenyan society. Such reasoning, although sound historically, failed to appreciate the new developments in the society, such as child vagrancy.⁷⁹

The insular and self-sufficient society of the pre-colonial period is no more. The communal context for coping with ever growing numbers of children, through the sharing of responsibility, has worn thin, with the increasing population, thus subjecting accommodation, space and amenities to severe pressures. Short of controlling the sexual behaviour of men and women, society must legislate for the exaction of child-upkeep resources from those who have brought forth the children. Failing this course of action, increasing numbers of children must find themselves with no homely custody, no food or shelter or apparel, and ultimately they will drift into the streets as street children, begging for alms.

In short, there is a moral and policy duty on the government to propose, and on Parliament to deliberate upon and pass, legislation to provide for the maintenance of children born out of wedlock.

8.6.4 Adoption

The terminology of official law draws a clear distinction between adoption and fostering. As Sir Humphrey Slade pointed out, 'Legal adoption is not to be confused with "fostering" which means the temporary care of a child, over, a period of any length of time, without any change of its legal status, any permanent separation from its natural relatives, or any right of inheritance from its foster parents⁸⁰. By contrast, adoption is defined thus: 'In legal parlance, "adoption", with reference to children, means a process whereby children are separated finally and completely from their natural parents (if any) and other relatives, and become the children of adopting parents for all legal purposes, including inheritance⁸¹. In this study, Sir Humphrey Slade points out that although there has been a law of adoption in Kenya since 1933, 'it is only in recent years that it has been required for children on any scale. That is because in the past all homeless African children were cared for by customary fostering or occasional customary adoption, and there was neither need nor place for legal adoption orders so far as they were concerned'.⁸²

The phenomenon of street children, as well as other manifestations of child homelessness, gives clear evidence that the traditional African philosophy concerning children, traditional African social generosity and the attendant economic capacity for self-sufficiency are breaking down, and new schemes of care for homeless children must be found. Since such new initiatives must be planned by the public authorities, it follows that the official law must come to play a significant role. Such law has to take into account the fact that the African society and economy are not yet completely

transformed to the point of shedding the attendant cultural orientations. No law that fails to capture this dynamic reality is likely to prove effective in the solution of African social problems.

It should therefore be recommended that a new law be designed which gives accommodation between the traditional fostering practices for children, and the concept of legal adoption that assumes a total severance in the relation between a child and its relatives. Such a law would in particular give advantage in respect of the not - too - young children whose emotions may lie deeply with their relatives.

8.6.5 Institutions and sanctions

Sanctions are extensively provided for in both the Children and Young Persons Act, and the Penal Code, as an approach to the protection of children. The Children and Young Persons Act lays emphasis on legal prosecution and formal institutionalisation. The ethos of such law is distinctly English and positivistic and for that very reason in conflict with the traditional social ethos, which was decidedly of a Gemeinschaft rather than a Gesellschaft strain. Often the content of such law replicates old English law and tends to displace the traditional norms. It is, besides, ironic that 'while the relevant English law has itself changed over the years, in response to changing ideas, the Kenyan statutes have remained more or less static, notwithstanding the highly dynamic context of social change in this country.'⁸³

Among the clear demerits of the scheme of the Children and Young Persons Act is that it provides for 'no distinction between juveniles who have committed an offence and those who need care and protection. They all end up in the same remand home or approved school'⁸⁴ Secondly, the system of justice provided for under the Act brings together adults and children in open court, thus denying children the privacy which their situation» warrants.⁸⁵

R.M. Walekhwa makes the meritorious suggestion that the scheme of juvenile justice should be modified to provide some special institution, within the police or administrative machinery, for diverting juveniles from the machinery of court justice, and handling their affairs under a different regime of norms with a different set of custodial or educational institution.⁸⁶ Careful consideration should be given to the possible mechanics of such an alternative process but close community participation should in any event be provided for. But in the shorter term, the present juvenile justice system should provide for a separation of children from adults who are. subject to the criminal process.

8.7 International Law and the Municipal Law Reform

Since the Universal Declaration on the Rights of the Child, which was adopted by the U.N. General Assembly in 1959, the most important international law to be enacted on children's welfare is the

Convention on the Rights of the Child (1990). The concerns of the Convention may be summarized under J specific headings, as shown below.

8.7.1 The concept of 'child'

It has already been seen that Kenyan legislation uses, varying age-definitions for the child, and sometimes further mystifies the point by the use of ill-defined and ambivalent terminologies, such as juveniles, children, young persons. In terms of application of the law, such equivocation is undesirable, and this is one area in respect of which law reform should be affected.

A principled definition may be derived from the Convention, the standard measure of which, for child, is the age of under eighteen years. Since such important legislation as the Children and Young Persons Act, and the Age of Majority Act, already use this age as the criterion, it is recommended that the present law should be reformed to take the position that 'child' means any person under the age of eighteen years.

8.7.2 Welfare and civil rights

The bulk of the convention is devoted to the welfare and civil rights of the child. The matters covered include: protection against discrimination ⁸⁷; right to life ⁸⁸; freedom of expression ⁸⁹; freedom of thought, conscience and religion ⁹⁰; freedom of association and assembly ⁹¹; right of privacy ⁹²; right to receive information ⁹³; right of personal liberty⁹⁴. On general welfare issues, the Convention provides for, as an example, right to survival and development ⁹⁵; right to be cared for by parents ⁹⁶; right to remain with the parents ⁹⁷; special provisions for the welfare of disabled children ⁹⁸ ; right to good health⁹⁹; right to social security ¹⁰⁰; right to education ¹⁰¹; right to rest and leisure ¹⁰²; freedom from exploitation ¹⁰³

The provisions for the rights and welfare of the child may be analysed as possessing two basic characteristics. Firstly they depend upon formal law and institutions for actualisation. Article 3(3) provides that 'States Parties shall undertake all appropriate legislative, administrative and other measures, for the implementation of the rights recognised in this Convention.

This virtually complete reliance on formal institutions' may not fully reflect the 'informal sector of communal life' that rests upon private social resources and mechanisms, as the formal sector with its standardised criteria of access cannot provide for it. And it is arguable that such a formalistic

approach could not possibly provide for the ' typical African situation. It is relevant in this respect, that African countries, under the auspices of the Organisation for African Unity, is already considering the adoption of an African Charter on the Rights and Welfare of the Child. This Charter seeks to insert new concepts (of African origin), notably with regard to the duties of the child, into the international body of child law.

Secondly, a great part of the prescriptions of the Convention is largely hortatory, as it gives no vested rights as such but depends on the economic co-operation and goodwill of the States Parties to give meaning to the provisions, firstly through the creation of physical and social conditions conducive to the rights of the child, and secondly through the establishment of a regime of law that would give effect to the rights in question.

A credible position for Kenya, with regard to the Convention, would entail, for a start, a re-examination of the existing national law (already discussed), and its consolidation around clear principles of child welfare. In the longer term, Kenya's full adherence to the rights provisions of the Convention must depend on the creation and maintenance of a healthy economy, and of a vibrant social programmes and institutions. It is out of this situation that the infrastructure of rights will emerge, and the purpose of the law will remain only to sanctify the material economic and social gains, in the interest of children.¹⁰⁴

8.7.3 *Issues of Status*

The convention makes important provisions as regards status, that should in principle be adopted in national legislation without hesitation. The relevant provisions¹⁰⁵ require immediate registration of all children upon birth, the recognition of a child's right to a name and an individual identity, as well as nationality. The concern of these provisions is, firstly, to recognise the child's personhood and individuality of character, and secondly to lay a basis for the state's responsibility in respect of children. In the child's vulnerable position, there needs to be an overall 'guardian', in the form of the state, to work towards the attainment of the rights of the Convention, to the advantage of the child. In reforming the law relating to children, the new statute should in principle provide for such important matters.

8.8 Summary and Conclusion

The terms of this study were formulated as:

- (1) To identify the laws relating to children, and to examine their application;

(2) To analyse these laws with attention to:

- their impact on children and family members;
- the case for reform;
- the relevance of these laws to the welfare of children;
- municipal law vis-a-vis international law;
- the question of public awareness on the matter of children's rights.

This study commenced with a diverse background to the situation of children: A general introduction, demographic backdrop, philosophical background and a social-change backdrop to the role of law in children's welfare in Kenya. The study then proceeded to the areas of law-making that have been recognised right from the colonial period; these include, in particular, the spheres of employment, contractual obligations, sustenance, sexual abuse, status, protection and discipline. This account ended with an identification of the rest of the legislation (some four dozen) having some bearing on children. Once such laws had been identified, and the most crucial and elaborate of them had been described in a theoretical and operational perspective, a systematic analysis of them was undertaken, with the view of identifying possible areas of reform, in the light of children's current needs. Following this analysis, reflections were made on the international regime of child law, with cross-references to the position in municipal law. Such references facilitated the emergence of further ideas which are set out as part of the conclusion.

The conclusion of this study is set out in specific, numbered propositions:

1. From the identification and analysis of the laws relating to children, it is clear that a most important concept in child-law (both in municipal and international law), namely 'the welfare of the child', is not fully agreed upon in relation to custody matters. Any law reform initiative ought to settle the content of this principle.
2. The principle of 'The welfare of the child', in custody -orders, should proceed on the basis that the broad "family of the child is likely to provide the best custody of the child.
3. The formal judicial initiative should not be regarded as the best medium for resolving child welfare issues; the court's accessibility is restricted and is unequal to the full range of child problems in the country, especially in view of the large and youthful population, as compared to the available resources, and in view of the enormity of the social problems wrought by rapid change, and affecting particularly the family institution. In any law reform initiatives, less technique-bound institutions, which coincide with the requirements of the state of social and

economic; transition from traditionalism to market-type modernism, should be considered and adopted. This should involve a less formal, community-based institution.

4. Too much faith in rigid, standardised institutions (especially in the context of old English-type laws) as the exclusive or dominant device for handling children problems, in Africa, is apt to lead to an operational jam, with significant numbers of children being dislodged and discharged into the streets as street children.
5. In the scheme of child-law reform, provision ought to be made for the maintenance of children born out of wedlock, since rarely are the mothers of such children-able by themselves to maintain the children, and drifting into the streets thus becomes a very real option for them.
6. A cut-and-dried principle of adoption, as provided for in English-derived laws, fails to accommodate traditional notions of child fostering, and the narrow scope of such laws tends to exclude many homeless children, who must in consequence consider roving in the streets as a real option. A course of law reform should be recommended which creates a more imaginative concept of adoption, by combining the orthodox law with traditional African practices.
7. The present scheme of juvenile justice does not accord children the privacy they need and tends to lump them together with adults as part of a process. It is undesirable to deal with children's social problems in this manner; and any programme of law reform ought to establish exclusive institutions for children.
8. The existing laws on the child make prescriptions and establish institutions applying specific laws, but no mention is made of child rights and welfare as a principle to be advocated. The Convention on the Rights of the Child imposes upon states a specific obligation thus: 'States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.'¹⁰⁶ Municipal law, by its very nature and design, does not make such hortatory provisions. But such a commitment can (and should) be made at the policy level attending law-reform initiatives. It is recommended that as a matter of administration, the offices charged with the implementation of a new law should have a general responsibility to popularise the cause of the child and to undertake the necessary advocacy.

9.0 CONCLUSIONS AND RECOMMENDATIONS

9.1 Conclusions

A number of conclusions can be derived from this study.

1. The phenomenon of street children is real in Kenya. The number of street children is on the increase. Although street life has been a domain of male children, the number of female street children is increasing rapidly. It is apparent that a second generation of street children is now emerging, that is, mothers who have given birth to children on the streets now have grandchildren who are street children.
2. The phenomenon is strongly associated with economic, social and environmental factors. Thus, the majority of families are characterised by (a) single parenthood, (b) low incomes, (c) lack of developed skills, (d) unemployment, (e) large family sizes, (f) poor sanitation, (g) inadequate clean water supply, (h) inaccessible roads with inadequate lighting, (i) temporary and inadequate shelter, (j) absence of recreational facilities, (k) overcrowded and hostile environments.
3. The majority of these children have dropped out of school. Their parents either dropped out of school or had no education. This explains the type of occupations these parents are engaged in, namely, hawking, illicit brewing of chang'aa, bar attendants, house-maids and commercial sex.
4. Many of the families are of rural origin, with Murang'a, Kiambu and Siaya districts being over-represented. Most families appeared atomised with hardly any linkage with their rural relatives. These families seldom own property either in the rural or urban areas. The families are poor utilisers of available community services, such as family planning and other social welfare programmes.
5. The parents portray the state of apathy reflected in their dwellings, lack of concern for their children, relegating their parental responsibility to the government. For example, they look to the government as the sole saviour from their plights.
6. Socialisation and up-bringing featured as a major problem, reflected in the behaviour of street children. The children were stealing, taking drugs, smoking cigarettes, taking alcohol and even indulging in premature sex. There was very little interaction between these children and their parents. The primary socialising agent for these children seemed to be peers. Most of these children have been arrested and taken to remand homes.
7. The majority of children had health problems ranging from skin diseases to venereal diseases and malnutrition. While on the streets the children engaged in economic activities from which they earned incomes to buy food, which, for the most part, was inadequate. The food situation was not different at home.

8. However, the children were coping with street life reasonably well due to the fact that they were organised in supportive groups. Although the majority of the children were pessimistic about their future, their aspirations were realistic.
9. Programmes to address street children problems exist, and most of them are run by NGOs. The majority of these programmes are remedial and hence supportive. There are few preventive programmes and they too tend to be supportive rather than developmental. Above all, they only serve a few families, and specific programmes for street children tend to focus on male children.
10. Government-run programmes are mainly institutional, namely, approved schools, borstal and remand homes, which are very unpopular with potential beneficiaries.
11. The education sponsorships of most programmes are not very effective as they are highly centralised and resources are limited. Most of these programmes are dependent on external sources. Above all, the selection procedure seems tedious and subjective as the local leaders who are charged with the task of selecting recipients use it for patronage.
12. Few programmes have developed internal mechanisms of generating incomes. However, even those who have made attempts still find it difficult to generate resources locally. This has led to financial constraints and termination of some programmes.
13. Most programmes offer vocational training and education' sponsorship to children. However, skills obtained from these efforts are difficult to market. As such the placement of graduates is always a problem. The follow-up of these graduates seems not to be feasible, making it difficult to determine the success rate.
14. There seems to be no co-ordination among the NGOs themselves or between the NGOs and the local authorities and central government. This has led to occasional demolition of some NGO community-based shelter programmes.
15. There is growing general awareness of the phenomenon of street children among the Kenyan public. Street children are viewed as a problem to the public and the state. The public sees parental responsibility as prerequisite to elimination of the phenomenon. However, in government circles, the phenomenon is viewed as representing a potential threat to the security of the state, thus the emphasis on parental responsibility.

16. At the time of this study, public policy regarding street children seemed not to exist. Whatever existed appeared to reflect colonial policy orientation. However, there is a growing concern regarding the need to have policies and programmes on street children, both from the central government and local authorities as well as the public.
17. The formulation of policies and development of programmes to redress the phenomenon are expected to be multi-faceted, involving the parents, the community, NGOs, central government and local authorities, focusing on economic deprivation of these families, education, urban planning and social service policies in the country.

9.2 Recommendations

Many children are already on the streets and more come to the streets every year. Therefore, any policy approach should be two-fold, consisting of short-term and long-term policies. Short-term policy should be rehabilitative, while long-term policy should be preventative.

The short-term approach should seek to use existing institutions both as models as well as resource systems. As resource systems one sees the use of municipal social and community halls, Young Men's Christian Association and Young Women's Christian Association centres and church facilities as recreational and feeding points to prepare street children for rehabilitation in established institutions and programmes.

As models, one may consider such institutions as the National Youth Service; Starehe Boys Centre; as community-based programmes being run by Undugu Society of Kenya (the Kitui Village model); the family sponsored programmes of the Missions of Mercy in Kisumu; the Christian Children's Fund in (Kenya/UK) (rural-based) and Action Aid-Kenya (urban focused). The models could in the long-term serve as preventive measures to pre-empt the flow of children to the streets of major towns.

- 1) The study observed that street children come from large families averaging seven persons. Although this is consistent with the family pattern in Kenya, the difference arises from the fact that the majority of street children families are of single parents, most of whom are women with unreliable sources of income and shelter. Therefore, activities regarding population control are highly desirable.
- 2) The study indicates that a large number of these children are between the ages of 6 and 15 years (88 percent) and are already involved in deviant activities such as smoking cigarettes, taking drugs, stealing and promiscuity, a situation that illustrates lack of care, discipline and love from

the family and society. Hence, the visible street children require special programmes and social legislations, which address their unique needs and circumstances. For example, free and compulsory education up to age 16 is a prerequisite for the elimination of the street children phenomenon.

- 3) The majority of the respondents tended to blame the large school drop-out rate of these children on unstructured school levies related to buildings, library, textbooks, PTA and uniform requirements. Therefore, it is highly recommended that the government and local authorities should review and come up with policies that protect children from poor families from being denied their right to education.
- 4) While it is necessary to find voluntary ways of removing children from the streets, this approach should be based on short-term and long-term goals. Short-term goals may involve providing these children with immediate attention to shelter, food and recreational facilities. Long-term goals may address environmental conditions where the children live, for example sanitation, streets, street lights, running water, toilet facilities. Considering that a large number of these children drop out of schools, school environment should also be addressed with a view to reducing the rate of school drop-outs among children coming from deprived families. This would require that the schools be equipped to deal with the needs of children coming from slum communities; for example, counselling, small business activities in the schools; organised recreational school activities that go beyond the normal school schedule and review of school schedules to allow for some extra time to enable the children to do homework in school.
- 5) For those children already on the streets rehabilitation programmes would be important both as short-term and long-term measures provided such programmes address the problem of the family as a unit.
- 6) Although some of the people interviewed recommended the expansion of penal institutions, and considering the fact that the Ministry of Home Affairs and National Heritage is currently anticipating such expansions, our findings indicate that very few inmates benefit from such institutional programmes. Nonetheless, it must be appreciated that most of the approved schools now offer both vocational and academic education. However, for these children to benefit and come out as expected by these programmes, it is highly recommended that these penal institutions undertake to study the Starehe Boys Centre experience with the intention of adopting Starehe's experiences into their programmes. If the Starehe approach was adopted, then the arrest and re-arrest of children before they are committed to these institutions through Juvenile Courts would not arise.

- 7) Of the non-governmental organisations studied, Undugu Society of Kenya stands out as the organisation, which deals extensively with street children. It is commendable that other emerging organisations dealing with street children problems such as Pand Pieri Catholic Centre in Kisumu and the Salvation Army's Thika Boys Centre, have adopted the Undugu Society's approaches to the problem. However, the study finds it difficult to recommend Undugu's approach unless 'a tracer study is undertaken to determine its areas of success, which could be replicated.
- 8) The study established that a large number of street children (78 percent) of those interviewed are already engaged in some kind of employment either working for themselves or for others. It is worth noting that the work these children do on the streets falls within the informal sector, which is not covered under Kenyan laws. Thus, there exists a need to review the policy relating to employment of children under such conditions, with a view to ensuring that children stay in school until they are 16 years old.
- 9) The study found that a large number of street children's parents are often the victims of periodical authority evictions. Above all, the efforts of NGOs such as Undugu Society of Kenya get thwarted when the facilities they have put up to improve the quality of slum life get demolished without consultation between the parties. Therefore, it is being recommended that the central government, and the local authorities should review policies regarding slum settlements in the country, since a large number of those considered squatters have been living in those areas for long periods. NGOs, local authorities and the central government should co-ordinate policies regarding activities that address slum problems.
- 10) Above all, street-based programmes may jeopardise the health and the moral well-being of these children. In the study it was observed that many children are returned to the streets after being taken for treatment for ailments, such as VDs, that require proper medical attention and follow-up. Furthermore, these children were returned to male adults living on the streets, who' sexually exploited them with the knowledge of these street workers. The implication was that the workers seem to condone sexual exploitation of female children.

Therefore, it is recommended that the NGOs involved in street work should engage qualified street workers and street work should not be considered as just common sense work. Where former street children are to be used, they should be given appropriate training. There is an urgent need to consider having a residential place for female street children.

ANNEX I

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NOTES

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4. B.P. Kubo, 'Advocacy for the Rights of the Child', paper for the Pre-Summit Workshop on the theme, A Kenyan Perspective to the World Summit on Children, Nairobi 29-31 August 1990, p.6.
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6. Ojwang, op.cit. (n.2).
7. The 1989 census results show that Kenya currently has a total urban population of 3.7 million, out of a national population of 21.4 million [The Weekly Review, May 3, 1991, p.133, that is 17.3 per cent of the total population.
8. Y.P. Ghai and J.P.W.B. McAuslan, Public Law and Political Change in Kenya (Nairobi: Oxford U.P., 1970), pp.83-84; 94-96.
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12. Cap.226.

13. s. 25

14. s. 27

15. s. 28.

15a. 37 & 38 Vict. c.62.

16. Cap. 8, s. 3(1) (a). It also applies in Kenya by virtue of the Law of Contract Act (Cap. 23), s. 2(1).

17. Nash v. Inman [1908] 2K.B.1; Ryder v. Wombwell (1868) L.R. 4 Ex. 32; Roberts v. Gray [1913] 1 K.B. 520.

18. Cap. 63, s. 216.

19. s. 144(2)

20. s. 145(2)

21. s. 70 of the Constitution provides that 'every person in Kenya is entitled to the fundamental rights and freedoms of the individual'.

22. e.g. The Universal Declaration of Human Rights (1948); the International Covenant on Civil and Political Rights (1966).

23. Constitution, s. 71,

24. Ibid. s. 72.

25. Ibid. s. 73.

26. Ibid., s.74.

27. Ibid. s. 75.

28. Ibid. s. 76.

29. Ibid. s. 77.
30. Ibid., s. 78.
31. Ibid.. s. 79.
32. Ibid., s. 80.
33. Ibid.. s. 81.
34. Ibid., s. 82. For discussion of these rights, see J.B. Ojwang and J.A. Otieno-Odek, 'The Judiciary in Sensitive Areas of Public Law: Emerging Approaches to Human Rights Litigation in Kenya', in Netherlands International Law Review, Vol.35 (1988), pp. 29-52.
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37. Cap.11, ss. 5 and 9.
38. Murungi, op.cit., n. 36 (p.19).
39. Cap. 145.
40. s. 4.
41. s. 8.
42. Cap. 144.
43. s. 3.
44. s. 5.
45. s. 7. This, no doubt, contemplates those situations in which parents do not have custody over their child.
46. Cap. 153.
47. Cap. 152.

48. s. 4(b); cf. age of eighteen years under the Guardianship Infants Act.
49. s. 3(4).
50. s. 3(1).
51. s. 5.
52. s. 30.
53. Cap. 143.
54. S.7.
55. Ibid.
56. s. 29.
57. s. 160.
58. s. 26.
59. s. 29., see also ss. 32-42.
60. Cap. 195.
61. ss. 158-160; 210, 214, 227, 228
62. Cap. 141.
63. ss. 76-79.
64. ss. 14.
65. ss. 23.

66. Cap. 92.

67. s. 3.

68. For the data used in this table, I owe a debt of gratitude to V.W. Mucai-Katambo of the Kenya Law Reform Commission.

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73. see Bamzi v. Sultan [1960] E.A. 801; Sicken v. Sicken [1973] KHCD no. **52**.

74. [1968] E.A. 601.

75. [1970] E.A. 79

76. No. 23 of 1930.

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78. Then Cap. 142.

79. Gutto, op.cit. (n.69), p.30. See also J. Kabeberi, The Child: Custody, Care and Maintenance, (Nairobi: Oxford-U.P., 1990), pp. 30-31; S.N. Waruhiu, 'Why We Need Affiliation Law', in The Weekly Review, January **4**, 1991, pp. 18-21.

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81. Ibid

82. Ibid., pp. 54-55.
83. R.N. Walekhwa, 'Background to Legislation', in ANPPCAN, Rights of the Child: A Kenyan Perspective (Nairobi: ANPPCAN, 1988), pp. 29-30.
84. Ibid.
85. Ibid.
86. Ibid.
87. Art. 2.
88. Art. 6.
89. Art. 12.
90. Art. 14.
91. Art. 15.
92. Art. 16.
93. Art. 17.
94. Art. 37.
95. Art. 6.
96. Art. 7.
97. Art. 9.
98. Art. 23.
99. Art. 24.

100. Art. 26.

101. Art. 28.

102. Art. 31.

103. Art. 34.

104. See W.W. Mathai, 'How Prepared is Kenya to Implement the U.N. Draft Convention on the Rights of the Child', in ANPPCAN, Rights of the Child: A Kenyan Perspective (Nairobi: ANPPCAN, 1988), pp. 32-46.

105. Arts. 7 and 8.

106. Art. 42.

ANNEX 11

LIST OF INDIVIDUALS INTERVIEWED

Mrs. Agina, National Secretary, KANU Maendeleo ya Wanawake Mr. B. Bakari, Councillor,
Mombasa Municipality

Ms. Susan Grant, Public Relations Officer, Child Welfare Society of Kenya

Mr. Griffith, Director, Starehe Boys Centre

Brother Hans, Founder, Pand Fieri Children's Home

Mrs. Margery Kabuya, Director, Christian Children's Fund - Kenya

Mr. F. Kaitany, D.C. Mombasa District

Mr. K. Karisa, Director of Social Services Mombasa

Mr. D.K. Arap Kimeto, Ag. Director, Children Department, Ministry of Home Affairs and National Heritage

Mr. M. Kimuyu, D.O.I, Uasin Gishu District Father Louis, Kariobangi Catholic Mission

Captain Lusanji, Salvation Army, Regional Headquarters

Mr. Ezra Mbogori, Director, Undugu Society of Kenya

Mrs. Mutuku, Co-ordinator, KANU Maendeleo ya Wanawake, Kitui Branch

Mr. T.N. Mwalwa, Executive Officer, KANU Kitui Branch, also former Member of Parliament for Kitui Central

Mr. Mwaniki, Programme Co-ordinator, CCF - Kenya

Mrs. A.N. Ng'ami, Senior Children's Officer, Children's Department

Mr. George Nyakora, Personnel Manager, Action Aid - Kenya

Mr. Z.Ogongo, D.C., Kitui District

Mr. A. Okuku, Former Member of Parliament for Mbita

Mr. M. Olang, Councillor, Mombasa Municipality

Mr. G. Olilo, Immediate former Mayor, Kisumu Municipality

Mrs. G. Onyango, Former Mayor, Kisumu Municipality, also former Member of Parliament for Kisumu Town

Mr. P. Waiganjo - P.O. Nairobi