THE CHILD JUSTICE FORUM. HOW HAS IT OVERSEEN THE IMPLEMENTATION OF THE TRANSFORMATION IN THE CHILD JUSTICE ADMINISTRATION

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ABSTRACT

This research looks at the Child Justice Forum in Zambia and how it has implemented transformation in Child Justice since inception. In Zambia the Child Justice administration has been an issue for a very long time now. Just in 2000 a situation analysis was undertaken by the United Nations International Children’s Emergency Fund on Child Justice in Zambia, which revealed a lot of flaws in the Child Justice System its was found that juveniles were being mistreated at all levels of the system. It was due to this that the Child Justice Forum was born in 2001. Its objective was to implement transformation in the Child Justice Administration. This research has laid out what the law concerning juveniles in Zambia is. This included legislation that provides for juvenile justice such as the Juveniles Act Chapter 53 of the laws of Zambia and international instruments such as the United Nations Convention on the Rights of the Child. It has also laid out its findings on how juveniles in Zambia are treated from arrest to reformatories, approved schools and diversion. These findings have been analyzed and a conclusion has been drawn on whether the Child Justice Forum has implemented transformation of the Child Justice Administration in Zambia.
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Above all I would like to thank the almighty God for always being there in everything I do. For his grace is so sufficient for and his love that endures forever. Most importantly for his wisdom in my life. To him to be all the glory.
DEDICATION

This research paper is dedicated to my lovely parents and siblings and also to my dear Fiancé who have played a big role in my academic life. May God bless them abundantly.
LIST OF AUTHORITIES

STATUTES

The Constitution, Chapter 1 of the Laws of Zambia

The Juvenile Act chapter 53 of the laws of Zambia.

The Penal Code, Chapter 87 of the Law of the Laws of Zambia

Probation of Offenders Act chapter 93 of the Laws of Zambia

INTERNATIONAL INSTRUMENTS


United Nations Standard Minimum Rules of the administration of juvenile justice

African Charter on the Rights and welfare of the Child

CASES

Mwape v The People (1979) ZR 54
Musonda and another v The People (1976) ZR 218(SC)
Mbewe v The People SC (1976) 317
Lumsden v The people (1967) ZR 142 (HC)
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1.0 CHAPTER ONE

Child Justice In Zambia

1.1 INTRODUCTION

Child justice administration has been in existence even before Zambia attained her independence. The principal Act that governs the provisions and procedure for children in conflict with the law is the Juveniles Act chapter 53 volume 5 of the laws of Zambia. The Juveniles Act defines who a juvenile is. S2 (1) of the Act states that a juvenile is a person who has not attained the age of nineteen years and includes a child and a young person. A child is one who has not yet attained the age of sixteen. A young person is one who has attained the age of sixteen but not yet nineteen.¹ When a child is brought before court, age becomes a very important factor because it has to decide how to treat the child, whether to treat him/her as a juvenile or not and also determine criminal capability of the child. Before an order is made against a juvenile, the court must obtain information on the juvenile’s general conduct, his home surrounding, school record and medical history so as to enable the court deal with the case in the best interest of the child.

1.2 THE PROBLEM STATEMENT

Before the situation analysis of 2000, there were flaws that existed in the child justice administration in Zambia such as,² lack of specialized training on how to handle such children, juveniles were being detained in polices cells for longer periods of time, there was failure to separate juveniles from adults, the court that was set up for juvenile proceedings was not child friendly.

¹ Section 2(1)(a) Juveniles Act chapter 53 of the laws of Zambia

To address these flaws and in order to improve child justice in Zambia, three recommendations were set up. These were the Arrest Reception and referral Services (ARRS), the Child Friendly Court and the Diversion services. The child justice forum was therefore formed in 2001 to oversee the implementations of these recommendations.

1.3 THE RATIONALE

The overall objective of the study is to identify how the child justice forum is implementing these recommendations in order to bring transformation to the child justice administration in Zambia. The task undertaken in this research is to investigate into what methodology the child justice forum has engaged in implementing these recommendations. This study is justified on the basis that its essence is to look into how the child justice forum is and has been implementing the recommendations of the situation analysis. Whether the methodology has been effective so as to bring transformation to the child justice administration and if not- what then can be done? Also the rationale of this study is to look into whether the guidelines set by several international instruments concerning the rights of the child are being followed.

1.4 THE METHODOLOGY

Interviews have been held with the key players in the child justice administration i.e., the relevant stakeholders of the child justice forum such as the court, the prisons, social welfare, legal aid service providers and United Nations International Children’s Emergency Fund. Also visits to the children’s prisons have been made so as to see the conditions in which the children offenders are being kept and lastly but not the least an

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analysis has be made on the international treaties that deal with the rights of the child who comes into conflict with the law.

1.5 THE CHILD JUSTICE FORUM IN ZAMBIA

The child justice forum was formed to improve the well being of children caught by the law. It was initiated by the United Nations International Children’s Education fund (UNICEF) and got established in the year 2001.\(^4\) The child justice principal objective is to ensure that there is transformation in the child justice administration in Zambia. This is done by ensuring an adherence to the standards set out in the United Nations Convention on the Rights of the child that party states should recognize the right of every child alleged as accused of or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child’s sense of dignity.\(^5\)

Its membership was meant to involve key government officials and some of the non-governmental organizations. It therefore includes relevant stakeholders such as the court, police, prisons, social welfare, legal aid service providers, donors, international organizations such as UNICEF, save the children Sweden and many others\(^6\). It is chaired by the judiciary and the secretary is the Social Welfare Department. It oversees the transformation, coordination and monitors the implementation of child justice administration. The Child Justice Forums are stationed in provinces such as Lusaka province, Southern province and the Copperbelt province.


1.6 INTERNATIONAL AND REGIONAL RIGHTS OF THE CHILD

There are a series of international instruments in relation to juveniles in the criminal justice system. For the purpose of juvenile justice reform, the international instruments most commonly referred to are the United Nations Convention on the Rights of the Child (UNCRC),\(^7\) the Beijing Rules and the African Charter on the Rights and welfare of the Child (ACRWC).

1.6.1 The United Nations Convention On The Rights Of The Child (UNCRC)

The United Nations Convention on the rights of the child is a human rights treaty on the rights of the child. It is the most important international instrument in relation to juvenile justice system because it is legally binding on all member states.\(^9\) Zambia ratified this convention in 1995.\(^{10}\) Governments of countries that have ratified the convention are required to report to the United Nations Committee on the rights of the child periodically to be examined on their progress in implementing the convention rights. The treaty defines a child as being under the age of eighteen.\(^{11}\) Its primary consideration is that all member states act in the best interest of the child.\(^{12}\) Article 37 and 40 of the convention are the specific articles in relation to juvenile justice.

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\(^12\) Article 3 (1), United Nations Convention on the Rights of the Child, 1989
Article 37 of the convention states as follows:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age.

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.

(c) Every child deprived of liberty shall be treated with humanity for the inherent dignity of the human person and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child’s best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances.

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other component, independent and impartial authority and to a prompt decision on any such action.

The convention also states that party states should recognize the right of every child alleged as accused of or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child’s sense of dignity and worth, which reinforces the child’s respect for the human rights and fundamental freedoms of others and which takes into account the child’s age and the desirability of promoting the child’s reintegration and the child’s
assuming a constructive role in society. The convention has put an obligation on all state parties to move quickly to prohibit and eliminate all corporal punishments and all other cruel or degrading forms of punishment of children.

Article 40 also provides that there should be a presumption of innocence until proven guilty in a court of law. The article stipulates that a juvenile has the right to be informed promptly and directly of the charges. They also have the right to have a case fairly determined without delay. The juvenile under this article also has the right to legal assistance in court and also the right to have parents/guardian present in court.

Whenever appropriate and desirable alternatives to judicial proceedings and institutional placement should be provided for children who come into conflict with the law, these alternatives should fully respect the child’s human rights and legal safeguards. Article 40 also states that children must be dealt with within a manner appropriate to their well-being and proportionate to their circumstances and the others.

### 1.6.2 The Beijing Rules

The complete name for the Beijing rules is the United Nations Standard Minimum Rules of the administration of juvenile justice. The Rules were adopted by the United Nations in Beijing, China in 1985. They guide member states on protecting of the child and to respect their needs. The rules encourage firstly diversion be prescribed as an alternative to formal proceedings through the criminal justice system and should be considered in certain circumstances. And also whenever appropriate consideration should be given to

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dealing with a child who comes into conflict with the law without resorting to formal trail. Secondly that all proceedings which are brought before authorities such as the courts should be done in the best interest of the child. Thirdly there should be careful consideration before authorities deprive a juvenile of his liberty. Fourthly there should be specialized training for all those that deal with juvenile cases so that officials act in an informed and appropriate manner.

According to the Beijing Rules, a juvenile justice system should be one that is fair and humane in its dealings with children that come into conflict with the law.

Part two of the Beijing rules deals with diversion, which is also mentioned in Article 40 of the Convention on the Rights of the child. Diversion in the context of these rules means that alternatives to formal proceedings through the criminal justice system should be considered and provided in certain circumstances. The law stipulates that whenever appropriate consideration should be given to dealing with a child who comes into conflict with the law without resorting to a formal trial.  

1.6.3 African Charter on the Rights and Welfare of the Child (ACRWC)

The African Charter on the Rights and welfare of the child can be considered as an adaptation of the Convention on the Rights of the Child to the regional context of Africa. It was drafted by the Organization of African Unity (also known as the African Union) and it guarantees children’s rights within the context of African culture. The member states are bound to recognize the rights, freedoms and duties enshrined in the charter and shall undertake necessary steps in accordance with their constitutional process and

\[17\] Rule 11, United Nations Standard Minimum Rules of the administration of juvenile justice
provisions of the Charter to adopt such legislative or other measures as may be necessary to give effect to the provisions of the Charter.\textsuperscript{18}

The child occupies a unique and privileged position in African society and that for full and harmonious development of his personality the child should grow up in a family environment in an atmosphere of happiness, love and understanding. Moreover due to his physical and mental development requirements, the African child needs particular care with regard to health, physical, mental, moral and social development.\textsuperscript{19}

As with the Convention on the Rights of the Child, the African Charter on the Rights and welfare of the Child contains a broad range of socio economic provisions that can be referred to holistically as well as the specific juvenile justice provisions of Article 17 of the Charter. Article 17 specifically orders that the treatment of juveniles who come into conflict with the law to be different from the treatment of the adult offenders. This is especially so as children have different needs compared to adults. Hence the need to undertake all action in the best interest of the child which is a primary consideration.\textsuperscript{20}

1.7 HYPOTHESIS

At the end of the research, the following were anticipated to materialize:

Firstly that the general objectives of introducing the three pilot projects to transform child justice in Zambia have not yet been fully met by the Child Justice Forum in that there will be need to enhance on these pilot projects. Secondly probably when children are detained they still share cells with adult offenders. Thirdly that the children are still

\textsuperscript{18} Article 1, African Charter on the Rights and Welfare of the child.

\textsuperscript{19} \url{www.africa-union.org/child/home.htm} (accessed 22nd March 2011)

\textsuperscript{20} Article 4, African charter on the Rights and Welfare of the Child.
getting arrested and punished for minor offences. Fourthly, but not the least is that Zambia is still not in full compliance with the requirements of the international and regional rights of the Child.
2.0 CHAPTER TWO

The Law on Juvenile Justice in Zambia

2.1 INTRODUCTION

In Zambia the law relating to Juveniles is embedded in the Juveniles Act Chapter 53, the Penal Code chapter 87, the Constitution Chapter 1 and the criminal procedure code chapter 88 of the laws of Zambia. Juvenile means a person who has not yet attained the age of nineteen years old. This includes a child being a person who has not yet attained the age of sixteen years and a young person who is one who is sixteen and under nineteen years.\(^{21}\) In Zambia a person under the age of eight is deemed not to have criminal responsibility\(^{22}\), (does not understand or appreciate the rules of society or does not know why what they have done is wrong). Sometimes the age claimed by a person may not be the correct one, usually because they want to be treated as a juvenile or they are just not aware of how old they really are. So the court has the onus to ascertain the age of the person by making an immediate inquiry through relatives, friends, and parents or by an expert medical witness, unless court is satisfied by ocular observation. This principle was laid down in the case of Musonda and Another v The People\(^{23}\) and upheld in the case of Mwape v the People\(^{24}\).

Zambia just like any other country has a legal system. Local courts do not have jurisdiction over the juvenile criminal offences that are dealt with in this essay; these are handled in the courts of law. At the top of the courts of law system is the Supreme Court.

\(^{21}\) Section 2(1) of the Juveniles Act Chapter 53 of the laws of Zambia

\(^{22}\) Section 14(1) of the Penal Code chapter 87 of the laws of Zambia

\(^{23}\) (1976) ZR 218 (sc)

\(^{24}\) (1979) ZR 54
According to article 93 of the Zambian constitution\textsuperscript{25} the President appoints the judges of the Supreme Court. Below the Supreme Court is the High Court that handles larger civil disputes, serious criminal trials including capital trials as well as appeals from the subordinate courts in Zambia, which also acts as juvenile courts. They are presided over by a single magistrate who is either a qualified lawyer or a layman. This chapter will look at what the Zambian law on juveniles is. This is very important because at the end of the day, the provisions that Zambia enacts have to be in compliance with the International instruments in relation to juveniles.

\textbf{2.2 ARREST OF JUVENILES}

Arrest and detention are considered to be a very grave infringement on a person's liberty. It must not be exercised unless there is no other option. Detention is not to be used as a form of punishment.\textsuperscript{26}

Concerning the arrest of juveniles, S58 \textsuperscript{27} states that the commissioner of police has the duty to make arrangements for the prevention as far as possible of a juvenile being detained at a police station with adults whose case is not that which they are jointly charged for with the juvenile, either while being conveyed to and from court or while waiting or after attending court. If juveniles come into contact with hardened criminals, the chances are that they too will themselves become hardened criminals in the process of mixing with the adults.\textsuperscript{28} Also he/she shall ensure that a girl being a juvenile shall be under the care of a woman. Where a child has been arrested the parents or guardians have to be notified. Parents have a legal right to sit in during questioning by police and at

\textsuperscript{25} Chapter 1 of the laws of Zambia.

\textsuperscript{26} Ms M. Chanda, Deputy Registrar, speaking at a workshop at Mukuba Hotel, Kabwe held from the 7\textsuperscript{th} to the 10\textsuperscript{th} November 2005 - workshop funded by the United Nations Children's Fund and Sida.

\textsuperscript{27} the Juvenile Act Chapter 53 of the laws of Zambia

\textsuperscript{28} Mvula v The People (1976) ZR 80 (SC)
identification parades. In the case of Mbewe v The People\textsuperscript{29}, the Supreme Court recommended that the presence of a parent or guardian is required when the police record any statement from a child. Where a child is not released on bail after arrest, the child shall be detained in a place of safety i.e. Remand prison or prison.\textsuperscript{30} Also where it seems impracticable to separate children from adults detained in custody, a superintendent of prison may detain any child awaiting trial to a suitable dwelling.\textsuperscript{31}

2.3 BAIL FOR JUVENILES

The provision of bail for children who come into conflict with the law is in section 59 of the Juveniles Act.\textsuperscript{32} It states that a bail can be given: Unless the charge is one of homicide or other grave crimes, Unless it is necessary in the interest of such person to remove him from association with any reputed criminal or prostitute or Unless the arresting officer has reason to believe that the release of the child will defeat the ends of justice.

2.4 TRIAL AND SENTENCING OF JUVENILES

According to the law in Zambia, a juvenile should be tried in a juvenile court usually a Subordinate court exercising a special jurisdiction except cases of murder or attempted murder which may only be heard by the High Court.\textsuperscript{33} What should happen in most cases is that a juvenile court must sit in a separate room other than one where an ordinary court sits. If this is not possible, then the juvenile court must sit at either different times or

\textsuperscript{29} SC (1976) 317
\textsuperscript{30} Section 60 Juveniles Act Chapter 53 of the laws of Zambia
\textsuperscript{31} Section 62 Juveniles Act Chapter 53 of the laws of Zambia
\textsuperscript{32} Chapter 53 of the laws of Zambia.
\textsuperscript{33} Sections 63 and 64 of the Juvenile Act Chapter 53.
different days.\textsuperscript{34} Also very important is the fact that only a certain number of people are allowed in a juvenile court like court officials. Parents, social welfare officers e.t.c.

The juvenile Act puts an emphasis on the attendance of the parent or guardian of the child. Section 127\textsuperscript{35} states that a child’s parent or guardian is required to attend the court before which the child’s case is heard during all stages of the proceedings unless the court is satisfied that it would be unreasonable to require the parent or guardian’s attendance. This provision was backed up in the case of Lumsden v The People.\textsuperscript{36} Where the child has no parent or guardian, it is desirable that some independent person other than a police officer present like a social officer or probation officer be available failure to which the child’s confession could be rejected on the grounds of unfairness.\textsuperscript{37}

When an offence has been proven, the court must obtain a report of the juveniles from a social welfare officer concerning the child’s behavior at home, school e.t.c so as to enable it handle the case in the best interest of the child.\textsuperscript{38} The juvenile court first may depending on the nature and gravity of the offence choose to dismiss the charge, make a probation order, order a fine or send the child to an approved school or even send the child to a reformatory.\textsuperscript{39} Canning of a juvenile was abolished in an unreported case of Banda v the people (1999)

\textsuperscript{34} Section 119(1) of the Juvenile Act

\textsuperscript{35} Juvenile Act Chapter 53 of the laws of Zambia

\textsuperscript{36} (1967) ZR 142 (HC)

\textsuperscript{37} The People v Nephat Dimeni (1980 ZR 234 (HC)

\textsuperscript{38} Section 64 (7) of the Juvenile Act chapter 53 of the Laws of Zambia.

2.4.1 PROBATION ORDER

This is regulated by the probation of offenders Act Cap 93 of the laws of Zambia. A probation order requires that an offender be under the supervision of a probation officer for at least a specified period of time. The order is usually there to achieve the re-integration of the offender back into society through supervision and help, therefore once the order has been given, the finding of guilt is not necessarily deemed to be a conviction except in very limited circumstances\(^{40}\).

2.4.2 APPROVED SCHOOL

In Zambia there is only one approved school which is located in Mazabuka, Southern province of Zambia. The school is called the Nakambala Training School. It is under the control of the Ministry of community development and social welfare. It is the only boys’ approved school in Zambia. There is one school in Ndola for girls but it is not yet made an approved school. An order to an approved school must contain a declaration as pertains to the age of the juvenile and his religious persuasion.\(^{41}\) The ages of juveniles that are sent to this approved school are between the ages of 8 and 14 years old. The emphasis at the approved school is for the reformation of the juvenile. At the School, they offer educational studies as well as short courses in bricklaying, carpentry, gardening e.t.c.

2.4.3 THE REFORMATORY

There is only one reformatory in Zambia called Katombora in Kazungula district in Southern Province. This institution is under the control of the prisons department. The Chief inspector of reformatories supervises the reformatory. Educational classes are run together with a number of practical courses for which boys may be trade tested. These

\(^{40}\) Section 10(1) probation of offenders Act Chapter 93 of the laws of Zambia

\(^{41}\) Section 77 (1) of the juveniles Act Chapter 53 of the laws of Zambia.
educational classes vary from year to year depending on the staff available to teach. A reformatory order is authority for the detention of a juvenile for at least four years, although the boy may be released on license after the first nine months.\textsuperscript{42} This is done in the same manner as at the approved school except that for the reformatory, the license is granted by the chief inspector of reformatories. S 104 states that at any time during the period of a person's detention in a reformatory, the chief inspector of reformatories may by a license in writing permit a boy to live at home or elsewhere and may at any time by order or writing revoke such license.\textsuperscript{43}

Also the Act provides that after the expiration of the period of his detention, he be under the supervision of the officer in charge of the reformatory.\textsuperscript{44} The maximum age limit for the detention of a boy is twenty three years old.\textsuperscript{45} Where a court has sent a child to a reformatory, it will only send the child once it's satisfied that it is expedient for that child's reformation and prevention of crime.\textsuperscript{46} In most cases a boy is sent to Katombora only if all other means of preventing his criminal activities have failed. Most times the order is made in place of a prison sentence.

\textsuperscript{42} J. Hatchard and M. Ndulo Readings in criminal law and criminology in Zambia, \, page 134

\textsuperscript{43} The Juveniles Act Chapter 53 of the laws of Zambia.

\textsuperscript{44} Section 105 of the Juveniles Act Chapter 53 of the laws of Zambia.

\textsuperscript{45} Section 102 of the Juveniles Act Cap 53 of the laws of Zambia.

\textsuperscript{46} Section 72 (3) of the Juveniles Act Cap 53 of the laws of Zambia.
3.0 CHAPTER THREE

The Research Findings Of The Work Of The Child Justice Forum

3.1 INTRODUCTION

This chapter will be centered on the work concerning the child justice forum in Zambia and how it is implementing child justice transformation. It is the body that has been put in charge to implement transformation in child justice in Zambia. Children were not treated as children with rights before the commencement of the transformation process. The system was harsh to them in that they were detained in appalling and inhumane conditions. The child Justice Forum (CJF) was established as an immediate measure to carry out the recommendations made in the Situational Analysis study. The Child Justice Forum in Zambia is operational in Lusaka, Ndola, Livingstone, Choma, Chipata, Mongu, Kabwe, Kasama, Mansa, Solwezi, Ndola, Kitwe, Chililabombwe, Mufulira, Chingola and Luanshya. The Child Justice Forum was established to improve inter-sectoral cooperation that is aimed at improving service delivery in line with international instruments such as the Convention on the Rights of the Child.

The Child Justice Forum aims at providing guidance on the transformation of the Juvenile Justice system in accordance with international instruments such as the Convention on the Rights of the Child (CRC) or the Beijing Rules. It upholds the fact that the rights of a child are paramount as is stated in the Convention on the Rights of the Child, so it’s there to ensure that these rights are respected at every stage of the juvenile justice administration. It raises the awareness on juvenile justice issues and also to sensitize key stakeholders such as the police, prosecution, the court, prisons, the social welfare, civil society and the community at large on the same. It also prevents juveniles from unnecessarily moving further back into the criminal justice

47 Mr. K, N’gandu, the Juvenile Justice Administration Project Assistant Coordinator- Child Justice Forum of Zambia (interviewed on 25th January 2011)


system. Also it provides an oversight on the implementation of the juvenile justice pilot projects like; The Arrest, Reception and Referral Services (ARRAS), The Child Friendly Court and the Diversion programme.

3.2 HOW IS IT IMPLEMENTING CHILD JUSTICE IN ZAMBIA?

The child justice forum has embarked on capacity building in the transformation of child justice in Zambia. About 266 police officers, 70 magistrates, 167 social workers and about 100 prison officers have been trained in juvenile Justice. The areas of interest in these trainings are Child justice administration in Zambia, National and international instruments on the rights of the child which include the Fundamental Principles in the constitution of Zambia, the Convention on the rights of the Child, the Beijing rules e.t.c. The Child Justice Forum has also advocated for cases to be dealt with speedily. Through visits as well as meetings efforts have been made to ensure that cases are concluded speedily and that children do not spend long periods of time in detention. As a result of this children do not spend long periods of time in detention. Also children’s cases are monitored and social welfare officer’s report on the progress of the child thereof.

The Forum has also been involved in the developing and strengthening of the partnership with several stake holders. These partners include; The Social Welfare, the prison service, the police and the judiciary. Also quasi institutions such as Drug enforcement commission, the Human Rights Commission and the Zambia law Development Commission have also been involved in this partnership. Lastly another improvement is that there has been financial support from the Government of the republic of Zambia, United Nations International Children’s Emergency

50 Mr. K. N’gandu, Juvenile Justice Administration Project Assistant Coordinator- Child Justice Forum (interviewed on 25th January 2011)

51 Mr. K. N’gandu, Juvenile Justice Administration Project Assistant Coordinator- Child Justice Forum (interviewed on 25th January 2011)

52 Mr. K. N’gandu, Juvenile Justice Administration Project Assistant Coordinator- Child Justice Forum (interviewed on 25th January 2011)
Fund, Swedish International Development Commission Agency (SIDA), and Access to justice and Save the Children.

3.3 THE CHILD JUSTICE FORUM AND THE THREE PILOT PROJECTS

As the Child Justice Forum was set up to ensure transformation of the three pilot projects in the child justice system, it’s imperative to know how far this transformation has come since inception. Research was undertaken for the purposes of this paper in order to know what the position is concerning the three pilot projects. Research visits were undertaken with some of the stakeholders in the Child Justice Forum. The following where the findings that were discovered out of the research;

3.3.1 Diversion

Diversion may be defined as the voluntary alternative measure to the criminal justice system. This is the channeling away of the child in conflict with the law from the formal criminal justice system. The child is not exposed to the usual criminal justice process but is referred to a service provider who offers diversion programmes based on the assessment by the social welfare officer. In Lusaka alone, diversion has taken off through Rural Youth and Children in need (RYOCHIN), Jesus care ministries and the Young Women Christian Fellowship.

What the diversion programme is trying to achieve is to give children with lesser offences a second chance and help them be reintegrated back into society. At least 85 percent of those sent to diversion centres have successfully completed diversion, 50 percent have reintegrated back

53 Ms M. Chanda, Deputy Registrar, speaking at a workshop at Mukuba Hotel, Kabwe held from the 7th to the 10th November 2005- workshop funded by the United NATIONS Children’s Fund and Sida.

54 Mr. K. N’gandu Juvenile Justice Administration Project Assistant Coordinator- Child Justice Forum (interviewed on 25th January 2011)
into formal education and some have even become counselors at these diversion centres. Asked how these diversion programmes are carried out, My Mofya stated that the children are given programmes to look at and they give their view on what they think. Programmes that are offered include: Conflict Resolution, Decision Making, Drugs and friends, Law and Norms, HIV/AIDS, Gender, child stereotype and Human Rights. The counselors at these diversion centres are all trained in child diversion and have a service delivery rate of 50-60 percent.

The Diversion programmes have however been facing challenges in their operations. Firstly there is need for replication of the project at least to scale the project up to at least 10 districts such as Kasama, Mansa, Chipata, and Mongu e.t.c. Secondly there is lack of cooperation from parents in most cases such as the parents refusing for the child to attend diversion programmes. Thirdly the programmes is funding it expensive to rehabilitate a child since they have to monitor the child at school, at church or other places that the child might be found and in order to do this they need enough funds to visit them. This for the programme is the biggest challenge. Thirdly the police do take advantage of the situation, even when they know that the child needs to be diverted, they do not advise the parents to enroll their children in into diversion.

3.3.2 Child Friendly Court

This is the court that aims at conducting trials of children in a manner that reinforces their respect for human rights and fundamental freedoms of others. It takes into account the child’s age and provides for their reintegration back into the community. The court is governed by the Juvenile Act, Chapter 53, the Penal Code Chapter 87, The Criminal Procedure Code Chapter 88, the Constitution of Zambia Chapter 1 and the Probation of offenders Ac Chapter 93 which have

55 Mr. A. Mofya, Director of Programmes, Diversion Programme (RYOCHIM) (Interview conducted on 14th February 2011)

56 Mr. A. Mofya, Director of Programmes, Diversion Programme (RYOCHIM) (Interview conducted on 14th February 2011)

57 Mr. A. Mofya, Director of Programmes, Diversion Programme (RYOCHIM) (Interview conducted on 14th February 2011)
played a major role in juvenile justice. The Child friendly court is found everywhere where the child justice forum is in existence. There has been a number of notable achievements by the Child Friendly court.58

Firstly there has been approximately 23 percent of children who have been diverted through the child friendly court. Secondly the child friendly court has so far granted bail to child offenders based on the merits of their case. Thirdly the court has set aside specific days on which to hear Juvenile cases. This is because Juvenile cases should not be treated like any other cases. Fourthly before proceeding to hear a juvenile matter, the child friendly court has been clearing the courtroom as it is stipulated in the Act59 or sometimes it hears the matter in chambers. Fifthly the child justice forum has so far ensured that trained personnel such as social welfare officers handle juvenile matters because they have been specifically trained to deal with children who come into conflict with the law.

One flaw that was discovered during the research was that the courts are transferring some of the serious cases such as those for murder or aggravated robbery to Nakambala training school (which deals with less serious offences) instead of sending them to Katomboka in Livingstone (which can handle serious offences). And in most cases due to this children between the ages of 17-18 do not reform. However those that are sent to the Nakambala School and are below the age of 15 at do reform60. This is because it is easier to deal with young juveniles than bigger ones.

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58 Mr. K. N’gandu, Juvenile Justice Administration Project Assistant Coordinator- Child Justice Forum (interviewed on 25th January 2011)

59 Section 121 of the Juveniles Act Chapter 53 of the laws of Zambia

60 Mr. C. Lungu Assistant Social Welfare officer, Nakambala approved school. (interview taken on the 16th February 2011)
2.3.3 Arrest Reception And Referral Services

This is the first contact that the child has with the criminal justice system, it is therefore a very important aspect of the Criminal justice system and very crucial to the child. This facilitates expedient handling of cases so as to avoid detention of children in police cells. They are offered at all police stations where the child justice forum is in existence. Three police stations have now separate detention facilities for juveniles. Here children are provided with good sleeping material. Also he stated that the detention period is no more than 48 hours. The AARS has lobbied and advocated for the need to separate juveniles from adults in most districts such as Simon Mwansa Kapwepwe (Lusaka) and Kiyawama police station (Solwezi).

Lastly but certainly not least is the fact that the police once they place a juvenile in custody will inform social welfare officers about the development. In an interview at the Nakambala approved school with a boy aged 18 years old who was taken to the school for committing murder stated that when he was taken to the police station in Petauke, he was treated very well. However when he was taken to the remand prison he was put together with adults who beat him up and he stated that they told him that it was a welcome lecture. In yet another interview with another boy at the same school aged 12 years old who is at the school for theft said that when he was arrested he was treated well by the police and he was put in a juvenile cell.

3.4 GROUNDS YET TO BE COVERED BY THE CHILD JUSTICE FORUM

Notwithstanding the positive effects that the Child Justice Forum has recorded over the past few years, there still remains more ground to be covered to achieve an optimum transformation in

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61 Mr. K. Ngandu, Juvenile Justice Administration Project Assistant Coordinator- Child Justice Forum (interviewed on 25th January 2011)

62 Interview taken on 16th of February 2011

63 Interview taken on 16th of February 2011
Child Justice in Zambia. Most of these grounds include, the need for more diversion partners in all regions (provinces) of the country, such as Mansa, Kasama and Mongu. Secondly Involvement of parliamentarians is very much needed (especially where reform of Juvenile legislation is concerned). Thirdly to conduct more researches, Evaluations and Documentaries on Child Justice in Zambia, so that they don’t only bring sensitization to the society but also so that they know where to improve on. Fourthly something which is at the core of the forum is the issue of the Arrest Reception and Referral Services and the Child friendly courts. These are very vital projects which would play a role in the transformation of juvenile justice so therefore there is need to roll these projects throughout the nation.

Fifthly is the fact that there is still more work to be done were training of state partners in child justice is concerned and also there is need for attitude change towards children in conflict with the law. Usually when children go back into the community after attending a reformatory, an approved school or have gone through diversion programme, they are stigmatized in the community from where they come from. This affects the child’s esteem. This can be backed up by a story of one boy at Nakambala by the name of Marks Zulu (18 years) who stated that his family has advised that he goes to settle in Chipata instead of Petauke because the community has a negative perspective of him now. Sixthly there is need for sufficient funding of programmes at the diversion centres, reformatory and approved schools. Seventhly but not the least is the fact that there is usually no start up upkeeps for the children when they graduate from either the school or the reformatory which might lead some of them back into crime because most of them don’t come from very well to do families.

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64 Mr. K. N’gandu, Juvenile Justice Administration Project Assistant Coordinator - Child Justice Forum (interviewed on 25th January 2011)

65 Mr. C. Lungu Assistant Social Welfare officer, Nakambala approved school (interview taken on the 16th February 2011)
4.0 CHAPTER FOUR

Analysis Of The Findings

4.1 INTRODUCTION

In the previous chapter the findings that where gotten from the research were laid out concerning the working of the Child Justice Forum. This chapter on the other hand will analyze these findings. An analysis will be done of whether the findings of the research have come out as was anticipated in the hypotheses laid out in chapter one and also those issues that were not raised in the hypothesis but cropped up in the research will be laid out as well. So the findings will be related to what was originally proposed to be found out. Most importantly is to find out if the objective of this research has been achieved.

The hypotheses which were laid in chapter one include: firstly that child offenders still share prison cells with adult offenders, secondly that children are still being arrested and punished for minor offences, thirdly that the criterion being used for sending children to reformatories and approved schools needs to be revisited, fourthly that the diversion programmes of the three pilot projects has proved to be a success in the juvenile justice system in Zambia and fifthly that the Zambia’s child justice system is not yet in full compliance with the guidelines of the United Nations Convention on the Rights of the Child. These and many more will therefore be discussed in this chapter. The essence of discussing these findings is so to see if the objective of this research has been reached in finding out whether there is a transformation in the child justice administration in Zambia.
4.2 SHARING OF CELLS WITH ADULTS

In the hypothesis, it was presumed that the results of the research will show that children offenders still share cells with adults. From the research undertaken at the Nakambala approved school in Mazabuka, a boy aged 18 who was taken to the school for committing murder confessed in an interview that when he was taken to a remand prison in Petauke he was put in the same cell as that of adults. He was badly beaten and was told that it was a welcome lecture. This finding supports the initial hypothesis concerning this issue. This is really a serious problem that juveniles in most parts of the country may be facing. The fact that these juveniles have committed a crime is not passport enough for the police to mix a juvenile with an adult offender. Article 37 of the Convention on the rights of the child provides that a child must be separated from adults in detention. Also S5866 states that the commissioner of police has the duty to make arrangements for the prevention as far as possible of a juvenile being detained at a police station with adults whose case is not that which they are jointly charged for with the juvenile, either while being conveyed to and from court or while waiting or after attending court.

This is an issue that seriously needs to be attended to in Zambia. Most of the adult offenders are hardcore criminal who are professionals at committing crime. So when these children who might not even have appreciated the crime they committed are put in these cells with adults, there is a high possibility that these adults might abuse the juvenile or even instill in them malicious thoughts slowly turning that child into a criminal and might even come out worse than he went in.

Secondly a child doesn’t need to be treated like criminal that’s the whole reason why they are sent to reformatories or approved school so that they cash reform and be reintegrated back into society. Article 4067 states that a child should and must be treated in a way that promotes his/her reintegration and their playing a meaningful role in the community. There is a high possibility

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66 the Juvenile Act Chapter 53

that if children are mixed with adults they may become hostile such that it will affect their reintegration. Really and truly putting a child in an adult cell or prison is surely not to the best interest of the child as is required in the Convention.⁶⁸

4.3 ARREST DUE TO MINOR OFFENCES

In the hypothesis it was stated that the result of the research will be that children are still being arrested for minor or petty offences. During the research at the Nakambala approved school, a boy aged 12 stated that he was arrested and taken to the school for stealing K300, 000 from a shop. He was sent to buy meali meal at a local shop when this happened. It was the first time he did it. They arrested him and he was sent to the approved school. First and foremost the circumstance in which he was arrested was abit unfair. He was caught just a few metres from the shop, the money was still with him.

The best way this could have been handled was to punish him using other means rather than custodial such considering Diversion which an alternative to judicial proceedings⁶⁹, especially considering that he was so young and a benefit of a doubt would have been put on him that he did not appreciate the nature not the consequence of his action. It’s traumatic enough for children even to step into court and go through all the deliberations Article 37 ⁷⁰ states that the arrest, detention or imprisonment of children should be a measure of last resort, for the shortest period of time. Arrest of a child can also be seen as a deprivation of one’s liberty especially where the offence committed is minor and can be dealt with outside the justice system. Arrest should be used as a last resort option. This once again supports the hypothesis laid down in chapter one of this paper.

4.4 CRITERIA FOR SENDING JUVENILES TO REFORMATORY AND APPROVED SCHOOL

When juveniles commit an offence and are taken to court, an order is given to them either to go to Katombokra reformatory centre or the Nakambala. Others are sent to do diversion programmes. The criteria used for selecting juveniles for reformatory centres and approved schools need to be revisited. A juvenile who is 18 years old and had committed murder was sent to Nakambala approved school to reform. Nakambala approved school is for juveniles who are 14 years and below and with much lesser offences. Section 78 71(a-c) of the Juveniles Act gives guidelines on how to give an order to send a child to an approved school. Article 40 72 of the Act states that children must be dealt with in a manner appropriate to their well-being and proportionate to both their circumstances and the offences (the principal of proportionality). An 18 year old juvenile who has also committed a very serious offence does not need to be sent to an approved school like Nakambala but instead be sent to Katombokra reformatory school. This is because when he is taken to the approved school, he will be hostile to reform, he will not accept being treated the same way juveniles much younger than him are being treated. Sending an 18 year juvenile who has committed a serious offence to Nakambala is not proportionate at all. A social welfare officer at the school stated that its much easier to deal with younger juveniles than older ones and he also pleaded that with older juveniles with serious offences they should be send to Katombokra reformatory. This finding has supported the hypothesis that was initially proposed. This in itself shows that there is need for reformation of the law in this area.

4.5 DIVERSION-A SUCCESS IN THE JUVENILE JUSTICE SYSTEM

The hypothesis stated that diversion has been a great success in the juvenile justice system. The findings of the research state that about 85% of those sent to diversion centres have actually completed the programme and about 50% have reintegrated back into formal education. Article

71 The Juveniles Act chapter 53 of the laws of Zambia

72 The Juveniles Act chapter 53 of the laws of Zambia
40 73 states that whenever appropriate and desirable alternatives to judicial proceedings and institutional placement should be provided for children who come into conflict with the law. Diversion has proven to be a very reliable tool for transformation. Children come from their homes, surrounded by the people they know and love and they go the diversion centres on the specified days. They are given tasks which help them realize that what they did was wrong and in the end it transforms their mind in being better people in society.

Children in Diversion are still able to go to their old school, go to the same church and still be able to carry on life as before but of course under supervision of a social welfare officer. With this success one can proudly say that it has definitely works in the best interest of a child as prescribed by the Convention on the Rights of a Child. However notwithstanding this achievement, there is still need for it to be spread out to all the other part of the country.

4.6 UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

This is the body that works to protect and advocate for the rights of a child all over the world. This is because children are the most vulnerable beings and therefore they should not be treated in the same as adults are treated. Zambia ratified the convention on the 5th of December 1995 which means that she is bound to all the guidelines set in the convention especially for the purposes of this paper the guidelines of children who come into conflict with the law. An overall analysis on this will be that Zambia has not yet attained full compliance and that there is still more work to be done in this area. From the research what has been seen to be the problem is the practice itself.

The Juveniles Act does contain most of the provisions of the convention; however in practice things are different. From the research it can be concluded that the convention guidelines are

being breached not in the set law but in practice. For example the mixing of juveniles with the adults in the same cell is a pure breach of the convention.\textsuperscript{74} Also in some cases juveniles are detained for longer periods before they are given an order. For example one juvenile at Nakambala was detained for about eight months before being sent to the school. Article 40 clearly states that children have the right to have their cases determined fairly without delay. Delaying a juvenile in detention gives a possibility of them mixing with adult criminals and with time they might even become worse because being in detention for a long time will expose them to the negative atmosphere. So there is work to be done where practice is concerned which means that those that are custodians of juvenile justice should up their performance and training to ensure that those that handle juveniles do it in line with the requirements of the convention.

However regardless of some flaws here and there, there is a tremendous improvement with compliance. Most of the provisions are being followed even in practice like the protection against torture and cruel punishment which was abolished in Zambia (corporal punishment). Also children are being treated in a way that promotes the reintegration and playing a meaningful role in society like the big step that is being taken by RYOHIN in the diversion programme. Also introducing alternatives to judicial proceedings and institutional placement (diversion) is another compliance with not only the Convention on the Rights of a Child but also the other international instruments on juvenile justice.\textsuperscript{75} These and many others are examples of Zambia’s compliance with the Convention on the Rights of the Child. So to concluded, there is more of compliance than incompatibility. However notwithstanding this, much awareness has to be raised with the compliance in practice itself.

4.7 FUNDING

This is one challenge that was discovered during the research. Funding is a very essential thing in any fraternity or field. The findings show that funding is a challenge. The diversion

\textsuperscript{74} Article 37 of the United Nations Convention on the rights of the child, 1989

\textsuperscript{75} Article 40 of the United Nations Convention on the rights of the child, 1989
programmes does face challenges in as far as funding is concerned. It’s very difficult to divert a child with limited funds. It involves transportation to go and monitor the child at different stations, it could be at school, church or even at a social gathering and this has to be done to more than one child, and also conducting counseling sessions also costs money. Lack of sufficient funding delays progress, meaning it might delay the period in which a juvenile needs to be diverted. Under the same vein, a social worker at the Nakambala approved school stated that when children who wish to go into life skills, there isn’t any startup upkeep to help them start their new reformed life. This is abit dangerous because depending on the character of the child, he/she might be forced to go back into crime to earn a living or to buy the things that he/she desires.

4.8 TRAINING

The child justice forum has upheld the importance of training of personnel who deal with the juveniles. From the findings about 266 police officers, 70 magistrates, 167 social workers and about 100 prison officers have been trained in juvenile Justice 76 this represents the seriousness that the forum has in its initiative to improve the juvenile justice system in Zambia. Anywhere one goes training is said to be a very important tool in the advancement of knowledge. Training is a means to receiving information, knowledge, strategy and technique. For the purposes of this paper, it is extremely important that one gets trained in juvenile justice more especially for those that deal directly with these juveniles. The fact that one is already in the system does not mean that they will operate on experience and training is not necessary.

Children are very delicate and therefore need to be treated that way. Police officers, magistrates, social welfare officers, diversion officers all need to trained in which way to treat a juvenile. Juveniles should never be equated to an adult which is why age is a very important thing to take note of when dealing with a young person. One social welfare at the approved school in Nakambala has complained why the law of corporal punishment has been abolished. He states

76 Mr. K. N’gandu, Juvenile Justice Administration Project Assistant Coordinator- Child Justice Forum (interviewed on 25th January 2011)
that some children deserve to be beaten as a form of punishment. This already is a wrong attitude towards these juveniles plus in so doing one will be contravening the guidelines of the convention.

4.9 STIGMATISATION

Stigma is a mark of shame and to stigmatize means to regard or treat as shameful. From the research, it was found that some juveniles are scared to go back into the community from which they came from because they fear to be stigmatized. One boy at the Nakambala approved school aged 18 years who is at the school for murder stated that his family has advised that when he has served time at the school, he should instead go to settle in Chipata instead of Petauke where he comes from and where the offence was committed. This is not supposed to be like that because a juvenile is supposed to reintegrate back into the community. This means that the community needs to be educated on the stigmatization issue. An awareness programme needs to be done so that the community should also help in the reintegration of the child.
CHAPTER 5

Conclusion And Recommendations

5.1 INTRODUCTION

This paper has been looking at the Child Justice Forum in Zambia vis a vis the work of the Child Justice Forum. Before the year 2000 when the situation analysis on Juvenile justice was undertaken, the system was harsh for the children who came into conflict with the law. It was for this reason that the Child Justice Forum was set up. It was set up to implement the recommendations brought about as a result of these findings.\textsuperscript{77} The objective of this Child Justice Forum is to implement the transformation of the Child Justice administration in Zambia. This research had its objectives. Firstly it was this paper’s objective to look into how the Child Justice Forum has implemented the transformation of the child justice system in Zambia.

Secondly the other objective was to look into whether the guidelines set by international instruments, more especially the United Nations convention on the rights of the Child (CRC) are being implemented or followed. From the research results it can be said that the research objectives have been achieved and that most of the research questions have been answered. It will be true to say that the research was not in vain but has brought a lot of awareness and enlightenment in this area of the Zambian Criminal justice system.

5.3 RESEARCH RESULTS

There were several findings of this research. There were both positive and negative findings in this research. Firstly during the research, it was found that there are still some police stations which are mixing juvenile offenders with adult offenders; however some police stations do separate the juveniles from adults. Secondly it was found that some of the juveniles are being


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arrested for petty offences and they proceed to court for matters that can be dealt with out of court. Thirdly is the issue of the reformatories and approved schools. There are children who are supposed to be taken the reformatory at Katombora but are taken to the approved school at Nakambala. Thirdly Diversion throughout the research has proved to be the most effective means of reforming children. From the research, children who go through the diversion programmes reform quickly and reintegrate back into the community without any difficulties. Fourthly another finding was concerning the United Nations Convention on the Rights of the child. The findings showed that there is some adherence to the guidelines of the Convention, however more work needs to be done where practice is concerned. Mostly the guidelines could be followed on paper but in practice things are happening differently.

Fifthly is the issue of funding. The research showed that firstly, there isn’t sufficient funding to enable stakeholders such the social welfare or the Diversion officers to carry on with their work effectively. Sixthly, the research showed that a lot of training for officers who deal with juveniles has taken place and it has enables them to deal with juveniles the right way. Seventhly these findings showed that there is need for more awareness on stigmatization. So that when these children finish their term at the schools or diversion, they do not live stigmatized lives.

On average the research findings show that there is abit more of transformation in the Child justice system as compared to five years ago. However the system is not yet at a point where optimum transformation has occurred, there is still more work to be done to reach the highest point of transformation. Atleast the successes outweigh the flaws. This suggests a cause of action for those that have been put to be in charge of the child justice system in Zambia. These results call for attention from several key players such as the magistrates, the social welfare, and the police officers et.c. These results need to be made available to these key players so that either changes or reinforcement can be made to ensure that the Child justice system in Zambia attains its optimum transformation.

78 Mr. A. Mofya, Director of Programmes, Diversion programmes (RYOCHIN) (interview conducted on 14th February 2011)
5.4 RECOMMENDATIONS

The recommendations of this research include:

Replication of the Diversion programme.

The diversion programme has been a great success as far as the finding of this research show. It deals with the child outside the judicial system, which may prove to be hostile to a child. The programme also helps the child reintegrate back into society without any or little difficulty. It monitors the child’s performance at school, home, church and any other social gathering. It is a fact that the most province that has received a lot of benefit from this programme is Lusaka province. But it is also fact that Lusaka province is not the only province with juvenile related crimes. There are a lot more of juveniles who are committing crime in other parts of the country apart from Lusaka who could benefit from the diversion programmes. So it is therefore recommended that the diversion programmes be replicated to all part of the country as this will not save court time but will also help the child a big deal.

Sufficient Funding

Like the findings of the research show, there is insufficient funding for the child justice system. There are several issues that connoted to this recommendation. To function properly there is need for good transportation which involves not only vehicles but fuel as well. For example diversion counselors need to move around to monitor children on diversion, what they need is sufficient transportation to take them to where they have to go. Secondly there is need for good beddings and good food. Lastly there is need for startup monies for those juveniles that intend on going into enterprise after either diversion or upon completion of their order at a reformatory. All these need sufficient funding.

79 Mr. C. Lungu Assistant Social Welfare officer, Nakambala approved school (interview taken on the 16th February 2011) and Mr. A. Mofya, Director of Programmes, Diversion Programme (ROYCHIM) (Interview conducted on 14th February 2011)
Training

In order to be able to treat a juvenile accordingly as their age requires someone who has to be trained for that. There is need to curb ignorance in the child justice system. It not supposed to be about one’s experience in order to handle a juvenile. One should be fully trained with much knowledge on juvenile related matters. Officers need to be educated on how to apply the law relating to juveniles in practice, especially the Convention on the Rights of the Child. It is saddening to find out that certain social welfare officers think corporal punishment is the best treatment for a juvenile, when the law states otherwise. So they need to be trained so as to know how to handle juveniles instead of treating them at the same level as adult offenders.

Need for more Research

It is evident from even previous researches that no research is ever enough to solve a problem especially if these problems have several aspects to it. No single research is ever adequate enough to resolve a problem. So therefore there is need for more research on this matter of child justice in Zambia. As a few have actually researched on this matter, it calls for more research to be done to actually reach the desired transformation.

Involvement of Political Leaders

Political leaders involve ministers, members of parliament, councilors, mayors, permanent secretaries, political party leaders and of course not forgetting the President. Political leaders are the people that have actual contact with the people. These are influential people in society and are able to make decisions that would be carried out. They have the authority that no ordinary Zambian has. So they need to be involved in this transformation process so they can make it part of their work and agenda. For example the members of parliament if they become aware of what the juvenile system needs in order to achieve transformation, they are able to propose bills that
would be enacted to help in this transformation. Political leaders are people that need to uphold justice and therefore they need to know what it takes to uphold it.

**More Resource centres to get information on Juvenile justice.**

Everyone in society is part of this transformation process one way or the other, indirectly or directly. Most researches that have been done on Juvenile justice are not really accessible to the public. A good example is the book of Lukas Mutingh which cannot be found in any book store, not even a law library at the University of Zambia. This means that whatever essential contents it has, only those privileged to have it can access that information. But that is not supposed to be the case. There is need for a resource centre where whoever is interested in getting some information on Juvenile justice can easily access the information. Also this means that if one does a research on child justice they should make it available to the public’s accessibility.

**Education of police officers**

Police officers are the first people that juvenile comes into contact with. They need to be trained on how to handle juveniles. How they handle a juvenile at first instance determines how he/she will react to the system. They should be trained on how to conduct the arrest of a juvenile, how they should detain a juvenile and for how long, also they should be educated on how to speak to a juvenile. Most importantly is the fact that they need to be taught on how to uphold the guidelines of the Convention on the rights of a Child. So it is recommended that police officers are put on a mandatory course for juvenile justice training.
Regular Workshops

Conducting regular workshops will enable an improvement in the system. If juvenile matters are being revisited from time to time, it will mean that flaws will be noticed almost immediately and immediate action will be taken.

Recruitment of more personnel in the child justice system.

Most times work is not done on time or appropriately because there could be shortage of working staff. During the research most centres had a few number of officers working. For example at the Nakambala approved school, one social welfare officers is given over ten juveniles to handle.

Firstly children are not like adults they need special attention and enough time. Secondly children will respond well when they know they have one’s undivided attention. Giving one officer ten juveniles is an overload on him meaning even the reformation process is slowed down because he has to work with each one of them individually, but the big question is on how long one can take to reform. It is more efficient to have more staff as social welfare with each one of them having a small number to work with in order achieve the best results.

Mystery Checkups

In order to ensure that the people entrusted with these juveniles especially at reformatories or approved school and even the di

version centres need to be monitored from time to time. The child justice system needs to be an active system, therefore there is need to have mystery checkups. This means that an anonymous person goes to any of these centres without disclosing who he is, just to see how they are operating. With the knowledge that someone at anytime will visit them to check up on them, they will always make

80 Mr. C. Lungu Assistant Social Welfare officer, Nakambala approved school. (interview taken on the 16th February 2011)
sure that they are not found wanting whenever that person visits them. This will ensure a clean, up to date, active law abiding system in the child justice administration.

**Investing in Infrastructure**

High investment into infrastructure is needed. Firstly to ensure that juveniles are not detained in the same cells with adults, there is need to invest in infrastructure so that more cells for juveniles can be erected. Secondly, there is also need for more diversion centres to be put up especially in other parts of the country other than Lusaka alone. Thirdly it would really be good for juveniles if recreational centres were built. This is because when they are out of a reformatory, an approved school or have finished their diversion programmes, they will need to be involved into something that prevents them from going back into criminal activities.

**Future Researchers**

It will be very important for future researchers to do an extensive research on juvenile justice. Firstly there is need to research on the balancing of rights between girl offenders and boy offenders. Secondly there is need also for further research on the Child Friendly court as that was not researched extensively in this paper. And also future researchers should try and look at other countries in relation to juvenile justice and see what further recommendations could be suggested to improve the juvenile justice system in Zambia.

**Law Reform**

As has been overly recommended in the past researches and reports, there is need for law reform in this area of the criminal justice system. The juveniles Act needs to be revisited, to add what needs to be there, to remove what shouldn’t be there and to modify what needs to remain there. There is need to amend the juveniles Act so as to incorporate provisions enshrined in the international instruments to give power to the magistrates so that they act accordingly without
the fear of being inconsistent with the international treaties. To ensure optimum transformation means to ensure that the law is certain and covers all that is supposed to be covered i.e. the diversion programme needs to be inserted into the Act so as to give it legal effect. Therefore parliament needs to seriously look into this matter so that there can be a reformed up to date juveniles Act which covers all the necessary and important aspects.

5.5 CONCLUSION

This research was undertaken because there was a problem in the administration of Juvenile justice. In 2001 three pilot projects to combat the problem were set up. These were the Arrest Reception Reference Services, the Child Friendly court and the Diversion centres. These projects have been in existence since that time. To implement these projects was the Child Justice Forum. This research was there to find out whether the Child Justice Forum has been implanting these projects and if it has, just how far it has reached in its implementation.

This research encountered both flaws and successes which have been extensively labeled out in the previous chapters. One of the major successes has been with the diversion programme which has managed to successfully deal with children and later help them successfully reintegrate back into society. Also there has been a major transformation from the last time this topic was researched on, which entails that transformation is happening in the juvenile justice system.

Some of the flaws included, the lack of funding, detention of juveniles and adults in the same cells, lack of awareness to the public which is causing stigmatization, lack of availability of these pilot projects in other parts of the country, the arrest of juveniles for minor offences and lastly the lack of full compliance to the United Nations Convention on the Rights of the Child.
This research has vital information that will help out in the transformation process of the juvenile justice. Firstly in chapter one, the problem was stated and the objective behind it as well. The third chapter lays down the findings of the research in relation to the problem. The fourth chapter analyses these findings and the fifth chapter gives recommendations. From the above there is no doubt that this information especially the findings and the recommendation can be used to further help transform the system by working on the weaker areas of the system. This calls for stakeholders such as the police to look into the detention of juveniles and also the arrest of them to ensure that they rectify the flaw of detaining juveniles and adults together and also the flaw of arresting children for minor offences. Also this information will further boost the diversion coordinators to work even more to ensure that they maintain their standard. This information also provoke parliament to speed up the process of reforming the law on child justice especially with its compliance with the Convention on the rights of the Child.

The information in this research will also help all the donor partners and most importantly the government of Zambia to push into the juvenile justice administration sufficient funding to help in the running of the system. Most importantly this research will enlighten the Child Justice Forum that it still has a long way to go in implementing transformation and there it should improve, add more work force or provide sufficient training to all who are involved in child justice administration.

It is a fact that this research doesn’t have information on every aspect of the juvenile justice administration but it is a fact that the major area has been covered which this research has endeavored to provide sufficient information. There are some organs of society that really need to be involved and if already involved that need to go an extra mile to ensure transformation. These organs include the police, the schools, the colleges, the churches, the courts, the prisons, the social welfare department and also the public at large. The more these organs come together and coordinate, a true transformation will occur in Zambia rather than one is just being on paper.
In concluding this research, it can therefore be said that it has been a positive and very educative exercise. Reading about juveniles in books is totally different from visiting these juveniles because that is when the actual picture is laid. It is also a further recommendation on future researchers that to ensure the transformation of the juvenile justice system, there is need to produce the truth so that if there are any flaws, they will be exposed and eventually worked on.

Therefore in conclusion the research has helped to find out how the Child Justice Forum has implemented the transformation in the child justice system. From the findings in this research, the Child Justice Forum has been implementing the three pilot projects to ensure transformation. However there is still more ground to be covered to ensure an optimum transformation.
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