



UNIVERSITY OF NAIROBI

**URBAN POVERTY AND THE CHILD'S RIGHT TO PRIVACY: A CASE STUDY OF
KIBERA -NAIROBI**

BY

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DECLARATION

I Meboh Atieno Abuor do declare that this work is a result of my original study, and has not been published and / or presented for any other academic award in any university or institution before.

REG NO: C53/61769/2013

Date

This research Project has been submitted with our approval as the University Supervisors.

Dr. Muyila Wafula

Date

Dr. Joseph Situma

Date

DEDICATION

To the children living in Kibera, who despite their living conditions leave little or no room at all for their exercise or enjoyment of human rights, have a great hope for a better future, a better life through getting education. God is with you!

ACKNOWLEDGEMENT

Firstly, I acknowledge God Almighty for His wonderful guidance throughout this journey, without His grace this research would not be a success.

In a special way I appreciate my parents Mr. Michael and Hellen Abuor, my brothers Elly and Moses, my sisters Sebby and Ednah and my cousin Sarah without whom life would not be so pleasant.

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ABSTRACT

Upon probing and reviewing various studies on the implementation of the rights of the child to privacy, it became apparent that the right to privacy has not been reasonably realized among the urban poor population particularly in Kibera which is one of the areas in Nairobi where many of the urban poor population stay. In many homes children's rights are not realized due to the competition for limited economic resources which has increasingly become a challenge among the dwellers of Kibera in these circumstances the need for every home to adopt the practice of respecting the child's right to privacy is unrecognized and therefore not given prominence.

The study sought to establish the link between urban poverty and the realization of the child's right to privacy. It also looked into how factors like the child's living conditions impacted on his/ her rights to privacy, the effect of parents involvement to the implementation of the child's right to privacy in Kibera and the extent to which parents literacy levels and culture challenges the implementation of child's right to privacy in Kibera were given prominence.

By elucidating the principles and importance of child's right to privacy, this study contributes to the general study of human rights, protection of children's privacy rights and the human dignity of the child. It compliments other studies on children's rights by focusing on the right to privacy which the researcher found out that has not been researched on widely compared to other rights like that to education, health which have received prominence in the internal and local research sphere. It challenges human rights practitioners and academicians and advises them to look into all the rights of the child with equal interest. The study is intended to benefit child protection officers, parents and the children for better realization of the child's privacy rights.

The design of the study was descriptive with a total population of 128 parents, guardians and children between the age of 13 and 17. A sample of 64 respondents' was drawn from the population through stratified Random and purposive sampling techniques. Questionnaires were used in collection of data and were self administered. Data analysis was done using descriptive statistics and was reported in the form of percentages, mean scores and charts.

From the findings one can conclude the following based on the objectives of the study; Firstly, that the child's right to privacy has not been realized in Kibera and it is critically needed as an important part of children's right for the general development and wellbeing of a child. Secondly, that poverty is a major factor that has contributed to the lack of realization of the child's right to privacy in Kibera.

ACRONYMS AND ABBREVIATIONS

UDHR Universal Declaration of Human Rights

CRC Convention on the Rights of the Child

UNGC United Nations General Comments

ACHPR African Charter on Human and People's Rights

ICCPR International Convention on Civil and Political Rights

KWAHO Kenya Water for Health Organization

REPOA Research on Poverty Alleviation

UNICEF United Nations International Children's Emergency Fund

ACRWC African Charter on the Rights and Welfare of the Child

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CHAPTER ONE

1.1 Background of the study

Children rights in Kenya are of particular importance, this is because they account for an unusually large percentage of the country's population. 40% of Kenya's population is aged under 14 years, while most Western or developed countries have less than 20% of their population in that age group.¹ In the traditional African culture, children were generally considered a vulnerable group and as a result they required special care and not as individuals with rights equal to the rights of adults. However, In Article 1 of the Universal declaration of Human Rights (UDHR) –the foundation of modern international human rights law, all human beings are born free and equal in dignity and in rights², accordingly inferring that children are equally as endowed with rights as adults.

The 1989 United Nations Convention on the Rights of the Child (CRC) is to date the most applauded attempt to create a universal standard for the rights of the child. It aims at creating a universal conception of childhood where children are granted ethical status and in which children are regarded as right holders and not mere objects of protection and domination. It sets in motion the need to recognize children as distinct individuals with rights to determine their own affairs according to their own capacities. It is the first to present children's rights as a legally binding imperative³. Its fundamental objectives are to establish the status of children as right holders and for their rights to be considered equally important to merit respect and enforcement as those of adults. The Convention has put children's rights on the international political agenda and it is the most widely ratified international human rights instrument ever. However, there is a mismatch between the theory and practice of the human rights of the child.

¹ <http://www.kenya-advisor.com/children-of-kenya.html>

² Universal Declaration of Human Rights, 1948, GA Resolution 217A (III).

³ Convention on the Rights of the Child ,adopted and opened for signature, ratification and accession by GA resolution44/25 of November1989 and entered into force in 1990.

In Kenya, the Children's Act 2001 (Children's Act) is a law that was introduced with the aim of promoting the well being of all children in Kenya. The law became effective on March 1st, 2002. This law encompasses many local, regional and international instruments that enshrine human rights in general and children's rights in particular. Such instruments include the Universal Declaration of Human Rights (UDHR), United Nations Convention on the Rights of the Child (CRC), and the African Charter on the Rights and Welfare of the Child (ACRWC). However, even before the creation of the Children's Act, Kenya had ratified the regional and international instruments aforementioned. Kenya's current Constitution promulgated in August 2010 also recognizes the rights of children as a fundamental component especially in Chapter 4 (Bill of Rights). Although these rights have been espoused in Parts 1 and 2 of the said Chapter, it is in Part 3 Section 53 that the rights of a child are clearly set out. The letter and spirit of this section is the same as that of the Children's Act. Despite all this legislative effort, there is evidence that the rights so legislated are not observed strictly due to diverse reasons.

One of the major problems the country is facing today is rampant poverty. Poverty is generally seen as a circumstance that is borne by certain sectors of mankind at one time or another. It is characterized by varying degrees of want, a consequence of the lack of certain material or non material goods. Such a lack of material or non-material goods may be the result of many concurring causes.⁴

World Statistics, for example show that more than half of the worlds' population (3 billion) live below \$2.50 a day and that every day, 30,000 children die from causes related directly to poverty (IMF Report, 2009). Africa is currently undergoing an urban population explosion. Despite slow economic progress since the 1970s, African cities have experienced the fastest

⁴Antonio Rosmini : **Universal Social Right** pg67 "216. Each member is owner of his share, except for limits placed on the exercise of his ownership by the nature of the society itself. Each is also owner of the total portion of the benefits which comes to him from the society; the benefits themselves are the result of his input".

population growth rates in world history, at over five percent a year, and a large proportion of all future population growth in Africa is expected to occur in urban areas.⁵

The Kenya Water for Health Organization (KWAHO) has been involved in many projects in Kibera since 1987. Its main objective has been to alleviate poverty and reduce suffering among the disadvantaged people in the informal settlement. Previous researches have established that the community faces many problems such as scarcity of safe water, environmental pollution, congestion in housing, infectious diseases, and lack of proper infrastructure, extreme poverty and insecurity.⁶ All these social problems have a direct bearing on the human rights situation of the child.⁷

This research looked at poverty as one major cause of failure to strict adherence to the letter of the above instruments of children's Rights. It sought to prove that even where a particular section of the society may be willing to observe a certain right, their state of economic deprivation leads to a deprivation of that particular right.

1.2 The child's right to Privacy

The right to privacy is one of the rights of the child provided in the Children's Act 2001 of Kenya and other International conventions. The right to Privacy simply recognizes the importance of not handing over the power to control one's own life to someone else. It thus translates itself to such concepts as self respect, personal dignity and security, autonomy and identity, and in general the integrity and immunity of the person.

The aspects of self respect, autonomy and identity are presumed realities in the conception of rights. However, children are often subjected to unjustifiable interference disguised as "good

⁵Olotuah, 2005 pg 17

⁶. (<http://www.kwaho.org/loc-d-kibera.html>)

⁷ Where justice is denied, where poverty is enforced, where ignorance prevails, and where any one class is made to feel that society is an organized conspiracy to oppress, rob and degrade them, neither persons nor property will be safe. - Frederick Douglass.

parenting and surveillance that is framed in terms of safety, protection and care.” Privacy does not imply that there is something to hide, and certainly not that it hides a shameful secret. It differentiates itself from the consequences of its negation: feelings of defencelessness and nakedness, fear and embarrassment, distress and emotional upset.⁸

Article 16 of CRC is the overarching law on the child’s right to privacy. It provides that no child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, or to unlawful attacks on his or her honour and reputation. And that the child has the right to the protection of the law against such interference or attacks. This right is also provided for under article 17 of the ICCPR and general comment No. 16 gives its meaning and interpretation that it is required to be guaranteed against all such interferences and attacks whether they emanate from State authorities or from natural or legal persons. The obligations imposed by this article requires the State to adopt legislative and other measures to give effect to the prohibition against such interferences and attacks as well as to the protection of this right.

The term “unlawful” means that no interference can take place except in cases envisaged by the law. Interference authorized by States can only take place on the basis of law, which itself must comply with the provisions, aims and objectives of the Covenant.

The expression “arbitrary interference” is also relevant to the protection of the right provided for in article 17. “Arbitrary interference” can also extend to interference provided for under the law. The introduction of the concept of arbitrariness is intended to guarantee that even interference provided for by law should be in accordance with the provisions, aims and objectives of the Covenant and should be, in any event, reasonable in the particular circumstances.

⁸ Page 81, Belsey and Chadwick (1992)

Regarding the term “family”, the objectives of the Covenant require that for purposes of article 17 this term be given a broad interpretation to include all those comprising the family as understood in the society of the State party concerned. The term “home” in English, is to be understood to indicate the place where a person resides or carries out his usual occupation.

1.2.1 Why the child’s right to privacy?

Various studies have shown that the right to privacy is very important in enhancing a child’s wellbeing and development as envisaged in the CRC⁹. However, the Human rights Committee on the right to privacy points out that in the reports of States parties to the Covenant the necessary attention is not being given to information concerning the manner in which respect for this right is guaranteed by legislative, administrative or judicial authorities, and in general by the competent organs established in the State.¹⁰ In particular, insufficient attention is paid to the fact that article 16 of the Convention deals with protection against both unlawful and arbitrary interference to personal privacy.

According to Maithufi (2000), a lot of unjustifiable interference with the child’s privacy rights continue to be committed on a daily basis in the name of culture, religion and best interest of the child, including child labour, male circumcision, and female genital mutilation among others. There are some traditional cultural beliefs and practices of the parents and guardians that are totally opposed to the child’s right to privacy, be it in the home set up or the position of the child. The child as the property of the community at large can therefore have no privacy protections. It was believed that it was the responsibility of all adults to see

⁹ Experts heard at the hearing organized by the Committee on Social Affairs, Health and Sustainable Development in Strasbourg on 24 January 2013

¹⁰ CCPR General Comment No. 16: Article 17 (Right to Privacy) The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation

that children grew up well behaved and disciplined.¹¹ This affected the perception and attitudes towards children¹².

1.2.2 Privacy versus secrecy

The right to privacy for the child which protects the child from unlawful and arbitrary interference with personal privacy is to be treated with a lot of consideration because of the thin boundary between privacy and secrecy, advises Scott.¹³ Issues of privacy and secrecy, as they impact relationships, have profoundly affected almost everyone's life, in the family or home setup. At first glance the issue seems simple, yet experience has shown that the boundaries between privacy and secrecy can become fuzzy. What is appropriately kept private? When does something held private become a secret? When and where do the boundaries between privacy and secrecy blur?

The term privacy and secrecy are closely linked, although a close look at them shows them as distinct differences. According to Belsey, secrecy can refer to a range of things such as sacredness, intimacy, privacy, silence, prohibition, furtiveness and deception. The main aim of secrecy is intentional concealment.¹⁴

However, Privacy is sometimes defined as an option to have secrecy. Richard Posner said that privacy is the right of people to "conceal information about themselves that others might use to their disadvantage".¹⁵ In various legal contexts, when privacy is described as secrecy, a

¹¹Maithufi (2000) pg 118

¹²Freeman, pg 34

¹³Scott Peck (Child psychologist, America) in his presentations to the Committee on Social Affairs, Health and Sustainable Development on the widespread child abuses.

¹⁴Belsey and Chadwick 1992

¹⁵Solove 2008, p. 21.

conclusion if privacy is secrecy then rights to privacy does not apply for any information which is already publicly disclosed.¹⁶ When privacy-as-secrecy is discussed, it is usually imagined to be a selective kind of secrecy in which individuals keep some information secret and private while they choose to make other information public and not private.¹⁷

Belsey argues that what is private is not always secret. This is so because the many ordinary events and experiences of everyday life are not intentionally concealed but are simply maintained within the personal domain, not offered to the gaze and scrutiny of the public. Secrecy, however, he argues, can serve as a means to or form of privacy if privacy is understood as the condition of being protected from unwanted access by others. Secrecy compared to privacy is however a deliberate action while privacy is more general, it is like a way of life and a necessary condition and psychological requirement for a satisfactory life. It offers self protection for the individual from outside interferences.¹⁸

According to Walsh,¹⁹ secrecy is destructive to a relationship and an individual's self esteem, while privacy can create ego strength and be personally instructive. Secrecy comes with guilt and fear, while privacy results in a stronger sense of self without guilt. Secrecy is about control and destroys trust, while privacy does not. The decision to withhold a secret, or to keep something private, is our right and privilege. However, parents have their parental responsibility to guide their children and to do so in the child's best interests and in doing so they need to be careful as not to let children keep secrets as opposed to having their privacy rights respected.

Posner, Richard A. (1983). *The economics of justice* (5. print ed.). Cambridge, Mass.: Harvard University Press. p. 271. ISBN 978-0674235267.

¹⁶Solove 2008, p. 22-23

¹⁷Solove 2008, p. 22-23

¹⁸Supra note 16

¹⁹ Privacy Vs. Secrecy, Carol Kurtz Walsh

1.3 Statement of Problem

This research is premised on the concern that poverty, among other factors denies the most basic rights of children that are laid down in the Universal Declaration on Human Rights, United Nations Convention on the Rights of the Child, the Children's Act 2001 of Kenya and other human rights instruments, and on the fact that the economic state of the persons responsible for the child has a direct bearing on the child's enjoyment of the right to privacy.

Children's rights have not been realized as they should be among the urban poor seeing as most of these families suffer from adverse poverty. Low level of literacy and lack of understanding of this right and its subsequent importance in the development of the child has also been a challenge to its realization. The overarching need for this study is to find an explanation why the children's' right to privacy is not implemented and the link between poverty and its implementation. Further, an increased understanding of this right and its importance to the child is essential for the protection of children's rights generally is key in its realization.

The study is supported by the fact that although a number of studies have been carried out on the concept and context of poverty and the rights of the child to education, access to health, food and shelter among others, the researcher noted that privacy rights for children appear to attract less attention and focus yet it is an equally important right for children.

1.4 Objectives of the Study.

The main objective of this study is to examine the link between poverty and children's right to privacy.

Specifically the study seeks to:

- (i) To find out how urban poverty affects the realization of the child's right to privacy in Kibera,
- (ii) To establish the relationship between living conditions and realization of the child's right to privacy in Kibera,
- (iii) To determine the specific forms of poverty that undermine the implementation of children's right to privacy in Kibera,
- (iv) To determine the extent to which literacy and awareness of children's right undermine the implementation the right to privacy in Kibera.

1.5 Significance of the study

Although Human rights are universal, indivisible and interrelated, a study of each of these tenets is necessary to understand the extent of the enjoyment. The child's right to Privacy has been recognized as fundamental human right of a child and its importance in the full development of a child cannot be overemphasized.

The study seeks to bring out an understanding of the impact of poverty on the implementation of the children's right to privacy. The information obtained from this study will be relevant to a wide range of stakeholders tasked with the care of children. It will assist the parents and all other caregivers by providing the information they need to address challenges that hinder effective implementation of children's rights.

It compliments other studies on children's rights by focusing on the right to privacy which the researcher found out that has not been researched on widely compared to other rights like that to education, health which have received prominence in the internal and local research sphere. It challenges human rights practitioners and academicians and advises them-to look into all the rights of the child with equal interest. The study is intended to benefit child protection officers, parents and the children for better realization of the child's privacy rights.

1.6 Scope of the Study

There are several informal settlements in Nairobi where the urban poor population can be found since Nairobi is a home to millions of Kenyans differently economically empowered, this study however principally focused on the urban poor living in Kibera because of its proximate location to the researcher and the researcher's familiarity with the area of study (Kibera).

1.7 Limitations of the Study

This study had a number of limitations:

Because of the time and financial constraints the researcher was not able to study in the entire urban poor population. However, the researcher took leave to do the study for two weeks in the sampled area.

Some respondents were not willing to participate in the study due to various reasons and this may have led to systematic bias in the study. The researcher tried to curb this by use of non-defective measuring device.

Another limitation was lack of enough resources to cover all informal settlements and therefore a sampling error may have resulted.

CHAPTER TWO

2.0 LITERATURE REVIEW

2.1. Introduction

This chapter gives a range of documented literature related to the study's problem area in order to provide a basis of developing an understanding and establishing appropriate scope in aligning objectives to existing knowledge. It includes theoretical framework and conceptual framework which reveals gaps in literature that the study aims to fill.

2.2 Theoretical Literature

2.2.1 International children's rights instruments

The 1989 United Nations Convention on the Rights of the Child (CRC) is the main human rights instrument protecting the rights of children, providing a framework for children's civil, political, economic, social and cultural rights. It enumerates four guiding principles that should be taken into consideration when interpreting its articles. The first is that of non-discrimination under article 2 that states that no child shall suffer any discrimination on any ground.

The second principle is that of the best interest of the child to be paramount consideration in all matters affecting the child. The third principle is that the life, survival and development of a child shall be key considerations when determining matters concerning children Articles 6 . Lastly, is the paramount principle of right of the child to be heard under Articles 12 .

The convention provides that every child has the inherent right to life and to their maximum development. The convention further obligates parties to ensure that children are protected from physical or mental harm and neglect, including sexual abuse or exploitation. It also

provides that children are entitled to the highest attainable standard of health, time to rest and play and free primary education.

Article 16 of the Convention on the Rights of the Child provides that children have a right to privacy and inter alia that no child shall be subjected to arbitrary or unlawful interference with his or her privacy.

2.2.2 Children as right holders- Children's Act 2001

The Children's Act No. 8 of 2001 (Children's Act) is a law that was introduced with the aim of promoting the well being of all children in Kenya as well as looking at their interests as right holders. The law became effective on March 1st, 2002. This law encompasses many local, regional and international instruments that enshrine human rights in general and children's rights in particular.

The Children's Act which comprehensively states in Section 4 (Survival and best interests of the child):

4. (1) Every child shall have an inherent right to life and it shall be the responsibility of the Government and the family to ensure the survival and development of the child.
- (2) In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
- 3) All judicial and administrative institutions, and all persons acting in the name of these institutions, where they are exercising any powers conferred by this Act shall treat the interests of the child as the first and paramount consideration to the extent that this is consistent with adopting a course of action calculated to—
 - (a) safeguard and promote the rights and welfare of the child;
 - (b) conserve and promote the welfare of the child;

(c) secure for the child such guidance and correction as is necessary for the welfare of the child and in the public interest.

(4) In any matters of procedure affecting a child, the child shall be accorded an opportunity to express his opinion, and that opinion shall be taken into account as may be appropriate taking into account the child's age and the degree of maturity.

According to Mascarenhas and Sigalla,²⁰ the international focus upon realizing children's rights as opposed to meeting children's needs is a relatively recent development. The concept of the rights of children, they say, evolved as part of the United Nations response to the abuse of human rights in general and rights of children in particular.

Geraldine Van Bueren describes the growth of both the general body of international human rights law and international law on the rights of the child in particular as being divided into three stages. The first is the recognition by the international community that all individuals, including children, are objects of international law and require international protection. The second is the granting of specific substantive rights to individuals. The third stage is the acknowledgement that individuals must possess adequate procedural capacity in order to be able to exercise and claim such rights and freedoms.²¹

The difference in how children's rights are treated in comparison with human rights in general, van Bueren argues, lies in the development of the second and third stages. Stern concurs in saying that, much as children should principally enjoy the full range of rights, it is not always sufficiently acknowledged in the case law and practice of various states and

²⁰Mascarenhas, O. & H. Sigalla (2010) "Poverty and the Rights of Children at Household Level: Findings from Sameand Kisarawe Districts, Tanzania"; Research on Poverty Alleviation (REPOA) No. 10/3

²¹ Van Bueren, 1995

international courts and tribunals. Neither is the child's procedural capacity to act on his or her own behalf an undisputed issue.²²

2.2.3 Poverty versus Rights of the child

The theory that poverty adversely affects the rights of the child is examined vis a viz the provisions of the Children's Act 2001 and the convention on the Rights of the child (CRC) which provides under Article 3 (1)²³ for the best interests of the child as a primary consideration in all actions concerning children. This article refers to actions undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies.

The best interest principle requires that active measures be undertaken at all levels of Government, by parliaments, judiciary and care givers to systematically consider how children's rights and interests are or will be affected by their decisions and actions. Excuses for violations of children's rights are clearly not what the principle of the best interests is about²⁴.

According to Stern, the best interests of the child is one of the new principles of interpretation in international law, reshaping the traditional welfare approach to children by relating to them not only as objects of protection and recipients of help but as right holders. She argues that the principle embraces all actions concerning children, whatever they may be.²⁵

²²Supra note 13

²³ Convention on the Rights of the Child

²⁴Pg 21, Maithifu 2000

²⁵ Supra note 13

Every child shall have an inherent right to life and it shall be the responsibility of the Government and the family to ensure the survival and development of the child

While else this right is paramount, it is apparent that many children lose their lives due to poverty. Such deaths occur even before birth.

Studies indicate that most of the children engage early in sex and prostitution leading to abortion as a result of poverty. It is stated that “In Kenya girls are forced to resort to prostitution in order to get clothes or food. According to a 2004 report from The Cradle and the Undugu Society, they earn as little as 10 or 20 KSH (\$0.30-0.50) for each client.”²⁶

Every child shall have a right to health and medical care the provision of which shall be the responsibility of the parents and the Government.

The Republic of Kenya (2011) states that trends in infant and child mortality rates are worrying. The thesis is that this happens because most health providers do not take care of sick children holistically but only treat the apparent sickness. The indication here is that the parents who are not able to take their children to private and expensive medical care may be deemed to be denying the child the right to health and good medical care. This may also be said of the Government which also shares the responsibility on this right. Kosimbei (2005) ties the lack of proper medical care to poverty. He states that health facilities have not expanded at the same rate as the population and even where available, the quality is poor. He states that as per 2003, the infant mortality rate stood at 78 per every 1,000 births.

²⁶http://www.streetchildren.org.uk/uploads/resources/Street_Children_Stats_FINAL.pdf (Street Children Statistics) 27.09.2011

2.2.4 Child's right to privacy

Article 17 of the International Covenant on Civil and Political Rights (ICCPR) provides the international legal framework for the protection of the right to privacy. It protects everyone from arbitrary or unlawful interferences with their “privacy, family, home or correspondence.” Privacy is a concept central to our identities, our ability to control information and our senses of self, and our interactions with other individuals and communities.

Article 16 of the CRC highlights the right to privacy of a child. It establishes that children have a right to privacy and inter alia that no child shall be subjected to arbitrary or unlawful interference with his or her privacy. The privacy is to ensure that the child is honoured and their reputation maintained and respected.

2.5 Definition and Concepts of privacy

Academics have defined privacy as a right of personhood, intimacy, secrecy, limited access to the self and control over information. However definition of commonly accepted has proven to be quite complicated, and many commentators have expressed great difficulty in defining precisely what privacy is. According to Robert Post, “privacy is a value so complex, so entangled in competing and contradictory dimensions, so engrossed with various and distinct meanings that I sometimes despair whether it can be usefully addressed at all.”²⁷

²⁷Robert. C Post, Three Concepts of Privacy, 89 Geo L.J 2087,2087 (2001).

Conceptualizing privacy not only involves defining privacy but articulating its value as a right of the child. One way of categorizing all concepts of privacy is by considering all discussions as one of these concepts.²⁸

- the right to be let alone
- the option to limit the access others have to one's personal information
- control over others' use of information about oneself
- states of privacy
- personhood and autonomy
- self-identity and personal growth
- protection of intimate relationships

2.5.1 Right to be let alone

In 1890 the United States jurists Samuel D. Warren and Louis Brandeis wrote *The Right to Privacy*, an article in which they argued for the “right to be let alone”, using that phrase as a definition of privacy²⁹. There is extensive commentary over the meaning of being “let alone”, and among other ways, it has been interpreted to mean the right of a person to choose seclusion from the attention of others if they wish to do so, and the right to be immune from scrutiny or being observed in private settings, such as one’s own home. Although this early vague legal concept did not describe privacy in a way that made it easy to design broad legal protections of privacy, it strengthened the notion of privacy rights for individuals and began a legacy of discussion on those rights.³⁰

²⁸ Solove 2008, p. 12-13

²⁹ Solove 2008, p. 15-17

³⁰ Solove 2008, p. 15-17

2.5.2 Limited access

Limited access refers to a person's ability to participate in society without having other individuals and organizations collect information about them.

Various theorists have imagined privacy as a system for limiting access to one's personal information.³¹ Edwin Lawrence Godkin wrote in the late 19th century that "nothing is better worthy of legal protection than private life, or, in other words, the right of every man to keep his affairs to himself, and to decide for himself to what extent they shall be the subject of public observation and discussion."³² Adopting an approach similar to the one presented by Ruth Gavison 9 years earlier,³³ Sissela Bok said that privacy is "the condition of being protected from unwanted access by others- either physical access, personal information, or attention."³⁴

2.5.3 Control over information

Control over one's personal information is the concept that "privacy is the claim of individuals, groups, or institutions to determine for themselves when, how, and to what extent information about them is communicated to others."³⁵ Charles Fried said that "Privacy is not simply an absence of information about us in the minds of others; rather it is the control we have over information about ourselves."³⁶ Control over personal information is one of the more popular theories of the meaning of privacy.³⁷

³¹Solove 2008, p. 19.

³²Godkin, E.L. (December 1880). "Libel and its Legal Remedy". *Atlantic Monthly* 46 (278): 729–739.

³³Gavison, Ruth (1980). "Privacy and the Limits of Law". *Yale Law Journal*: 421–471.

³⁴Solove 2008, p. 19, Bok, Sissela (1989). *Secrets : on the ethics of concealment and revelation* (Vintage Books ed.). New York: Vintage Books. pp. 10–11. ISBN 978-0679724735

³⁵ Solove 2008, p. 24.

The quotation is from Alan Westin. Westin, Alan F.; Blom-Cooper, Louis (1970). *Privacy and freedom*. London: Bodley Head. p. 7. ISBN 978-0370013251.

³⁶Solove 2008, p. 24. Fried, Charles (January 1968). "Privacy". *Yale Law Journal* 77 (3): 475–493

³⁷Solove 2008, p. 24.

2.5.4 States of privacy

Alan Westin defined four states – or experiences – of privacy: solitude, intimacy, anonymity, and reserve. Solitude is a physical separation from others. Intimacy is a “close, relaxed, and frank relationship between two or more individuals” that results from the seclusion of a pair or small group of individuals. Anonymity is the “desire of individuals for times of 'public privacy.’” Lastly, reserve is the “creation of a psychological barrier against unwanted intrusion”; this creation of a psychological barrier requires others to respect an individual's need or desire to restrict communication of information concerning himself or herself.³⁸

In addition to the psychological barrier of reserve, Kirsty Hughes identified three more kinds of privacy barriers: physical, behavioral, and normative. Physical barriers, such as walls and doors, prevent others from accessing and experiencing the individual. (In this sense, “accessing” an individual includes accessing personal information about him or her.)³⁹

Behavioral barriers communicate to others – verbally, through language, or non-verbally, through personal space, body language, or clothing – that an individual does not want them to access or experience him or her. Lastly, normative barriers, such as laws and social norms, restrain others from attempting to access or experience an individual.⁴⁰

³⁸Westin, Alan (1967). *Privacy and Freedom*. New York: Atheneum.

³⁹Hughes, Kirsty (2012). "A Behavioural Understanding of Privacy and Its Implications for Privacy Law". *The Modern Law Review*.

⁴⁰*Ibid* 36

2.5.5 Personhood and autonomy

Privacy may be understood as a necessary precondition for the development and preservation of personhood. Jeffrey Reiman defined privacy in terms of a recognition of one's ownership of his or her physical and mental reality and a moral right to his or her self-determination.⁴¹

Through the “social ritual” of privacy, or the social practice of respecting an individual's privacy barriers, the social group communicates to the developing child that he or she has exclusive moral rights to his or her body – in other words, he or she has moral ownership of his or her body.⁴² This entails control over both active (physical) and cognitive appropriation, the former being control over one's movements and actions and the latter being control over who can experience one's physical existence and when.

Alternatively, Stanley Benn defined privacy in terms of a recognition of oneself as a subject with agency – as an individual with the capacity to choose. Privacy is required to exercise choice⁴³. Overt observation makes the individual aware of himself or herself as an object with a “determinate character” and “limited probabilities.” Covert observation, on the other hand, changes the conditions in which the individual is exercising choice without his or her knowledge and consent.⁴⁴

In addition, privacy may be viewed as a state that enables autonomy, a concept closely connected to that of personhood. According to Joseph Kufer, an autonomous self-concept entails a conception of oneself as a “purposeful, self-determining, responsible agent” and an awareness of one's capacity to control the boundary between self and other – that is, to

⁴¹Reiman, Jeffrey (1976). "Privacy, Intimacy, and Personhood". *Philosophy & Public Affairs*.

⁴²Reiman, Jeffrey (1976). "Privacy, Intimacy, and Personhood". *Philosophy & Public Affairs*.

⁴³Benn, Stanley. "Privacy, freedom, and respect for persons". In Schoeman, Ferdinand. *Philosophical Dimensions of Privacy: An Anthology*. New York: Cambridge University Press.

⁴⁴Ibid 43

control who can access and experience him or her and to what extent.⁴⁵ Furthermore, others must acknowledge and respect the self's boundaries – in other words, they must respect the individual's privacy.⁴⁶

The studies of psychologists such as Jean Piaget and Victor Tausk show that, as children learn that they can control who can access and experience them and to what extent, they develop an autonomous self-concept⁴⁷. In addition, studies of adults in particular institutions, such as Erving Goffman's study of “total institutions” such as prisons and mental institutions,⁴⁸ suggest that systemic and routinized deprivations or violations of privacy deteriorate one's sense of autonomy over time.⁴⁹

2.5.6 Self-identity and personal growth

Privacy may be understood as a prerequisite for the development of a sense of self-identity. Privacy barriers, in particular, are instrumental in this process. According to Irwin Altman, such barriers “define and limit the boundaries of the self” and thus “serve to help define [the self].”⁵⁰ This control primarily entails the ability to regulate contact with others. Control over the “permeability” of the self's boundaries enables one to control what constitutes the self and thus to define what is the self.⁵¹

In addition, privacy may be seen as a state that fosters personal growth, a process integral to the development of self-identity. Hyman Gross suggested that, without privacy – solitude,

⁴⁵Kufer, Joseph (1987). "Privacy, Autonomy, and Self-Concept". American Philosophical Quarterly.

⁴⁶*Ibid* 45

⁴⁷Kufer, Joseph (1987). "Privacy, Autonomy, and Self-Concept". American Philosophical Quarterly.

⁴⁸Goffman, Erving (1968). *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates*. New York: Doubleday.

⁴⁹*Ibid* 47

⁵⁰Altman, Irwin (1975). *The Environment and Social Behavior: Privacy, Personal Space, Territory, and Crowding*. Monterey: Brooks/Cole Publishing Company.

⁵¹*Ibid* 50

anonymity, and temporary releases from social roles – individuals would be unable to freely express themselves and to engage in self-discovery and self-criticism. Such self-discovery and self-criticism contributes to one's understanding of oneself and shapes one's sense of identity.⁵²

2.5.7 Intimacy

In a way analogous to how the personhood theory imagines privacy as some essential part of being an individual, the intimacy theory imagines privacy to be an essential part of the way that humans have strengthened or intimate relationships with other humans.⁵³ Because part of human relationships includes individuals volunteering to self-disclose some information, but withholding other information, there is a concept of privacy as a part of the process by means of which humans establish relationships with each other.⁵⁴

James Rachels advanced this notion by writing that privacy matters because “there is a close connection between our ability to control who has access to us and to information about us, and our ability to create and maintain different sorts of social relationships with different people.”⁵⁵

2.5.8 Personal privacy

Most people have a strong sense of privacy in relation to the exposure of their body to others. This is an aspect of personal modesty. A person will go to extreme lengths to protect this personal modesty, the main way being the wearing of clothes. Other ways include erection of walls, fences, screens, use of cathedral glass, partitions, by maintaining a distance, beside other ways. People who go to those lengths expect that their privacy will be respected by

⁵²Kufer, Joseph (1987). "Privacy, Autonomy, and Self-Concept". *American Philosophical Quarterly*.

⁵³Solove 2008, p. 35.

⁵⁴Ibid 53

⁵⁵ Solove 2008, p. 35.

Rachels, James (Summer 1975). "Why Privacy is Important". *Philosophy & Public Affairs* 4 (4): 323–333.

others. At the same time, people are prepared to expose themselves in acts of physical intimacy, but these are confined to exposure in circumstances and of persons of their choosing. Even a discussion of those circumstances is regarded as intrusive and typically unwelcome.

Physical privacy could be defined as preventing "intrusions into one's physical space or solitude."⁵⁶This would include concerns such as:

- Preventing intimate acts or hiding one's body from others for the purpose of modesty; apart from being dressed this can be achieved by walls, fences, privacy screens, cathedral glass, partitions between urinals, by being far away from others, on a bed by a bed sheet or a blanket, when changing clothes by a towel, etc.; to what extent these measures also prevent acts being heard varies
- Video, of aptly named graphic, or intimate, acts, behaviors or body parts
- Preventing searching of one's personal possessions
- Preventing unauthorized access to one's home or vehicle

Medical privacy, the right to make fundamental medical decisions without governmental coercion or third-party review, most widely applied to questions of contraception. Physical privacy may be a matter of cultural sensitivity, personal dignity, and/or shyness.

2.5.9 Informational

Information or data privacy refers to the evolving relationship between technology and the legal right to, or public expectation of, privacy in the collection and sharing of data about one's self. Privacy concerns exist wherever uniquely identifiable data relating to a person or

⁵⁶Managing Privacy: Information Technology and Corporate America - H. Jeff

persons are collected and stored, in digital form or otherwise. In some cases these concerns refer to how data are collected, stored, and associated. In other cases the issue is who is given access to information. Other issues include whether an individual has any ownership rights to data about them, and/or the right to view, verify, and challenge that information.

2.6 Limitation of Right to Privacy

Privacy protections under Article 16 are not absolute, but may be restricted in certain, narrowly defined circumstance in General Comment No. 16. However, there is need for more guidance on those circumstances, taking into consideration the increased capacity of State Parties and corporations to interfere with privacy interests through use of modern information technologies.⁵⁷

Child's right to privacy recognizes that children are not just a passive, powerless target group, but rather capable communicators, who can effectively engage in activities within their communities.⁵⁸ Their capacities can be built only if they have personal space and privacy.

2.7 Poverty and the child's right to privacy

Gordon and Namazie⁵⁹ define poverty as severe deprivation of basic human needs necessary for human survival which include lack of proper shelter, poor health, hunger and lack of basic education. Researches like the State of the World's Children 2000, compiled by UNICEF indicate the fact that poverty denies the most basic rights of children that are laid down in the

⁵⁷ U.N. Doc. A/RES/68/167 (Dec. 18, 2013); Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression at 3-20, OHCHR, U.N. Doc. A/HRC/23/40 (April 17, 2013) (by Frank La Rue), [hereinafter Special Rapporteur 2013 Report].

⁵⁸ Guidelines for child Participation in Kenya

⁵⁹ Gordon, D, C. Pantazis, P. Townsend With C. Namazie and S. Nandy : *Child Rights and Child Poverty in Developing Countries* in a Summary Report to UNICEF, pg 2

Universal Declaration on Human Rights, United Nations Convention on the Rights of the Child and other human rights instruments.

According to Gordon, D. et al⁶⁰ ... poverty damages survival and development. It can cause disability and early death. It can delay or even permanently obstruct children's inclusion and participation in society. The effects of poverty mentioned above are substantially clear in Kenya's urban poor population and they do as a matter of fact have a very negative effect on the enjoyment of human rights.

During the World Summit on Social Development in Copenhagen poverty was seen from two dimensions; absolute poverty and overall poverty⁶¹. Absolute poverty was defined as "a condition characterized by severe deprivation of basic human needs, including food, safe drinking water, sanitation facilities, health, shelter, education and information. It depends not only on income but also on access to services." Gordon et al further explain that overall poverty takes various forms, including "lack of income and productive resources to ensure sustainable livelihoods; hunger and malnutrition; ill health; limited or lack of access to education and other basic services; increased morbidity and mortality from illness; homelessness and inadequate housing; unsafe environments and social discrimination and exclusion.

⁶⁰ Gordon, D, C. Pantazis, P. Townsend With C. Namazie and S. Nandy : *Child Rights and Child Poverty in Developing Countries* in a Summary Report to UNICEF, pg 2

⁶¹ Ibid

It is also characterized by lack of participation in decision-making and in civil, social and cultural life...” It is clear that most of these parameters mentioned as defining poverty touch on the very basic tenets of human rights.⁶²

Nungu states that, an offshoot of the poverty problem is child labour. According to the 1998/99 Child Labour Survey, Kenya had 1.3 million children classified as child labourers.⁶³ As a result of poverty, the city is now faced with a myriad of social and economic problems which include a high rate of open unemployment, inadequate water supply, and shortage of quality housing, inadequate transport facilities, and social services such as health, education and sewage disposal system. All these challenges have a direct bearing on the child’s rights to privacy in one way or the other.⁶⁴ Children will obviously have no room of their own to sleep in or any personal property in such places because of the constrained resources.

2.8 Culture and the child’s right to privacy

The boundaries and content of what is considered private differ among cultures and individuals, but share common themes. When something is private to a person, it usually means that something is inherently special or sensitive to them.

Cultural perceptions of children determine whether or not their rights are respected and implemented. Traditionally, children were only to be seen and not heard; as a result, their views and interests often did not matter. This and other entrenched beliefs about the place and position of children in our societies have left them vulnerable, making them susceptible to physical, psychological, emotional and sexual abuse.

⁶²Ibid

⁶³GoK 1999

⁶⁴Ibid

In some African cultures children were expected to participate in all tasks as adults did, including apprenticeships there was no clear distinction between childhood and adulthood when it came to labour and nobody really gave children any special treatment. This view is reported to have gradually evolved to where children were viewed as weak and in need of their parents' protection.⁶⁵ This protection did not preclude them from performing other tasks at home like fetching water and firewood or looking after cattle.

Most of the children's rights accordingly have been given meaning and interpretation culturally to the detriment of the, Child labour is one example of a controversial application of the best interest principle. In developing countries like Kenya, for example among the Luhya community, families do in many cases depend for their survival on income earned by all productive family members, including children. Accordingly, children have to work so that they grow up into hardworking and responsible community members. Parents can't allow their children to sit at home idling while they toil in the farm in the name of rights. Unfortunately however, such practices are bound to continue as long as its function remains necessary in the concerned families.⁶⁶

According to Maithufi (2000) the way of life among the Chaga community in Tanzania for example was that people lived communally, sharing food, clothing, and even sleeping areas the concept of rights was seen as an intrusion into the people's way of life and moral wrong as it introduced individualism which was the opposite of their way of life. Consequently, any right that purports to give a child any kind of special attention is totally disregarded, if

⁶⁵Rebecca M. Stahl, Don't Forget About Me": Implementing Article 12 Of The United Nations Convention On The Rights Of The Child.

⁶⁶Wafula Muyila. 2011 in Human rights, African values and traditions- An interdisciplinary approach.

anything, any child that asks for privacy is suspect of being a bad child who has something to hide⁶⁷.

Although privacy law, at the international human rights level, is grounded in robust and pedigreed principles, it seems not to have been developed or adapted to fit the needs of the traditional African society. Seeing as the question of human rights and its western origin is yet to be accepted generally as a universal culture.⁶⁸ The question has always been how can universal human rights exist in a culturally diverse world? As the international community becomes increasingly integrated, how can cultural diversity and integrity be respected?⁶⁹

With development of international law and legal regime over the subject however, participatory rights of children require a different approach if not the change attitudes towards children.⁷⁰

2.9 Conceptual framework

The study focused on the functional relationship between poverty and the child's right to privacy. Conceptual framework defines the relationship between the dependent variable and independent variables. In this research, one factor namely; poverty was considered as possible factor affecting the implementation of child's right to privacy in Kibera Nairobi.

⁶⁷ Maithufi, I. 2000. "The best interest of the child and African customary law". In Davel, CJ (Ed.).

⁶⁸ "Custom and human rights both concern rights. Human rights are understood to be the rights that are innate and inherent to each of us as individuals. Customary, traditional and cultural rights relate to our social mores as a distant people of community. They include the ownership of the land and natural resources, folklore, traditional knowledge and social systems. Both these species of rights belong to us by virtue of who and what we are. It follows that we will need to balance them with each other, if we wish to derive benefit from both..." – Ratu Joni Madraiwiwi, former Vice-President of Fiji, 2006.

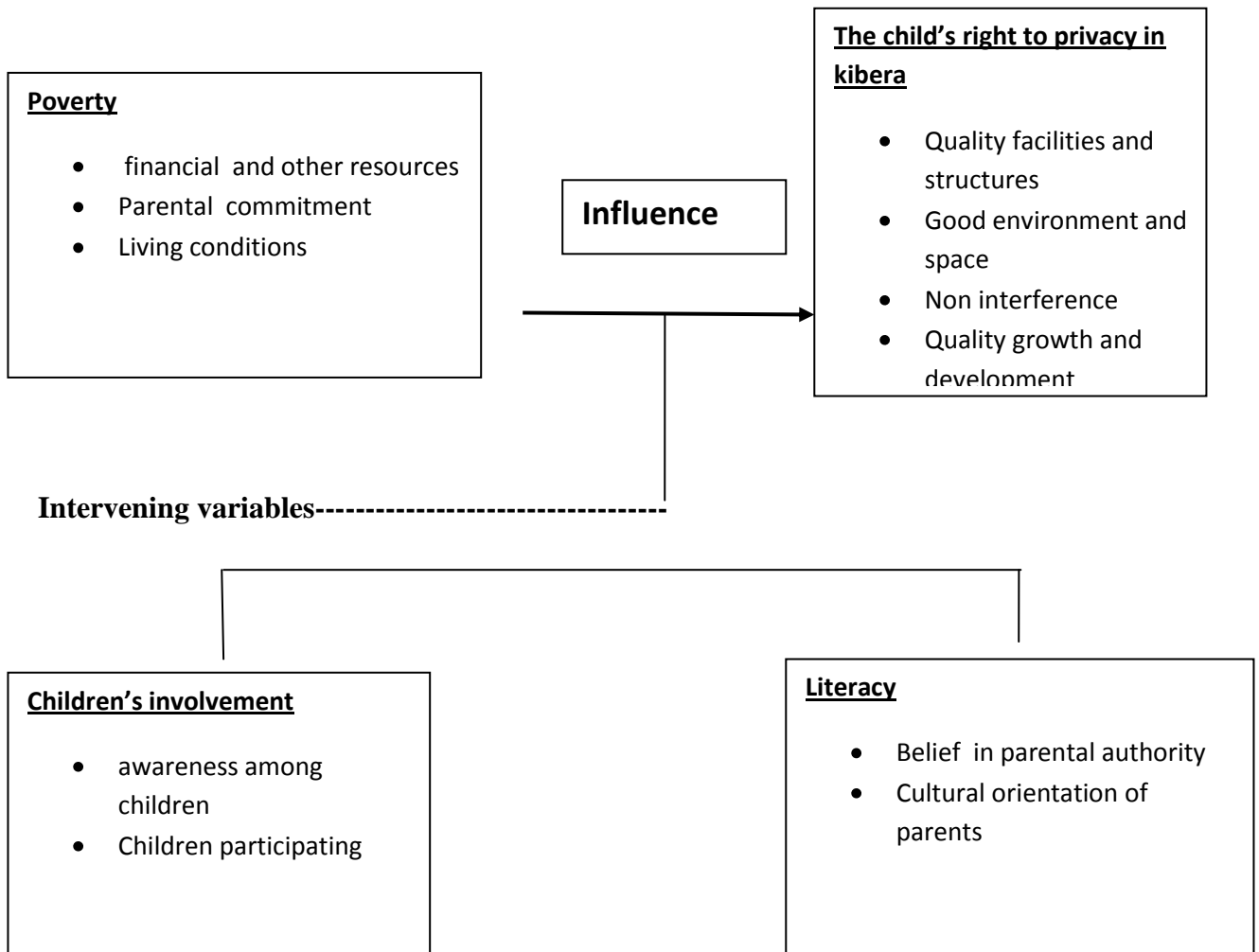
⁶⁹ A.S Diana. 1995. DPI/1627/HR--March 1995

⁷⁰ Gerison Lansdown, Promoting -Maki

However, the impact of other confounding/ or intervening factors such as literacy level and child involvement was also considered as indicated by figure 2.1

Fig 2.1: Schematic diagram showing dependent and independent variables as well as the intervening variables.

Independent variables**Dependent variable**



(Source: Researcher 2014)

2.10 Hypothesis

Poverty affects the implementation of the child's right to privacy.

2.11 Research Questions

Specifically, the study seeks to answers the following questions:

- (i) What is the link between poverty and the child's right to privacy in Kibera?
- (ii) What is the relationship between a child's living conditions and implementation of the right to privacy in Kibera, Nairobi?
- (iii) What are the effects of parent's involvement in implementation of the child's right to privacy in Kibera, Nairobi?
- (iv) To what extent does the parent's literacy affect the implementation of the child's right to privacy?

CHAPTER THREE

3.0 RESEARCH METHODOLOGY

3.1 Introduction

This chapter highlights the research methodology that was applied in carrying out the study, it is organized under the following subsections: the research design, targeted population, sampling technique, sample size, data collection instruments, data collection procedures and the data analysis.

3.2 Research Design

A descriptive research design was applied for the purpose of accessing the intent of the study. The major purpose of the design is a description of the state of affairs as it exists at present.⁷¹ Descriptive studies result in the formulation of important principles of knowledge and solution to significant problems.⁷²

3.3 Target Population

The study's target population comprised of selected parents, guardians and teenage children within Kibera totalling to 128 people. The selection of the population was based on their characteristics of being in informal settlements. Table 3.1 shows the distribution of people per area in Kibera.

⁷¹ Kothari, 2003

⁷² Mugenda and Mugenda 2003

Table 3.1 Areas of Kibera

Area	NO of Housing Blocks	NO of Respondents per Block
LAINI	2	64
KWA CHIEF	1	32
MOSQUE	1	32
TOTAL	4	128

Source: Researcher (2014)

3.4 Sampling Techniques

The study adopted both the stratified Random and purposive sampling techniques. The strata comprised of parents, guardians and children. Stratified Random sampling was used in providing information where there are different categories of sources of data as was the case of this study.⁷³

The sample was also be purposefully selected to ensure that they all resided in the area to be sure that they would best help to achieve the objectives of the research. Purposive sampling allows a researcher to use cases that have the required information with respect to the objectives of his / her study.⁷⁴

3.5 Sample Size

The sample size of the study was 64 respondents drawn from the population of 128. The sample was determined as in table 3.2.

⁷³Kothari, 2006

⁷⁴Ibid note 38

Table 3.2 Sampling Table

AREA	POPULATION	SAMPLE SIZE
LAINI	64	32
KWA CHIEF	32	16
MOSQUE	32	16
TOTAL	128	64

Source: Researcher (2014)

3.6 Data Collection Instruments

The research utilized both secondary and primary sources of data with a main emphasis on the later. Secondary data was obtained from documented sources i.e. institutional reports and government statistics records as part of literature review. Primary data was obtained from a field research incorporating both quantitative (statistical) and Qualitative (logical) data sets collected from a predetermine sample population of Kibera. The data was collected using a number of different tools for the different stakeholders as follows:

- a) Questionnaire; - This set of questionnaire was administered to children living in Kibera between the ages of 13 and 18 which was the target age for children respondents as well as parents/ caregivers and teachers. The instrument was divided into sections.
- b) Key informant Guide; - This set of questions was administered to selected representatives of members staff, professionals and individuals identified to be of importance in the study.

- c) Focus Group Discussion Guide; - This set of questions was used to guide participatory Focus Group discussions involving family members of the children and community members.

The study benefited from the use of both the secondary and primary data. Secondary data basically entailed review of relevant documentations such as the international conventions, local legislation, books by various authors on the topic and the UN general comments on the rights of the child. On the other hand, primary data concentrated on respondents' opinions and appraisals concerning the study variables. To assist the researcher gather the primary portion of data, the study adopted a questionnaire instrument which was self-administered. Most importantly, the instrument's structure is designed to accommodate all the critical aspects covering effects of culture, education, stakeholder interest and resources on the realization of the child's right to privacy. The semi-structured format of the instrument allowed inclusion of closed-ended question items, which were essential in limiting response details while facilitating timely analysis.

3.7 Instrument Validity

Research instruments are measurement devices that must possess adequate reliability and validity. Reliability of an instrument is the extent to which scores on the instrument are free from errors of measurement, while validity is the extent to which an instrument measures what it has been actually designed to measure.⁷⁵ The study adopted pre-testing as one comprehensive procedure towards enhancing instrument validity and reliability.

⁷⁵ Dornyei, 2003

3.8 Reliability

The pilot units, equivalent to one-tenth of the proposed sample size, was obtained from comparable members of the population from which the sample for the full study would be taken as informed by Mugenda and Mugenda who regard the proportion as sufficient for pilot testing.⁷⁶

The results from the pilot testing were used to fine-tune and finalize the questionnaire. The pilot participants were not involved in the ultimate field study.

3.9 Data Analysis

The collected data was examined and processed prior to drawing inferences through a series of operations involving editing to eliminate inconsistencies, classification on the basis of similarity and tabulation to relate variables. Subsequently, the refined and organized data was coded and analyzed using descriptive statistics involving percentages and mean scores to determine varying degrees of response-concentration. An advantage of descriptive statistics is that it makes a mass of research material easier to read by reducing a large set of data into a few statistics or some picture such as graph or table.⁷⁷ Standard deviations to measure response-disparity particularly for the Likert-scale question items was also generated. Descriptive statistics was invaluable in describing the sample data in such away as to portray the typical respondent and to reveal the general pattern of responses.

The statistics were generated with aid of the computer software, Statistical Package for Social Sciences (SPSS) Version 20.0. Further, the researcher necessarily ensured that resulting summaries and data from the findings are presented in a consolidated and meaningful framework, and thus, the analysis focused on accuracy and reliability in relation to the

⁷⁶Ibid note 38

⁷⁷Argyrous, G. (2005). *Statistical for research with a guide for SPSS(2nd ed)*. sage publications Ltd.

study's pre-designed objectives. Finally, for the purpose of communicative effectiveness to ultimate users, findings were presented using both tabular and graphical representations.

The qualitative data was analysed using content analysis technique. This involves the making of inferences about data (usually text) by systematically and objectively identifying special characteristics (classes or categories) within them. The attempt to achieve a measure of objectivity in this process was addressed by the creation of criteria of selection which had to be established before the data is analysed. In using content analysis, there are three procedures for identifying classes and categories. Firstly, common classes, comprising categories in everyday thinking such as age, gender and years of experience are identified. These common classes are useful in linking or finding associations between the data and important demographic characteristics. Secondly, special classes are identified; comprising the kind of households or particular groups to be used to distinguish amongst things, persons or events. Thirdly, theoretical classes or those classes that arise in the process of analysing the data, providing the key linkages and patterns. Having identified categories within the text, the next step will be the analysis itself. The key here was to reduce the volume of textual material.

Three steps in the analysis process were adopted: summarizing content analysis, where the material is paraphrased with similar paraphrases bundled together and less relevant passages eliminated; explicating content analysis, which clarifies ambiguous or contradictory passages by introducing context material by analysis and structuring content analysis which sort to indentify types of formal structures in the materials. The resulting categories were then coded and analyzed as if they were metric data.

3.10 Ethical considerations

The target population under study was children living in urban poverty and indeed a vulnerable group. Ethical considerations and protocol had to be duly considered during the course of this study. First, the requisite authorization documents had to be obtained from the relevant authorities like their parents, care givers or guardians and teachers. Second, consent of the parents/ guardians and teachers and the children respondent themselves had to be obtained. Third, the exercise was a voluntary one with the interviews been undertaken in a privately at home or in school and the children respondents explained to and assured to utmost confidentiality in the information that was collected.

CHAPTER FOUR

4.0 PRESENTATION OF RESULTS AND DATA ANALYSIS

4.1 Introduction

This chapter consists of the results, data interpretation and discussions of the findings obtained from the respondents such as Parents, children and guardians.

4.2 Response Rate

The numbers of questionnaires sent out were 64, out of which 58 were filled and returned. This high rate was attributed to the researcher personal involvement.

4.3 Poverty and the child's right to privacy

The researcher was concerned with the link between poverty and the child's right to privacy. Table 4.1 provides the distribution of the effects of poverty to the implementation of the right to privacy in Kibera.

Table 4.1 Poverty and the child's right to privacy

Effect of poverty	None	Small extent	Reasonably	Some extent	Great extent	Weighted mean
Income	0	9	28	21	5	30.5
Type Housing	0	10	33	24	7	29.5
Size of family	0	3	14	28	18	31
Knowledge of children's rights	0	4	35	9	12	30.4
Literacy level	0	10	33	10	10	29.5

Source: researcher (2014)

From table 4.1 it was observed that 30.5 weighted mean of the respondents stated that the level of economic empowerment of parents and guardians affects implementation of the

child’s right to privacy, 29.7 indicated that the type of housing influences the implementation the right to privacy, 31 of the respondents stated that general knowledge and understanding of children’s right contributes to the implementation of privacy rights, 30.4 weighed mean of the respondents stated that the size of the family also affect the implementation of the right to privacy while 29.5 agreed that illiteracy can also affect the implementation of children’s right to privacy.

4.1.1 Privacy rights implementation process

Privacy rights implementation process	None	Small extent	Reasonably	Some extent	Great extent	Weighted mean
Income	0	18	16	17	7	31.9
Housing	0	1	27	27	3	31.6
Size of family	0	6	32	17	7	31.0
Age of child	0	6	36	14	7	35.5
Literacy level	0	9	22	14	12	32.2
Knowledge of children’s rights		14	28	14	7	30.8
Parent’s commitment to child’s rights	0	12	16	8	10	32.6
Free communication	0	15	25	5	7	31.0

Source: researcher (2014)

From table 4.1.1 it was observed that 31.9 weighted mean of the respondents stated that to implement the child’s right to privacy, parents/ guardians need to earn more income as opposed to the meager income they get basically from hand to mouth lifestyle, 31.6 said that there is need for better housing structures. 31.0 stated that the size of the family need affects

the implementation of this right, 35.5, which was the majority indicated that there is need for specific age of children that really need privacy rights, that teenagers were more likely to demand privacy rights compared to much younger children. 32.2 weighted mean of the respondents stated that literacy levels of both parents and children need to be improved to achieve good implementation of the right to privacy, 30.8 felt that parent and guardians need to be educated on children’s right generally and particularly on the right to privacy, 32.6 indicated that parents and guardians need to be more committed to implement the child’s right to privacy by taking necessary steps towards the realization of this right while 31.0 stated that flow of communication between parent and children should be free.

4.1.2 Commitment of parents to child’s right to privacy

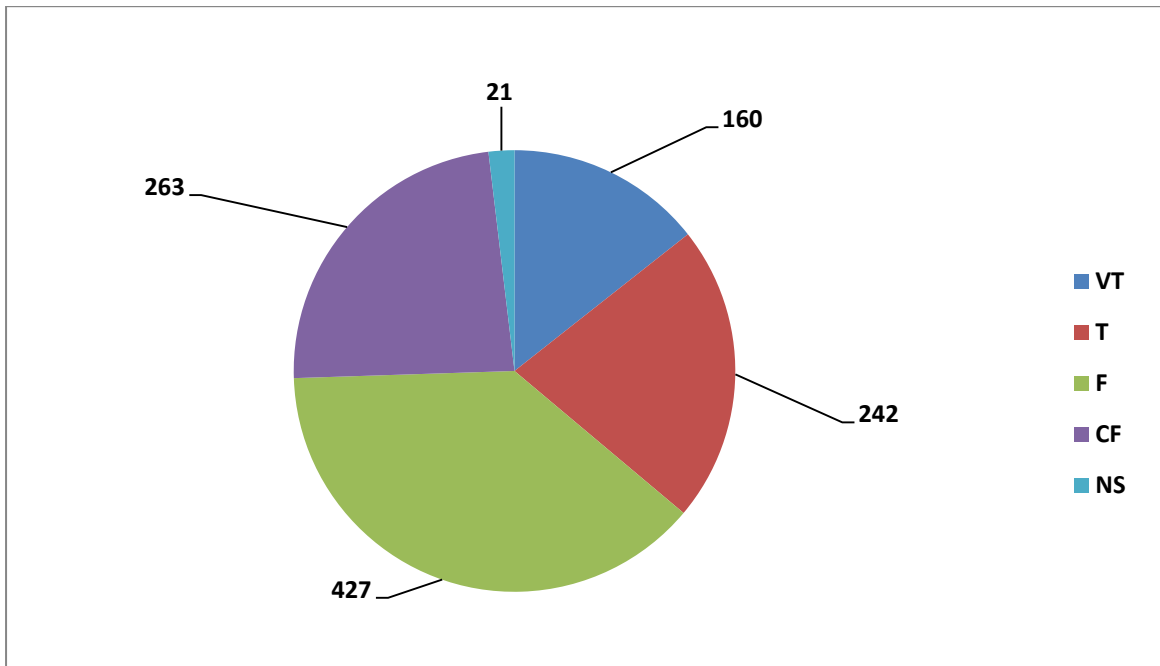
Commitment of parents to child’s right to privacy	Not sure	Completely false	False	True	Very true	Weighted Mean
Provide personal space for the child	4	3	34	11	8	32.3
Do not interfere with private correspondence	3	16	9	17	15	31.9
Creates an environment for self respect and identity	9	8	28	0	15	32.0
Allows freedom and autonomy	4	18	22	6	10	31.6

Source: (Researcher 2014)

From table 4.1 .2 it was observed that 32.3 weighted mean of the respondents stated that availability of the child’s personal space affects implementation the right to privacy 31.9 indicated that freedom from non interference with private correspondence influences the implementation of the right to privacy, 32.0 of the respondents stated that self respect and identity contributes to the implementation of the right to privacy while 31.6 weighed mean of

the respondents stated that for the right to be implemented, autonomy and freedom of the child should be seen. These results can also be presented in summarized chart as in figure 4.1

Figure 4.1 Commitment of parents to child’s right to privacy



Source: researcher (2014)

4.4. Benefits of the right to privacy to child’s development and satisfaction

The right to privacy is one of the important rights that ensure the psychological development of a child. It helps in building the self esteem of the children, their communication skills, individual responsibility and improved performance in school. Table 4.2, presents the descriptive statistics on benefits of right to privacy.

The factors under consideration were attitudes and belief of the respondents towards the perceived benefits of this right to the life of the children, different opinion from the respondents of how things have always been done and room for change.

Table 4.2 Benefits of the right to privacy to child’s development and satisfaction

The extent to which benefits of the right to privacy has been observed in the child	Frequency	Percentage
To a small extent	8	12.5
To a great extent	20	31.3
To a very great extent	36	56.3
Total	64	100.0

Source: researcher (2014)

From table 4.2 it was observed that 12.5 percent of (n=8) the respondents stated that they only observed these benefits to a small extent, 31.3 percent of (n=20) indicated that it affects to a great extent while 56.3 percent of (n=36) rated the effect really great. This was an indication of a strong relationship between the child’s right to privacy and wholesome development of the child, physically, emotionally and psychologically.

4.5 Involvement of Children as right holders

Children as right holders also play significant role in the implementation of their right to privacy, their involvement is important as they are the right holders. Table 4.3 presents the distribution of the respondents.

Frequency Table 4.3 Involvement of Children as right holders

Child's involvement	Frequency	Percent
Yes	44	68.8
Not sure	19	29.7
No response	1	1.6
Total	64	100.0

Source: Researcher (2014)

From the frequency table above, it was seen that 68.8 percent of (n=44) the respondent agreed that children's involvement affects the implementation of the right to privacy to very great extents, 29.7 percent of (N=9) were not sure of the effect while 1.6 percent of (n=1) declined to respond. This shows that there high relationship between children's involvement to the implementation of the child's right to privacy.

4.6 Traditional African culture effect on right to privacy implementation

Traditional African culture also poses a challenge in the implementation of the child's right to privacy. the distribution of the extent to which traditional African culture affects implementation the child's right to privacy is provided by table 4.4

Frequency table 4.4 Traditional African culture effect on right to privacy implementation

Responses	Frequency	Percent
To a great extent	22	34.4
To a small extent	16	25.0
Not at all	7	10.9
Not sure	15	23.4
No response	4	6.3
Total	64	100.0

Source: researcher (2014)

From the results of the above table on effect of traditional African culture on the implementation of the Child's right to privacy, 34.4 percent of (n=22) the respondents felt that traditional African culture affected the implementation of this right to a great extent, 25percent of (n=16) respondents say that this had an effect to a small extent, 10.9 percent of (n=7) respondents felt traditional African culture has had no effect on the implementation of the child's right to privacy in Kibera. 23.4 percent of (n=15) respondents were not sure of the effect while 6.3 percent of (n= 4) respondents declined to respond. This was an indication that traditional African culture and the implementation of the child's right to privacy have a weak relationship.

4.7 Need for implemetation of the child's right to privacy in Laini saba, Kibera

There is a great need for the implementation of the child's right to privacy in laini saba, Kibera. Statistical interpretation is provided intable 4.5

Table 4.5 Need for implementation of the child's right to privacy in Kibera

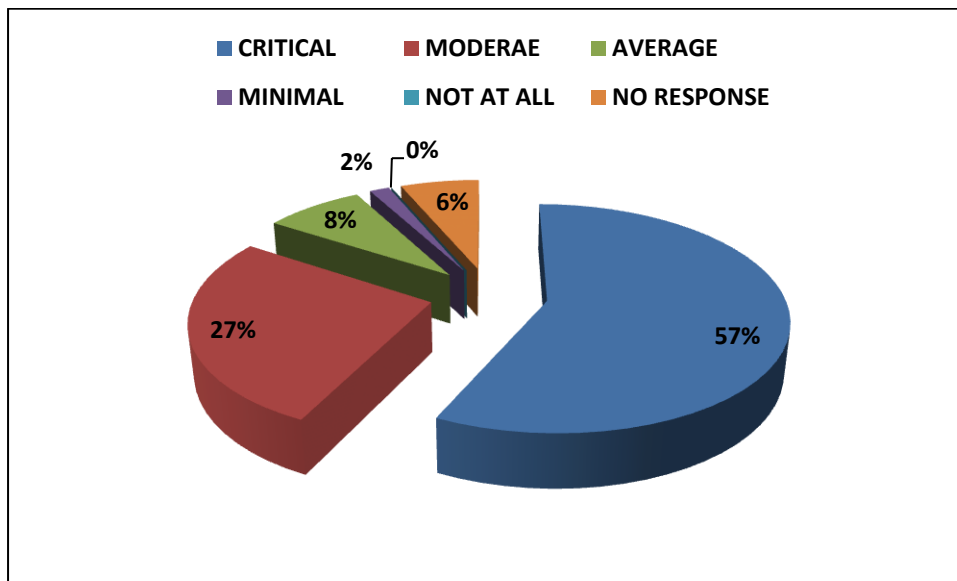
Responses	Frequency	Percent
Critical	37	57
To some extent	17	27
Maybe	5	8
Not a priority	1	2
Not at all	0	0
No response	4	6
Total	64	100.0

Source: researcher (2014)

From this table, 57 percent of (n=37) the respondents indicated that the need for implementation of the child's right to privacy in Kibera is critical, 27 percent of (n=17) respondents said that the privacy rights were required to some extent, 8 percent of (n=5) agreed that it maybe needed, 2 percent of (n=1) indicated that its required but not a priority, while 6 percent of (n=4) the respondents did not give their views. This is an indication that there is a great need of implementation of the child's right to privacy.

The need for the child's right to privacy was also be interpreted in a summarized chart as shown below in figure 4.2 below

Figure 4.2 Need for the child's right to privacy



Source: researcher (2014)

It was observed that the need for the child's right to privacy in Kibera is critical. 57% of respondents felt that there was a critical need, 27% of the respondents felt that the need was moderate, while the other 8% and 2% respondents felt that the need was average and minimal respectively. No respondent felt that there was no need for implementation of the child's right to privacy. However 4% declined to respond.

CHAPTER FIVE

5.0 SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

The purpose of the study was to investigate the link between poverty and the implementation of the child's right to privacy in Kibera. This chapter consists of summary of the findings, conclusion of the study and recommendations for further studies.

5.2 Summary of findings

The effect of poverty to the implementation of the child's right to privacy is gauged in the following categories of elements; income of parents focus is at 30.5%, housing type is at 29.7%, family size at 31%, parent knowledge of children's rights is at 30.4% while literacy level of the parents is at 29.5%. The researcher also found out that privacy rights implementation process is affected by the income of parents/ guardians 31.9%, type of housing at 31.6%, family size at 31.0%, age of the child at 35.5%, literacy level of the parents/guardians at 32.2%, knowledge about children's rights at 30.8%, parents commitment to children's right at 32.6% and free communication between parents and children was at 31.0%.

On the benefits of the child's right to privacy, 12.5% were of the opinion that that they only observed the benefits to a small extent, 31.3% said that it affected the child to a great extent, whereas 56.3% acknowledged that implementing the right to privacy benefits children to a very great extent. It was then concluded that there is strong relationship between the right to privacy and the overall wellbeing of the child.

The effect of child involvement was pegged at 68.8% for the respondents who felt that it has a great effect on the implementation the right to privacy, while 29/7% was not sure about this.

This indicates that the implementation of the right to privacy is directly related to the involvement of children.

In terms of effects of the traditional African culture on privacy rights of children, 34.4% said that this had affected the implementation the right of privacy to a great extent, 25.0% were of the opinion that it was to a small extent, 10.9% were of the opinion that it did not at all affect, and 23.4% were unsure. This indicates that there is a weak relationship between traditional African culture and implementation of the child's right to privacy.

5.3 Conclusion

This research has shown that poverty is one major cause of failure to the observance of children's rights particularly the right to privacy. It has proven that even where a particular section of the society may be willing to observe a certain right, their state of economic deprivation at times leads to a deprivation of that particular right. To a large extent, there is a link between ignorance / illiteracy and poverty and this leads to flouting of children's rights. It is a major cause of child labour and termination of education.

From the respondents' information, it was found that the child's right to privacy cannot be implemented without commitment of parents and guardians who should provide an enabling environment for the implementation of this right, by providing personal space for the child, not interfering with private communication and correspondence, and creating an enabling environment for self respect and identity to be upheld freely. The respondents argued that this can be achieved through allocation of the resources to help improve their livelihoods and planning for change of their attitudes and perceptions of children. The researcher found out that other than poverty having a close link to the implementation of the child's right, other factors like literacy level of the parents and guardians played a serious role in the current state

of affairs. The researcher also found that children's involvement played a great role in implementation of the right to privacy in Kibera.

The researcher found finances, children's involvement and parents' education were very critical in implementation of the child's right to privacy.

The researcher found that it was very essential to have change in the perceptions towards children and childhood in order for the child's right to privacy to be implemented .other areas of change included; parental commitment to the implantation of this right, financial empowerment of the parents/ guardians, and improved housing.

Consequently, the research concludes that the best and surest way of making sure that children are allowed to enjoy their rights as espoused in the Children's Act is to improve the economic standards of the family in particular and the society in general. This is because it is evident that there is a direct correlation between poverty and non-observance of children's rights. Only when levels of poverty are drastically reduced can one conceptualize full realization of children's rights.

5.4 Recommendations

Based on the findings, the researcher recommends that for privacy rights to be effectively implemented parents should be committed and engage the children in implementation of the right.Care givers should focus on the following for successful implementation of the child's right to privacy:

1. Create consistency of purpose toward improvement of the practice of human rights generally so as to become familiar with human practices and incorporate them in daily lifestyle routines for effective and meaningful implementation.

2. Cease dependence aid and engage in income generating activities to be able to meet the needs of families. Focus on family planning to have small and manageable families.
3. Commitment of parents to children's rights through change of attitudes towards children. We are in a new age and no longer need to live with traditional cultural practices and beliefs that disadvantaged children.

5.5 Recommendations for Further Studies

This study was undertaken to examine the extent to which the enjoyment of the child's right to privacy is affected by poverty particularly among the urban poor population in Nairobi's Kibera slums. The results and findings point to a need for a study covering the middle class and the affluent urban populace. There is further need for a comparative study of the child's right to privacy situation in both the urban and rural populations.

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LEGISLATIVE INSTRUMENTS

The Constitution of Kenya, 2010

Universal Declaration on Human Rights (1948). Convention on the Rights of the Child (1989).

African Charter on the Rights and Welfare of the Child (1990).

The African Charter on Human and Peoples' Rights (1981)

Children's Act CAP 141 (2001)

APPENDICES

APPENDIX 1: MAP OF KIBERA



The slum of Kibera includes 13 villages. It is located approximately 5km southwest of Nairobi city centre and its size is equal to about 75% of the area of Manhattan's Central Park (approximately 2.5 square kilometres, 256 hectares, or 630 acres).

Kibera has been known for being the biggest informal urban settlements in Africa. A number of actors (governmental and local institutions, NGOs, CBOs, scholars, mass-media) have provided and published over the years growing estimates of the dimensions of the population of the slum. Most of them stated that it was the largest slum in Africa with a number of people reaching over 1 million.



APPENDIX II: QUESTIONNAIRE

QUESTIONNAIRE INSTRUMENT FOR THE STUDY POPULATION (PARENTS, GUARDIANS AND CHILDREN) IN KIBERA, NAIROBI.

The purpose of this questionnaire is to collect data on the challenges facing the implementation of the child's right to privacy in Kibera, Nairobi. Please be honest in your responses. All responses will be kept strictly confidential. Thank you in advance for your cooperation.

SECTION A

GENERAL INFORMATION

Please tick to indicate the correct answer

1. Gender a) Male b) Female

2. What is your Age a) Below 15 b) 15-17

 c) 18-21 d) Above 21

3. What is your Religion?

a) Christian

b) Muslim

c) Hindu

d) Other(please specify)_____

4. Highest education level

a) Post graduate b) university

c) secondary d) primary

e) other (please specify)_____

5. What is your position in the family?

a) Parent

b) Guardian

c) Child

6. How many years have you lived in this place?

SECTION B

7. How many rooms does your house have? a) single room

b) one bedroom

c) two bedroom

d) other

8. How many children are there in your household?

9. Are you employed? Yes

No

If yes, what type of employment? a) casual

b) permanent

c) self

d) other (specify)

10. Are you aware that a child, like an adult has rights?

11. Do you as a parent, support the child's right to privacy?

If yes identify some of the children’s rights below that you implement and show the extent

Commitment to Children’s rights	No extent	Small extent	Moderate extent	Great extent	Very great extent
Participation rights					
Privacy rights					
Right to education					
Best interests of the child generally					

SECTION C

PARENTS’ COMMITMENT

12. Is there any attempt to implement children’s rights to privacy in your house?

- a) Yes
- b) No
- c) Unsure

13. What have you done to provide this right in your house?

.....

- a) Sleeping arrangements
- b) Sanitary arrangements
- c) Other (please specify)

14. What is the extent to this implementation?

- a) Very great extent
- b) Great extent
- c) Moderate extent
- d) Low extent
- e) Very low extent

15. Is there privacy in your house?

- a) Yes b) No

16. State if the following statement is true or false

Parents are very committed to the implementation of children's rights to privacy

- a) Very true
b) True
c) False
d) Completely false

What do you suggest on parents' commitment to help implementation of children's right to privacy?

17. The following are some of the benefits of the right to privacy to children that lead to child satisfaction and development. Specify the extent to which they have been realized in your house.

	1	2	3	4	5
	No	small	Moderate	Great	Very great
	Extent	extent	extent	extent	extent
a) Improved self esteem	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Responsibility	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Child well being	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- e) Improved Performance in school
- f) Motivation
- g) Good Communication

SECTION D

EFFECT OF TRADITIONAL CULTURE ON THE CHILD’S RIGHT TO PRIVACY

18. What is the position of the child in your traditional culture?

.....

.....

19. What are some of the activities you do as a home to achieve your traditional culture?.....

.....

.....

20. Please fill in your level of agreement in the following table according to the scale; strongly agree.....agree....., strongly disagree.....

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree
The child’s right to privacy is greatly enhanced when:					
Cooperation, mutual respect and consideration between children and parents are prevalent.					

Cultural practices that deny the rights of the child are abandoned.					
Home liberalization, adherence to rights and freedom and recognition of children as right holders can be observed					

21. To what extent do you think the following factors influence the implementation of children's right to privacy in Kibera?

Factors affecting the implementation of the child's right to privacy	To a very great extent	To a great extent	To a small extent	Not at all	Not sure
Attitudes and belief of local communities towards children's rights					
The parents perception of the role of the government toward children's rights					
Existence of faction groups with different values and opinions about children from their cultures					
The tradition of how things have always been done and the mindset towards the change					

SECTION E

CHILDRENS' INVOLVEMENT

22. Do you think there is involvement of the various stakeholders in the child's right to privacy in your area?

a) Yes b) No c) Not sure

23. (i) In your opinion which areas in your house require change to improve on implementation of the child's right to privacy?.....

(ii) Give reason for your answer in (i) above

.....

24. To what extent do you think the following stakeholders are involved in decision making concerning children rights issues in your area?

Stakeholders' involvement in implementation of privacy rights	To a very great extent	To a great extent	To a small extent	Not at all	Not sure
Parents					
Guardians					
Teachers					
Children					
Community leaders					

25. In your opinion, do you think the environment at Kibera promotes the implementation of the child's right to privacy?

- a) Yes
- b) No
- c) I am not sure

26. What are some of the recommendations that you can propose to address the challenges you face at Kibera?

.....

.....

.....

.....

APPENDIX III: FOCUS GROUP DISCUSSION (FGD) GUIDE

1. Do you think these children enjoy privacy rights?
2. If yes why? If no what are your reasons?
3. Have the children complained of invasions to their privacy?
4. If yes what did you handle the complaint?
5. What are some of the suggestions or recommendations that you may give towards improving the enjoyment of privacy rights for children here in Kibera ?

APPENDIX IV:WORK PLAN

This is the estimated time plan of the study. It is essential in that it enables the researcher to assess the feasibility of conducting the research within the scheduled time frame. It will also enable the researcher to stay on schedule as the research progresses.

No	Activity	Duration	Period
1.	Proposal writing	3 months	April -July 2015
2.	Getting proposal approved	1 month	August2015
3.	Data collection	3 months	November 2015
4.	Data presentation and analysis	1 month	December 2015
5.	Research report writing	2 weeks	January 2016
6.	Submission of draft report for examination	3 weeks	February 2016

APPENDIX V: BUDGET

Below is the estimated cost of the research process.

No	Activity	Cost (ksh)	Total(ksh)
1.	Proposal writing		
	-Literature review(Travelling, photocopy, binding)	5,000	
	-Internet.	5,000	10,000
2.	Data collection		
	-Research instruments (Typing, piloting and copies)	40,000	
	-Administration (Transport and substance)	8,000	48,000
3.	Data analysis		
	-Coding and entry into SPSS	25,000	
	-Printouts	2,500	27,500
4.	Research reports		
	-Draft, typing and copying.	3,000	
	-Final copy for examination		16,000
	-Final copy for submission	5,000	
		8,000	
	TOTAL		101,000

APPENDIX VI: INTRODUCTION LETTER



**UNIVERSITY OF NAIROBI
FACULTY OF ARTS
MASTER OF ARTS IN HUMAN RIGHTS**

**Meboh Atieno Abuor
P.o Box 54248-00200
Nairobi**

Dear respondent,

I am a student at the University of Nairobi taking a Masters degree in Human rights and peace. As a partial fulfilment of the requirements for this course I am carrying out a research on **URBAN POVERTY AND THE CHILD'S RIGHT TO PRIVACY: A CASE STUDY OF KIBERA-NAIROBI**

Explanation of procedures

It will take you about 15-20 minutes to fill in this questionnaire. This exercise is voluntarily and you may choose not to answer any question

Confidentiality

All data and information collected will be treated with utmost confidentiality and used solely for academic purposes.

Consent

With the above information and understanding, do you agree to participate in this research?

YES NO

If you say "Yes" then it means you have agreed to be part of the study

Thank you

Meboh Atieno Abuor

REGNO: C53/61769/2013