JUVENILE & RESTORATIVE JUSTICE FORUM REPORT

ENGAGING YOUTH & CREATING AWARENESS ON CHILD LABOUR, JUVENILE & RESTORATIVE JUSTICE

25.07.2019 | 9.00 AM - 1.00 PM

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FORUM
JUVENILE & RESTORATIVE JUSTICE
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STRATHMORE UNIVERSITY AUDITORIUM
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The Know Your World Initiative (KYWI), Strathmore Law School (SLS) and the European Committee for Training and Agriculture (CEFA) came together in an effort to engage and create awareness in the youth on the issues around Juvenile and Restorative Justice.

The event convened together university students from Strathmore University, Riara University, Tangaza University College, JKUAT Law School, University of Nairobi and the Technical University of Kenya in an interactive session that featured a Movie Screening and a panel conversation with experts on the subject of Juvenile Justice from Strathmore University Centre for Law and Policy, CALO Law LLP, UN Office for Drugs and Crime - Youth Office and Octopizzo Foundation.

The Forum explored the leading conditions in our society which contribute to children being in conflict with the law; the development of their lives as they serve their time in custody and out of custody; and the later process of how society contributes to their re-integration and normalization of their lives, ensuring substantive reduction in juvenile delinquency.
introduction

The KYWI program engages High School and University students between the ages of 13-18 and 19-25 respectively, with the objective of building a global citizenship mindset that understands world affairs but even more importantly be part of the solution to the concerns facing humanity.

The focus on Juvenile and Restorative Justice will broaden their understanding of National and International laws on children, institutions responsible for children affairs, children in conflict with the law and restorative justice for children.

While the role of the KYWI membership seems distant, the aim of the partnership is to explore creative methods to engage the young generation – at both high school and University levels, and find means to contribute positively to the discourse. The students’ interest in the subject will bring up more advocates, researchers, champions on children affairs in Kenya and across the world, as such this remains an essential investment for the participating organizations.

justification

Public participation is highly encouraged as it is a major resource and one of the most important factors in improving ties between offenders undergoing non-custodial measures and the family and community; it complements the efforts of the criminal justice administration.

Government agencies, the private sector and the general are encouraged to support voluntary organizations that promote non-custodial measures. This can be achieved through organizing of conferences, seminars, symposia and other activities that will eventually stimulate awareness of the need for public participation in the application of non-custodial measures. All forms of mass media when utilized effectively help to create a constructive public attitude, leading to activities conducive to a broader application of non-custodial treatment and the social integration of offenders.

Every effort made goes a long way to inform the public of the importance of its role in the implementation of non-custodial measures.

objective

To contribute to the awareness, promotion and protection of vulnerable children’s rights and/or the rights of children in conflict with the law in Kenya, in the youth, teenage population and society at large through sensitization events and effective projects, as per SDG 16 – (Promote Peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels) and the United Nations Conventions on the Rights of the Child (UNCRC).

In particular to strengthen the Juvenile Justice system in Kenya through convening the Government Institutions, Civil Society Organizations, Media and private sector participation, and in accordance with relevant international standards.
session i: opening session

The Programme started off by the Master of Ceremony- Ms. Tabitha Mwangi - Head of the Security Program at the Center for International Security and Affairs (CISA), who welcomed the participants from the different universities, invited i.e. Strathmore Law School, Catholic University, Riara University, Nairobi University and the Tangaza College. She remarked that the Forum was an important one since it would improve their knowledge as far as matters of Juvenile Justice are concerned and the issues which the youth are facing.

Ms. Tabitha then posed a question to the participants as to whether they had watched the movie, “When they see us”. This is a movie that is based on events of the 1989 Central Park jogger case and explores the lives of the five suspects who were prosecuted on charges related to the sexual assault of a female victim, and of their families.

Each of the youth in the movie which is based on a true story was convicted by juries of various charges related to the assault; four were convicted of rape. They were sentenced to maximum terms for juveniles except for one, who was 16 at the time of the crime and treated as an adult by the legal system. He had been held in adult facilities and served his time in adult prison. After the true assailant was identified in 2002 by confession, DNA evidence, and other evidence in an investigation by the DA’s office, he requested that the court vacate the convictions of the five men (a legal position in which the parties are treated as though no trial has taken place). By that time, all the men had served their sentences.

The state withdrew all charges against them from the 1989 case and removed them from the sex offender registry. A number of participants indicated to have watched the movie and were willing to share their opinion on the movie. Some of them opined that everything about the movie made them cry because everything about the allegations were on malicious grounds, and those that were implicated were small children and were treated very badly in court, and even some of the questions they were being asked, they couldn’t sufficiently like the adults would do.

Ms. Tabitha informed the participants that the reason as to why she had asked the question about whether anyone had viewed the Movie is because when people are young they can make certain decisions that could have lifelong consequences in their lives.

Children who come from environments which are economically challenging or even dysfunctional families and therefore find themselves in a difficult situation due to lack of proper guidance. Therefore they are supposed to be taken through a proper channel to help them reform their ways, regardless of what they have done.
Remarks by Ms. Mukami Wangai - Faculty member Strathmore University Law School

Ms. Mukami Wangai was delighted to welcome all the Participants to the Strathmore Law School Auditorium. Also gave much appreciation to the Know Your World Initiative (KYWI) for organizing the event and was delighted with the partnership between the two organizations in hosting the event. She also appreciated the various universities in attendance and welcomed the participants to participate in activities of Juvenile and restorative justice that is being carried out by Strathmore Law School, and also in other activities.

Ms. Mukami also remarked that matters of Juvenile Justice are not receiving much attention in the country and the region because of policy reasons. Encouraged all participants to have a really good engagement after watching the “Capernaum film”.

“Restorative Justice is an approach of dealing with the cause of any wrongdoing, and is a wholesome approach of dealing with Juveniles and young people who have committed crime.”
- Ms. Mukami Wangai

Remarks by Mr. Rahim Kassam - Head of Operations at UNISERV Education

He remarked that it was a pleasure to participate in the topic of discussion. He informed about the work which UNISERV Education is doing in the country. He stated that issues facing children can be addressed by education. Pursuing higher education gives one a global mindset and capable to tackle some of the problems that the society is facing. Encouraged the participants to visit the UNISERV desk to find more of what they had in store.

Remarks by Mr. Joel Okwemba - Director Centre for International & Security Affairs

Thanked the participants for sparing their time to attend the forum and hopefully they would be able to learn something and be able to go out and act upon the issues that were to be discussed in the Forum. The KWYI has been working on a program with high schools focusing on integrating students by exposing them to Global citizenships concepts and Agenda.

He also remarked about the topic, stating that it was important to look at it a three dimensions namely: the responsibility of the adults to children being in conflict with the law; the rising cases of Juveniles participating in crime and how Justice been able to be served to some of these juveniles in light of prison as environments that can either help the children reform or harden as a result; and how has reintegration happened after serving their jail term.
5 EASY STEPS TO STARTING YOUR MASTERS ...the Uniserv way

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session ii: **Watching of the Film: Capernaum**

**about the film**

It is the story of a Beirut street kid who has run away from his unhappy, abusive home. He is befriended by an Ethiopian woman working as a housemaid. She asks him to help her with her papers and gets to stay with her in return for minding her baby while she is out at work. But when she is picked up by the police, he has to head off back to the streets, taking the baby with him and is confronted by some terrible choices…
It is the story of a Beirut street kid who has run away from his unhappy, abusive home. He is befriended by an Ethiopian woman who works as a cleaner without legal papers and gets to stay with her in return for minding her baby while she is out at work. But when she is picked up by the police, he has to head off back to the streets, taking the baby with him and is confronted by some terrible choices…
audience response after watching the movie

“...the people, who are now adults and have been characterized as bad and notorious, could have been abused in the past during their childhood, just as it has been shown in the movie. When a picture is embodied upon young person, they tend to live that picture if not resolved whilst in their childhood. In the movie, as far as restorative justice is concerned, it is important to meet with the people who have committed these offenses, and then try to understand the other side of the story and make amends. Secondly, reintegrate these people back into society. The community usually does not welcome these people back into the community and this is where more emphasis should go towards. The Movie was a good one in illustrating the whole story. However, the story did not capture on the part for restorative justice and reintegration, this is what we should have seen from the film.”

“As showcased in the Movie, Parents were the Push factors that led to Zain (The Child) committing crime.”

“The movie was fine, at the same time not funny because it reflects the current situation of millions of Children in the world. It shows how children are paying the price as a result of neglect from the parents and also mistreatment, of which they do not deserve. The movie is a call for action, for all of us for this issue that has been normalized for the longest time.”

“It reflected how cultural beliefs contribute to some of the problems which we see in the movie. We see a family that gives birth to so many children, without considering the facts as to how they are going to raise and support them. We also see in the movie of a young girl being married off young because culture dictates so. These cultural practices have contributed to some of the situations these children find themselves i.e. committing crime.”

“There are similarities in the way the parents of Zain were raised and the manner in which they also raised their children. Zains fathers aim was to realize his masculine identity, however in the end of the movie Zain refusing to take over such identity and therefore it shows that there are juveniles who are willing to change and we should be able to assist them to change”

“Poverty plays a key role in what we have actually seen in the movie. We can see the family of Zain lacking the basic needs, and therefore being dependent on their older children to contribute to the wellbeing of their family. Children end up being treated as adults which gives them the responsibilities that are not theirs.”

“Hate is learnt. Children are a reflection of the society they live in. Therefore we have a responsibility to ensure that the children we interact with, get to learn good ideals from us.”
HOW MY UNIVERSITY EXPERIENCE HELPED ME CONCEPTUALISE
GLOBAL PROBLEMS AND THEIR SOLUTIONS

Having just graduated from the University of Sussex Law School, I can confidently say that the past three years have been a learning and challenging experience. I had the opportunity to be close to one of the largest financial centres in the world and this presented me with the chance to witness how global problems are solved consequently encouraging my personal development.

One of the ways that this was done was the enhancement of my understanding of the global political climate. It is no secret that Brexit has left a lot of political uncertainty in the atmosphere. From consumers stockpiling various products to global companies such as Unilever thinking of relocating their headquarters from London. Even though it can be argued that these fears have been alleviated in the last year by the recent investments into the London market, from my perspective, I learnt that it is important to always be thinking of the future. This is because the market is always changing, and you have to adopt a progressive mindset to stay ahead of the game.

Similarly, the crackdown on cyber security with the implementation of the General Data Protection Regulation (GDPR) was a theme that was very apparent during my university experience. This is because personal privacy is at the epitome of today’s world and with hacking and cyber breaches becoming more and more apparent, it is clear that governments are implementing stringent regulations to tackle the crisis. We must find pre-emptive solutions and have response plans in place to avoid any severe repercussions. I was able to have first-hand experience with this in my university because they would always flag up phishing emails in the student portal and this would protect our sensitive information from being hacked. Likewise, during my summer internship, any data that was handled had to remain on the firm’s server as they were more secure. From this experience, I am more cautious of my interactions online and what information I can and should be sharing online.

Finally, the shift in global society’s attitude to break down archaic cultural stereotypes was evident to me when I was studying in the UK. Due to the intersection of many cultures, I had to adopt a wider perspective. Thus, I seized the opportunity to expand my knowledge by attending various cultural societies events and everyday interactions with the local community. I have learnt to be more socially conscious and open-minded because I had to come out of my comfort zone. I truly believe that this will be an asset that I will utilise in my prospects because I will undoubtedly be faced with people from different social and cultural backgrounds. Fortunately, having the ability and mindset to approach any given situation with an open and willing mind is a transferable skill that is invaluable.

I would like to say a special thanks to the team at Uniserv that helped me embark on this journey. The team supported me from my application to my visa and it made the gruelling experience manageable and stress-free. Thank you so much and I am genuinely grateful for everything that you have done.

Chidima Atueyi
University of Sussex
session ii: panel session

Moderator: Ms. Mukami Wangai- Faculty Member Strathmore Law School

Panelists:
2. Henry Ohanga - Founder of Octopizzo Foundation
3. Ms. Wambui Kahara - Head of Youth Program UNODC

- What are some of your reactions form the film and how some of the things that happen in the movie are what you have experienced with the youth in the country and beyond our borders?

Ms. Wambui remarked that UNODC works closely with children in conflict with the law and are running a program that is targeted at rehabilitating them. These children are trained on their soft skills and entrepreneurship skills so that when they exit, they are able to be reintegrated back into the community.

About the movie she said:

“What we have watched in the movie is actually similar to what we have experienced in the field. Some have been abused by the step father’s e.t.c and have therefore ended up being incarcerated as a result of that”

Mr. Ohanga remarked that he was keen to hear the views of the young people and also those that are practicing law and had several questions for them even as the discussion carries on.

Mr. Odongo remarked that issues that came up in the movie are for example issues to do with ‘apparent age’. This refers to children that do not have any form of papers that indicate their exact age i.e. birth certificate. The issue of apparent age is very important because the laws in Kenya only deal with children purely on age- 18 and below.
• How much have you come into contact with Children who have no particular links, or have no name across children who are male or female?

Mr. Ohanga responded that his organization works with refugees, of which most of them do not have papers. Sometimes getting their paperwork ready takes time and sometimes that becomes a bit of a challenge. Sometimes this puts them in conflict with the law or even arrested when they are unable to produce any form of identity on them.

Secondly, there are no juvenile facilities present, and therefore some of the children who are 18 and below will end up being put in jail with the rest of the folks who are much older than them. This changes their character completely because of the bullying practices that goes on inside there.

• On how Juveniles should be treated, and what is not being seen?

Mr. Brian Odongo noted that any person below the age of 8 years and below cannot be termed as criminal even though they commit a crime.

“The Kenyan law gives regards that a boy below the age of 12 does not have carnal knowledge (capacity to form a criminal mind), for girls it is 10 years old. The moment a child interacts with the law, their life significantly changes.”

• How has it been working with children in rehabilitation schools?

Ms. Wambui remarked that the program that they are spearheading is working with girls who are at the age of 14-17 years old. Currently they are focusing in Nairobi and are planning to scale it to other areas.

The experiences that they have growing up have contributed to where they are. Most of them come from dysfunctional families. When mapping the prisons, most of the people in those prisons, 80% of them came from neighborhoods in Nairobi that are poor.

The manner in which the criminal justice system has handled them brings in a lot of questions. Most of them have been imprisoned for petty crimes. i.e. Smoking weed or practicing prostitution. Are we criminalizing poverty? She asked. Some have also been mishandled by the police upon arrest, and even sexually abused.

UNODC is running a program known as Education for Justice which is geared towards preventing them from crime and drug abuse. This program the culture of lawfulness targeting high schools and is organizing summer camps that also involves Universities to train them on the culture of lawfulness and promoting the rule of law.

UNODC is also planning to establish justice clubs in high schools to discuss issues to do with the rule of law with an array of stakeholders. Promised to make this information available as to when this is going to happen.

We have to think how to reintegrate the children that have been incarcerated and help them access the same opportunities that the rest of the other children are getting, so that they do not relapse back to their ways.
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• How has it been working with children in rehabilitation schools?
policy recommendations

Alternatives to detention

Mr. Odongo remarked that the highest numbers of repeat offenders often are those that had interaction with the institutions of custody. This is according to the statistics of Kenyan Prison Studies.

The highest numbers of reform offenders are those who even though convicted were not sentenced in prison but were undertaken through other alternatives i.e. probation.

Kenya has a very robust probation department although lacks enough financial support and human resource services. The solution lies in probation services, Children who are in conflict with the law need probation services and not jailed. Therefore the government should ensure adequate budget allocation to social services, probation and programmes focusing on prevention, diversion and alternatives to detention.

general recommendations

1. Immediately stop the abuse and maltreatment of children by law enforcement and other justice system personnel and safeguard their human rights. Protect children on the street and in custody from torture and ill-treatment, including rape and sexual abuse, whether by officials or other detainees.

2. Proper legal presentation will go a long way in putting a proper presentation for Children that are brought before court. So that they stand a chance for bail, in fact all offenses are bailable.

3. Facilitate closer and stronger communication and coordination between all actors and sectors in the criminal justice and social welfare systems, including among central and local government agencies, and between government agencies and civil society.
pictorial
about The Know Your World Initiative (www.cisa-global.org)

Headquartered in Nairobi, Kenya, the Know Your World Initiative (KYWI) is a program under the Centre for International and Security Affairs (CISA) that seeks to advance global peace and security agenda through enhancing people to people relations and global citizenship education. Conceived through the idea of globalization, where interactions amongst peoples, countries and corporates have increased, the platform, engages with high school students, enabling them to understand these trends, and realize the impact of such interactions. The program has since 2015, established partnerships with 9 High Schools in Nairobi and Nakuru, 4 Universities in Nairobi, 10 Diplomatic Missions, UN Agencies, International Non-Governmental Organizations and Government Agencies.

about Strathmore University - Centre for Law and Policy (www.law.strathmore.edu)

Strathmore Law School (SLS) is a constituent school of Strathmore University (SU), a leading non-profit private university in Kenya, which aims at serving the Kenyan Society to the best of its abilities. The University holds a peerless reputation for quality in academic and professional education as well as personal formation. SLSL officially launched in 2012, with an exciting combination of local and foreign legal scholars, advocates and legal experts who provide each student with the practical and analytical skills needed to transform society from within.

credits