Street Children and the Implementation of Child Protection Regulations: Comparing Brazil and South Africa

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ABSTRACT

Children are the group of a society that is most vulnerable to the effects of poverty and inequality. Street children, particularly, could represent the ultimate misfortune of poverty and inequality. The problem is enlarged by the indication that the number of street children around the world is increasing in pace with increasing social inequality.

This study departs from a rights-based approach of research informed by United Nations Convention on the Rights of the Child (CRC). The purpose of this study is to compare Brazil and South Africa in their levels of commitment to children's rights, specifically in making international and national laws and regulations widely known and enforced in their respective societies, measured through the knowledge and perceptions of NGO-staff not only as professionals, but also as private citizens.

The main data sources used were email-surveys and telephone interviews with NGO-staff, alongside with analysis of the CRC and the national child protection regulations in Brazil and South Africa.

The main findings of this study represent a step towards covering some of the gaps in the research literature concerning street children. These findings are that Brazil and South Africa do not fully cover the contents of the CRC into their national child protection laws. The other finding regards the fact that Brazilian NGOs working with street children do not make consistent use of the national institutions responsible for the protection of children's rights. South African institutions, on the other hand, do make use of the national institutions responsible for the protection of children's rights.

Key words: Street children, Brazil, South Africa, children's rights, child protection.
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LIST OF ABBREVIATIONS

BRICS  Brazil, Russia, India, China, and South Africa.
CPS    Child Protection System
CR     Critical Realism
CRC    Convention on the Rights of the Child
CSO    civil society organizations
CSS    Critical Social Science
DSDSA  Department of Social Development of the Republic of South Africa
ECA    Estatuto da Crianca e do adolescente
        (Brazilian Child and Adolescent Rights Act)
EU     European Union
FnWG   Forum for a new World Governance
G20    The Group of Twenty
IBSA   India, Brazil and South Africa Fund
NGO    Non-Governmental Organization
OHCHR  Office of the High Commissioner for Human Rights
PRSA   The Presidency, Republic of South Africa
SIDA   Swedish International Development Cooperation Agency
UNICEF United Nations Children’s Fund
WBI    The World Bank Institute
WGI    World Governance Index
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Appendix 1: Standard presentation to participants

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1. INTRODUCTION

1.1 THE RESEARCH PROBLEM

Normally, we associate children with innocence, toys, play, laughter, learning, school and things of that nature. But for a vast number of children, the reality is another entirely. This study explores the issue of street children, a marginalised group that faces serious oppression, neglect, discrimination and violence around the world. It is an issue of social inequality and social protection, touching the group that is most vulnerable to the effects of poverty and inequality: children (Gabel 2011, p. 537) (UNICEF 2012, p.8).

Street children are socially excluded from the facilities of modern day societies; instead, their living situation is harsh and it is associated with drug abuse, violence, crime, family disruption, abandonment, disease, prostitution etc. (Aptekar n.d. p. 1) (van Rooyen & Hartell 2002, p. 188) (Blanc et al. 1996, p. 375). It is difficult to quantify street children and estimates vary across different sources (Aptekar n.d. p.2). UNICEF estimates that there are tens of millions of street children around the world (UNICEF 2012, p. 32). Notwithstanding the difficulty in quantifying them, there is indication that their numbers are increasing in pace with increasing urbanization and increasing social inequality around the world (Office of the High Commissioner for Human Rights [OHCHR] n.d. p. 4) (Ray, Davey & Nolan 2011, p. 12).

The point of departure here is a rights-based approach of research and analysis informed by the United Nations Convention on the Rights of the Child (CRC) from 1989. Throughout the CRC, the role of the state as carrying the main responsibility to protect and implement children’s rights is emphasized and the states that have ratified the CRC are legally bound to use all their available resources to fulfil children’s rights as stated in the convention (UNICEF 2005 ‘Using the Convention and Protocols for children’, para. 2).

One of the principal aspects of the responsibility of the State in protecting and implementing children’s rights is that the contents of the CRC must be fully converted into national laws and policies so as to effectively implement children’s rights (UNICEF 2005 Promoting and Protecting Rights for Children, para. 5).
The research problem here lies in the conspicuous mismatch between Brazil and South Africa’s powerful economies on the one hand, and the level of social inequality in their societies on the other hand, particularly the high number of socially excluded children that find themselves forced to take to the streets. This is a worrying fact that concerns the distribution of economic resources. In view of this, the scope of this study is situated within the confines of Critical Social Science (CSS).

Brazil and South Africa are economic and political powers in their respective continents at the same time as being two of the most unequal countries in the world (Patel 2012, para. 1) (Schmitt n.d. p. 188). One of the materializations of this inequality is seen in their substantial numbers of street children (Schmitt n.d. p. 190) (Aptekar n.d. p. 9) (Lefeh 2008, p.10).

Street children reflect a persistent social problem; there is no simple answer to how to prevent children from ending up in the streets. The indicated currently growing numbers of street children throughout the world makes the issue of current importance in the field of global development.

1.2 THE PURPOSE OF THIS STUDY

Evaluations of the implementation of national and international policies and regulations regarding street children are lacking in the research literature (de Benitez 2011, p. 57). One collaborative review report between academia, civil society and the UK government clearly expresses the lack of research around street children as a worrying fact that contributes to it not being covered in the political and budget agenda. Particularly missing in the research literature are assessments on “the level and effectiveness of engagement and interventions by government, civil society and NGOs” (Street Action 2010, p. 8).

This study is an attempt to take a creative and significant step towards determining whether the States compared in this study, namely Brazil and South Africa, do cover the contents of the CRC in their national child protection regulations, the Brazilian Child and Adolescent Rights Act (Estatuto da Criança e do Adolescente – ECA) and the South African Children’s Act No.38 of the 2005 legislation, amended in 2007 as the Children's Amendment Act No. 41.

Another problem to be examined is whether the institutions responsible for taking up cases of violations against street children's rights in these countries are trusted by NGO-staff involved directly or indirectly with street children. That is to examine whether these institutions really play the role they are supposed to play.
NGOs have an important role in building civil society and as advocacy promoters (Desai & Potter 2006, p. 94), two roles that are of great importance in holding governments accountable regarding their duties towards children's rights. In this study, NGOs are understood as part of the wider definition of Civil Society\(^1\). This study is NOT an assessment of the activities or conducts of NGOs; rather, NGOs are here used as a reflection of the State’s actions.

The primary responsibility of the State in fulfilling children’s rights, as specified in the CRC, concerns the practice of governance. There is an increasing focus on cooperation between Civil Society Organizations and governments in the implementation of children’s rights (Ray, Davey & Nolan 2011, p. 37) and The World Bank Institute’s (WBI) Governance Practice emphasizes the need for such cooperation as an essential practice of good governance (The World Bank n.d. ‘Supporting Open and Collaborative Governance').

In short, in this study, I will compare how the national child protection regulations of these two countries incorporate the regulations of the CRC. Furthermore, I will make a comparison between the cooperation between these two countries NGOs and their national institutions responsible for taking up cases of street children whose rights have been violated.

1.3 RESEARCH QUESTIONS

The objective of this study is to answer two central research questions. The first research question that will guide the collection of data and the final analysis of this study is: Does the government effectively incorporate the contents of the CRC into national child protection law?

The second research question in this study is: Do NGOs working with street children in these countries consistently turn to the national institutions responsible for protecting the rights of children?

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\(^1\) Civil society means “the wide array of non-governmental and not-for-profit organizations that have a presence in public life, expressing the interests and values of their members or others, based on ethical, cultural, political, scientific, religious or philanthropic considerations. Civil Society Organizations (CSOs) therefore refer to a wide of array of organizations: community groups, non-governmental organizations (NGOs), labor unions, indigenous groups, charitable organizations, faith-based organizations, professional associations, and foundations” (The World Bank 2013 ‘Defining Civil Society’, para. 5).
1.4 METHODS

The methods used in this study include qualitative telephone interviews and cross-sectional email-surveys with key participants, i.e. adults working directly or indirectly with street children at different NGOs, such as orphanages, children shelters, and other organizations involved with the issue of street children in South Africa and Brazil. The participating NGO-staff will be assessed as for their contacts with the child protection institutions of these countries in the case of fulfilling the rights of street children as violated children.

Data collection will also include a close scrutiny of public documents, news, official reports etc. The main data sources used here are the email-surveys and the telephone interviews, analysis of the CRC and the national child protection regulations in Brazil and South Africa.

Initially, I tried to rely on telephone interviews for the contact with the NGOs; however, it was difficult to get hold of the right members of staff in South Africa. Another difficulty was that Brazilian NGOs appeared suspicious of my calls, some of them said that they could not answer questions over the telephone and needed more proof of who I was and would need to have the questions written down. Due to these difficulties and the short time available to finalize this study, I chose to combine email-surveys and telephone interviews in order to achieve a higher number of participants, thus providing for more reliable inferences.

The comparison between Brazil and South Africa is motivated by their common social challenges, their close political ties and the potential for future political and economic cooperation through platforms such as the G20\(^2\), the BRICS\(^3\) and the India, Brazil and South Africa Fund (IBSA)\(^4\). The Office of the High Commissioner for Human Rights (OHCHR) recommends such a dialogue between countries in the respect of street children (OHCHR n.d. p. 18). Lastly, language allowed me to choose these two countries, as I both speak Portuguese and English fluently.

As for the choice of using NGO-staff as informants, there are many reasons why this can be fruitful. NGOs are at “the forefront of development praxis.” (Desai & Potter 2006, p. 94) and, as civil society

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\(^2\) The G20 stands for The Group of Twenty and is a forum for economic cooperation between 19 countries and the European Union (EU) (About G20, online)

\(^3\) The BRICS is a multi-lateral partnership between Brazil, Russia, India, China, and South Africa.

\(^4\) IBSA is a trilateral partnership between these countries from the global South and its aim is collaboration to develop an inclusive growth where respect for human rights is central, allowing all their peoples to participate in the democratic processes (About IBSA, online).
organisations, they also carry a responsibility in protecting children according to the CRC. NGOs could function as a bridge between governments and street children, including their families, and they have an important role in empowering families and also in holding their governments accountable.

1.5 LIMITATIONS AND DELIMITATIONS

This study recognizes that several terms and definitions, including “children working and/or living on the street,” “children in street situations” and “children with street connections,” may lead to difficulties in clarifying the studied group. However, the researcher gives an exploration of the concepts and terms and chooses to use the general term “street children”, meaning children who spend most of their awake time on the streets, including children who do not sleep on the streets during the night, but who return to some type of ‘home’ at the end of their day; a description that fits within the description used by the Commission on Human Rights, as explored further below.

Preferably, this study would assess the knowledge and perceptions of street children themselves, as they are the ultimate rights-holders in this context. That would, however, demand complicated ethical and methodological considerations, which are beyond both the time-frame and the budget of this study. As I will not have direct access to the targeted group for observations and interaction, this limits the information collected for the purpose of this study. Nevertheless, considering the central role of national child protection regulations and the important role of NGOs in promoting children’s rights and demanding accountability from the government (Ray, Davey & Nolan 2011, p. 36), their cooperation with the government in fulfilling street children's rights is crucial.

The limited number of respondents, ten in total, was taken into consideration as for the credibility of the inferences made from their answers. However, steps were taken to try an counter this limitation, for example, by including varied organizations at varied places, the only common variable being that they worked with street children as part of their activities.

A real limitation of this study is that I must rely on documents available online, as time is limited to get printed copies of documents. Another limitation is that I rely on what NGO-staff are willing to disclose. Although a more thorough study would include eventual statistical government reports about their efforts to fulfil children’s rights, these efforts would not necessarily match the experience of the public.
1.6 ETHICAL CONSIDERATIONS

An ethical issue present in this study regards the anonymity of the participants, the interviewees, in this case, NGO-staff. The participants will, naturally, be given the choice of remaining completely anonymous, in which case, it will not be possible to make inferences as to who gave which statements. Prior to starting the interview, I will explain the nature of the study so that the participants can give an informed consent to participating.

No child will be named in this study and the use of language will be revised to not further stigmatize street children, but rather, to strengthen the rights-based point of departure that says that street children are social actors in their own rights who have had their rights violated.

The use of language will also be carefully chosen regarding the phrase “social problem” so as not to give the false understanding that street children are a problem in themselves; street children are individuals with potential, social actors to be counted on. It is the situation they live in that is the problem and the events and realities that lead them to taking to the streets as their only viable alternative.

1.7 PERSONAL MOTIVATION

Where I grew up in North-Eastern Brazil, the poorest region in the country, where the image of South American inequality is brightest, I witnessed varied situations where the vulnerability and stigmatization of street children as waste or criminals was apparent. I have seen small children beaten up by adults without any fear of punishment, because the children they beat up were street children. I have seen children sniffing glue, begging for money, selling candy, washing car windows, juggling with oranges, fighting, stealing, hurt, scared, on a daily basis. The disturbing thing is that it was not until I grew older and left the country that the feelings of indignation over that reality erupted; that which I witnessed was beyond all that can be acceptable.

For me, it is obvious that this is an issue that needs to be written about, talked about and taken seriously by citizens, by governments, by the international community. The fact that children experience the things I saw and mentioned here is unacceptable. Talking about it, writing about it in the media, legislating these children’s protection in national and international regulations is not enough. Their deplorable situation needs also to be taken seriously in order for them to be
effectively protected and, probably the most important thing of all, in order for people in general to understand, be sensitised about their situation, in order for people to not accept this and see these children for what they are: children.

1.8 Thesis Structure

Following the introduction, this paper is divided into six chapters. These chapters are summarized below.

**Chapter 2** provides a thorough consideration of the context of this study, including analysis of the available literature on the subject matter.

**Chapter 3** concerns the theoretical and analytical frameworks that guide this study, beginning with the United Nations Convention on the Rights of the Child from 1989 as a point of departure. The chapter also includes definition of Critical Social Science (CSS), within which the present study is found.

**Chapter 4** discusses the methodology used for the purpose of this study, where the source of information is derived mainly from qualitative telephone interviews and email-surveys with key informants at NGOs as well as the CRC, current UNICEF documents, as well as official national documents concerning street children.

**Chapter 5** is dedicated to the results of the telephone interviews and email-surveys with key informants and the national child protection regulations of Brazil and South Africa. The research questions are answered one by one.

**Chapter 6** is used to analyse the answers given by the interviewees using the theoretical framework of the CRC and the equivalent national child protection regulations. The analysis also connects these to the other data sources that were explored.

**Chapter 8** is the last chapter of this paper and rounds up the findings, attempting to estimate their values in filling the gaps in the research literature as well as giving recommendations for further studies that can build on and complement these findings.
2. THE CONTEXT OF STREET CHILDREN

The literature around street children is scattered across different disciplines, reflecting the complexity of the situation they find themselves in. Many aspects of this complexity are touched upon or thoroughly studied, while other aspects are virtually absent in the research literature. Below follows a short summary of some of the covered aspects around street children as well as the main gaps in the literature that motivate the present study.

This chapter starts with an attempt to place broad topics together, such as the causes of street children taking to the streets, their experiences on the streets and the perception people have of them. This section does not go into detail about the findings of research because they are not of primary relevance to the present study. I chose to include them here in order to give a short overview of the wealth of literature about street children and to problematize the issue.

The chapter continues with the topics of policies and the role of civil society organizations regarding street children. Gradually the placement of the present study within this analysis is made clear.

Throughout this chapter, children are sometimes treated as a single group within discussions of social inequality and social exclusion. Within this group is the group of children that can be considered the most vulnerable: street children.

2.1 GENERAL OVERVIEW

There is a wealth of literature on the causes of children going to the streets as well as their experiences on the street (Ray, Davey & Nolan 2011) (Diversi 1998) (dos Santos 2002). One study put family and community disturbances leading children to take to the streets in the context of “poverty, income inequality, social exclusion and weak child protection systems” (de Benítez 2011, p.64).

There are also studies about national and international conditions that lead to homelessness, there including street children (Mickelson 1999, p.). Racial issues connected to street children and the violence they suffer have also been touched upon, though not thoroughly; for example, in the year
1991, approximately 15 children mysteriously appeared dead every month, sometimes mutilated in the city of Recife, in Brazil; around 90% of these bodies were black children (Diversi 1998, p. 11-12).

How private citizens perceive street children in, for example, Brazil has also been studied, an example is Diversi (1998), where the author concludes that government-led interventions cannot suffice to tackle the problem with street children if people in general do not change their negative perception of street children as criminals and waste, and instead, see them as human beings. This shows the importance of private citizens having knowledge of children’s rights, which, I assume, plays an essential part in changing the perceptions of street children from delinquents to children whose rights have been violated.

As enriching as it may be to gain a thorough theoretical knowledge of the social dynamics around street children, I gather that there is a risk of neglecting the policies and regulations that are in place and being lost in endless attempts to understanding the social dynamics that cause child homelessness and endlessly developing policies and regulations while they are never properly implemented. There is a disturbing lack of research into what is lacking to implement the regulations that are already in place, as described below.

2.2 CHILD PROTECTION POLICIES AND REGULATIONS

A comprehensive research review produced by the Consortium for Street Children in 2011 gathers that there has not been much research around policies for street children. Nevertheless, three main divisions of such policies are identified depending on the prevailing social construction of children, i.e. how children are seen and understood:

1. The corrective or repression-oriented model that sees street children as deviants;
2. The rehabilitative or protection-oriented model that sees street children as victims;
3. The human-rights based model that sees children as “citizens whose rights have been violated” (de Benitez 2011, p. 38).

The latter is the conceptual framework that informs this study, and that is predominant in international human rights law, particularly, in this case, the CRC. The United Nations, through its
various organs, promotes this approach (OHCHR n.d. p. 7) and has facilitated the “paradigm change from street children as a social problem to children whose rights have been violated (de Benítez 2011, p. 54).

Notwithstanding, different countries and regions have adopted different social constructions in their policies around street children. In the Russian Federation, for example, research has concluded that policy-makers use the repression-oriented model in their policies around street children, while in China, the protection-oriented model has dominated and children have forcibly been taken back to their families by the authorities. A similar approach has been followed by the Brazilian government, where the focus was to reintegrate street children, though not forcibly, into their families; an approach that failed. This focus on reintegration into their families and communities is an approach that is widely agreed upon and pursued by organizations working with street children (Ray, Davey & Nolan 2011, p. 30).

Also categorically failed were attempts to reach street children in South Africa, where racial discrimination is evident and street children are seen as a threat to public safety (de Benitez 2011, p. 39-41). The need for comprehensive child protection systems that encompass different sectors of society becomes obvious and has become a strong collective recommendation by organisations that are concerned with human rights and the plight of street children (de Benitez 2011, p. 41) (OHCHR n.d. p. 20) (Ray, Davey & Nolan 2011, p. 34). Another frequent recommendation from research is the inclusion of children themselves in the process of policy-making, so that the discrepancies between policies and the experiences of street children are reduced (de Benítez 2011, p. 42).

The research literature is lacking assessments on the implementation of both international and national regulations regarding street children (de Benítez 2011, p. 57). Also scarce in the literature is the assessment of the effectiveness of interventions targeting street children as well as studies about legal action taken for the rights of children (de Benítez 2011, p. 44). Legal researchers are concerned about this and advise the more active use of the legal system to protect children’s rights. South Africa, for example, is said to have the necessary legal system to enforce the protection of street children’s rights in a court of law (de Benítez 2011, p. 57). South African children have the right to have violations against their rights as children proved by a court of law, and although the CRC does not overrule South African law, provisions from it have been taken up in legal cases (White and Case LLP 2014, p. 2).
Research shows that policy-makers prioritize economic development and public safety over effectively protecting children’s rights and particularly city budgets often neglect street children (de Benítez 2011, p. 61).

The biased nature of development policies in excluding human development, and in this case, child protection, for pure economic development is a disquieting fact, especially for powerful emerging economies such as those of South Africa and Brazil. Street children are seldom included in economic research (de Benítez 2011, p. 58). This should be a target for future research, namely investigating what it would take in economic terms for economically powerful countries to effectively implement applicable regulations to protect street children.

In short, overall, there is little economic research that covers street children, as well as evaluation of the implementation of international and national regulations covering street children. Another gap in research is the reporting of legal action taken for violations against children’s rights. The experience of street children themselves of the implementation and enforcement of laws that are supposed to protect them has not been methodically studied (de Benítez 2011, p. 62).

This study is an attempt to take a first step in covering some of these gaps. Answering the questions of whether the government effectively implement the contents of the CRC into national child protection law is of crucial importance for the enforcement of laws but also for the demand of accountability of states as principal duty-bearers for the rights of children.

### 2.3 Civil Society's Role

Research remarks upon the fundamental position of Civil Society and civil society organizations (CSO) in promoting children’s rights by spreading awareness of them, working with the families of street children to find sustainable solutions to their situations, and supporting children vis-à-vis governments by highlighting their rights (Ray, Davey & Nolan 2011, p. 36). The same research paper also stresses the need for NGOs and governments to have a greater level of collaboration in the implementation of children’s rights as well as in establishing effective practices (Ray, Davey & Nolan 2011, p. 37).
2.4 DEFINITIONAL AND CONCEPTUAL PROBLEMS

The term ‘street children’ is complex to define, as this is not a heterogeneous group. The significance of the term has also undergone multiple changes over the years. The original description of the term ‘street children’ dates back to 1980s and refers to “any girl or boy […] for whom the street (in the broadest sense of the word, including unoccupied dwellings, wasteland, etc.) has become his or her habitual abode and/or source of livelihood, and who is inadequately protected, supervised or directed by responsible adults.” (OHCHR n.d. p. 9). This was the description worked out by UNICEF and the United Nations and adopted by the Commission on Human Rights in 1994 and is the description that is adopted in this study.

There are many different terminologies used around these children, including ‘children in street situations’, as used by the Committee on the Rights of the Child, and ‘street-connected children’. Whichever terminology is used, the situational problem these children live in puts them in a very vulnerable situation in society, where they are not only stigmatized as criminals and the like, but also are often the victims of grievous crimes.

In an effort to more clearly define the term, UNICEF created two delimitations, namely, children “on the street”, meaning children who work on the streets but return to some form of home, and children “of the street”, meaning children whose “home” has become the street (Bromling, C. 1997, p. 6-7). This paper uses the term “street children” for both categories.

This conceptual problem in determining who is a street child has also led to difficulty in quantifying the number of children living and/or working on the streets of the world, as well as difficulties in addressing them in politics (OHCHR n.d. p. 10). International and national estimates fluctuate constantly, but the international estimates show that their number is in the tens of millions worldwide (UNICEF 2012, p. 32), mostly in developing countries (DSDSA n.d. p. vi).

Besides the description used by the Commission on Human Rights, as written above, street children are here considered children who spend most of their awake time on the streets, that includes children who do not sleep on the streets during the night, but who return to some type of ‘home’ at the end of their day. Naturally, children who are on the streets all the hours of the day are especially vulnerable.
2.5 Urbanization

“For many, the image of a malnourished child, a child living in miserable circumstances and lacking access to basic social services, has a rural backdrop. Now, with a net increase in the urban population, this picture is increasingly set in the slums of the world’s mega-cities.” (UNICEF 2002, p. 1)

Urbanisation is an important issue of the day. The population of the world is now mostly urban, more than 50% of the world’s inhabitants live now in cities or towns, and this percentage is growing (UNICEF 2012, p. iv-v), as is the number of street children (UNICEF 2012, p. 32). Urbanisation is also an important issue in the context of this study because urban poverty is the source of the collection of reasons as to why children find themselves in the streets as their only alternative (DSDSA n.d. p. 1).

The more urban a country the richer in economic terms it is likely to be, as urban centres are associated with higher standards of education, health and wealth. Yet, despite their living in the proximity of all services and amenities that cities provide, many urban children are socially excluded and lack even basic infrastructures such as clean water and electricity (UNICEF 2012, p. iv). Thus, urban settings show the most striking features of social inequality.

Statistics give the impression that children living in rural areas are worse off than the one billion children living in urban areas, but statistics do not show the whole picture. Some children living in urban poverty can be even more likely to die under the age of five than children living in rural poverty. The same disparity can be seen, for example, regarding access to education when comparing urban areas and rural ones. For the rights of children to be met, and in order to tackle the issue of street children, it is paramount that governments and the international community scrutinise the social inequalities present in urban settings (UNICEF 2012, p. 9).

Perhaps, the most striking feature of urban poverty is the urban slums. One in three of the world’s population that live in cities reside in slums, including hundreds of millions of children, subjected to injuries, diseases and even death, as a consequence of lack of sanitation and other risks, and this number is expected to grow to more than two in three by 2050 (UNICEF 2012, pp. v, 1). As the

5 Slum is defined as “a thickly populated, run-down, squalid part of a city, inhabited by poor people.” (Dictionary.com)
World Health Organization has recognized, when infrastructure and services are lacking, urban settlements are among the world’s most life-threatening environments (UNICEF 2002, p. 3).

As mentioned in the introduction, Brazil and South Africa are greatly unequal societies. This is measured by Gini coefficient\(^6\), which results in that these two countries are the most unequal middle-income countries in the world (Huchzermeyer 2002, p. 85).

The inequality of Brazilian and South African societies is most conspicuously apparent in their slums, which they are perhaps the most famous countries in the world for. The most important historical difference here is that South African slums represent primarily the racial division of South African society, while Brazilian “favelas”\(^7\) represent historical class divisions, argues Marie Huchzermeyer (2002). Obviously, both cases reflect social exclusion in these societies, race and class divisions go into each other (Huchzermeyer 2002, p. 95). The majority of favela dwellers in Brazilian cities are migrants from the poor North-east and are predominantly black. This can be seen as the relentless colonial heritage of racism that is so deeply embedded in the structures and values of these societies (Huchzermeyer 2002, p. 83).

Drawing from this social exclusion of the residents of slums, it is a logic observation to draw the conclusion that street children in these countries are consistently suffering racial discrimination. Street children come predominantly from the urban poor, and the urban poor are concentrated in slums, which in turn, are inhabited mostly by descendants of the black population of these two countries. One recent study around South African street children, for example, found that 97.4 % of the 305 street children interviewed in the study were black (Ward & Seager 2010, p. 88).

The great majority of Brazilians, 87%, live in urban areas (UNICEF 2012, p. vi) and Brazilian cities are dotted by large slums, where 20 % or more of these cities’ inhabitants live, but this number is increasing at a fast pace (Baena 2011, p. 35). As for South African cities, the percentage of city dwellers living in slums is about 10 %, amounting to 1.2 million households (del Mistro & Hensher 2009, p. 337), although this number is also growing (Huchzermeyer 2002, p. 85).

Notwithstanding historical differences, inhabitants of urban informal settlements live under analogous circumstances whether in Brazil or in South Africa (Barac 2007, p. 156).

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\(^6\) The Gini-coefficient is a measure of inequality that takes into account the distribution of income or consumption among individuals of a given country (The World Bank, ‘measuring Inequality’.)

\(^7\) ”Favela” is the portuguese word for ”slum”.
2.6 THE FIFA WORLD CUPS

In the last few years, South Africa and Brazil have also converged in the hosting of the FIFA Football World Cups of 2010 and 2014 respectively. In the context of the world cup in South Africa, street children were systematically targeted by police officials, who violently restrained them and replaced them from the city of Durban in order to “clean up” the image of the city; they were replaced for no other reason than their being street children (I am somebody 2013). The same thing happened in Cape Town, from where 600 street children were replaced to transit camps, where they were sexually assaulted (Brackenridge et al. 2013, p. 16). Even before 2010, in the context of the FIFA preliminary draw in South Africa in 2007, street children were illegally restrained and incarcerated (Brackenridge et al. 2013, p. 15).

The human rights organisation “Terres des Hommes” calls for investigative journalism during the FIFA World Cup in Brazil this year, for the expressed fears that similar suffering may affect street children in Brazil through police violence and evictions (Terre des Hommes, ‘FIFA: More Human Rights). This is corroborated by a report from the organisation Oak Foundation that says that a systematic police operation has violently targeted and criminalised street children in Brazil (Brackenridge et al. 2013, p. 16).

Nevertheless, South Africa, particularly Durban in 2010, was not only a place of football and illegal round-ups of street children; it was a place where many committed persons helped organise what became known as the “Street Child World Cup”, a football event with and for street children, the aim of which is not simply to play football, but to bring awareness of the situation street children live in to a wider audience (Street Child World Cup, ‘Impact’). And they succeeded, in 2010, in South Africa, they also gave street children the opportunity to voice their feelings, which was then materialised in the Durban Declaration (Ray, Davey & Nolan 2011, p. 17), a document that is now widely viewed as a progressive action to make the voices of street children heard.

The Street Child World Cup is, in writing time, being played in Brazil, where campaigns for public policy on street children are being held this year, which is also spreading the issue of street children in the media. Campaigners are, however, still concerned by the lack of economic support in targeting the issue of street children in the national and international arena (Griffin 2013).

The recent events negatively affecting street children in these two countries in the context of the FIFA world cups, shows that the level of governance protecting street children in these countries is
appalling. In 2012, South Africa was in Brazil to share their experiences in hosting the FIFA World Cup 2010 with Brazil (South Africa Government Online, ‘The Americas’). The content of that dialogue is not known, but ought to have included the plight of street children.

These recent events also make the placement in time of this study exciting. With the plight of street children reaching a wider audience, the time can be considered pertinent for this study to be carried out and disseminated.

2.7 GOVERNANCE

The World Bank defines governance as “the manner in which power is exercised in the management of a country’s economic and social resources for development.” (The World Bank 1991, p. i). Six dimensions of governance are defined by the World Bank: voice and accountability; political stability; government effectiveness; regulatory quality; rule of law; and control of corruption (The World Bank 2006, p. 10).

Good governance is not only about states’ economic planning and their performance of economic development, it is also about social development, (Swedish International Development Cooperation Agency [SIDA] 2002, p. 2), which involves states’ responsibilities towards their citizens. Children are the group that mostly suffers in political realities where the economy takes the vanguard, while social issues are not properly addressed (Gabel 2011, p. 538).

Major Characteristics of good governance include: participation, rule of law, transparency, responsiveness, equity and inclusiveness, effectiveness and efficiency, and accountability. (UNICEF 2002, p. 4) Poor governance is considered one of the causes of the social exclusion of children; street children are failed by their governments not taking their responsibility in protecting them (UNICEF 2006, p. 35, 52):

The World Bank Institute’s (WBI) Governance Practice attempts to be a guiding force in the realisation of good governance through participatory and sustainable change. The WBI promotes collaborative governance as an essential practice that has proved necessary for the attainment of

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8 Good governance implies “a good system of government encompassing the state’s way of exercising its political, economic and administrative powers. It maintains that both institutions and processes ought to be based on the principles of the rule of law and should be characterised by responsibility, openness, integrity and efficiency.” (SIDA 2002, p. 3)
good governance, which should involve building coalitions between governments and civil society organizations, as well as other stakeholders, and increasing governments’ accountability through enhanced knowledge for citizens (The World Bank n.d. ‘Collaborative Governance’).

In 2008, the Forum for a new World Governance (FnWG) started an audacious project with the aim of monitoring the level of good governance among the world's nations through the World Governance Index (WGI) in order to improve practice (Forum for a New World Governance [FnWG] 2011, pp. 5-6). In the 2011 WGI, Brazil is found at the 52nd place of 179 countries evaluated, with a score of 0.662, taking a leap forward from a 69th place in 2008, and rendering it a bleak 13th position among Latin American countries. South Africa is found at the 68th place in the 2011 WGI, with a score of 0.638, showing a huge improvement from the 2008 124th placement, and rendering it the fifth position among African countries (FnWG 2011, pp. 15-16).

The social exclusion of urban children is a hinder to the fulfilment of the CRC, a hinder which is maintained by the lack of responsibility and commitment of governments. Accountability, equity and social inclusion, i.e. the principles of good governance are missing in States around the world (UNICEF 2002, p. 3), affecting street children particularly hard. In this context, the need for adequate and effective Child Protection Systems is made clear. Unfortunately national CPSs are still very inadequate around the world (Hart, Lee & Wernham 2011, p. 970).

CPSs involve a complex system of regulations and practices that permeate different sectors of a society. It is beyond the scope of this paper to assess if these mechanisms are present in Brazil and South Africa, but this would be desirable in future research. Here I will focus on the main child protection regulations in these countries.

3. THEORY AND ANALYTICAL FRAMEWORK

3.1 THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

The point of departure here, as well as a base for analysis of the findings of this study, is the United Nations Convention on the Rights of the Child from 1989, where the State is the main duty-bearer for the fulfilment of children’s rights. Consequently, children’s rights demand good governance, i.e.
the inclusion of the weak members of society into the political agenda. A State that takes responsibility for children’s rights invests in both economic and social development.

The CRC is legally binding and is the most widely cited document in relation to children’s rights, ratified by almost every country in the world (OHCHR n.d. p. 8). The CRC does not explicitly mention street children but its regulations apply to every child, including street children. As the definition used by the United Nations in their definition of street children says that these are children “inadequately protected, supervised or directed by responsible adult.” (OHCHR n.d. p. 9), it can be linked to Article 20 of the CRC that concerns children without parental care:

*Article 20*

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

Other articles also clearly concern street children because they target the protection of children from precisely that which street children most often are affected by in their street situation: Article 2 on non-discrimination; article 19 on the protection from all forms of violence; article 24 on health and health services; article 26 on social security; article 27 on adequate standard of living; article 28 on right to education; article 32 on child labour; article 33 on drug abuse; and article 34 on sexual exploitation (UNICEF n.d. ‘Rights Overview’). All articles in the CRC however touch street children as all children in a way or another.

Article 4 is especially interesting for the purpose of this research paper as it is about States’ duty to implement children’s rights according to the CRC:

*Article 4*

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their
The foundations of the CRC are: the definition of a child as anyone under the age of 18; non-discrimination; the best interests of the child; the right to life, survival and development; and respect of the view of the child (UNICEF n.d. ‘Guiding Principles’) (DSDSA n.d. p. vii), and it places the responsibility of the state in the centre (UNICEF 2005, ‘Using the Convention and Protocols for Children’).

As for respect for the view of the child, the latest optional protocol is supposed to give children themselves all over the world the right and appropriate procedure to report violations against their rights directly to the United Nations. It is due to enter into force in April 2014 (OHCHR, ‘Committee on the Rights of the Child’). For that, children need to know their rights of course; informing them is the responsibility of the state, as stated in Article 42.

3.2 CRITICAL SOCIAL SCIENCE

As expressed earlier, the social exclusion of street children is connected to social inequality and urbanization dynamics (OHCHR n.d. p. 4). They are often excluded from economic research (UNICEF 2012, p. v) and development policies, which prioritize economic development (de Benitez 2011, pp. 53-54), which, in turn, is a stark feature of modern day free market societies.

While countries such as Brazil and South Africa have been experiencing significant economic growth, this has taken place alongside immense social inequality and a high number of socially excluded children that find themselves forced to take to the streets. In view of this, the scope of this study is situated within the confines of Critical Social Science (CSS).

“Poor distribution of material and symbolic resources [...] inspires work situated in the scope of Critical Social Science (CSS), a scientific perspective that seeks to actively intervene in social change by assuming a critical position, free from the myth of scientific neutrality.” (Resende 2012, p. 511)

This study does not take a normative standpoint, though I believe in the impossibility of value-free research. Rather, I take a rights-based approach of research. CSS primarily guided the choice of
topic for this study, but also guided the aim of uncovering the truth about how states take their responsibility in protecting children’s rights. Such uncovering of the truth is what CSS research revolves around (Sayer 2009, pp. 769-770), and the truth that is uncovered is objective; something either is or is not. CSS research is interested in the multiple realities involved in any given social phenomenon, thus looking at social issues from different perspectives in order to more clearly understand such a phenomenon (Greenspan & McClelland 2012, p. 3).

Other central aspects of the CSS approach to research are:

- Questioning taken-for-granted assumptions about the nature of the social world
- Questioning assumptions about how social and biological worlds are known
- A commitment to the use of research for progressive social change
- A focus on the experiences and meanings of research participants and how they are shaped by broad social, political, cultural, economic forces
- A genuine commitment to exploring the social world as it unfolds rather than “fitting” that world into pre-existing theoretical frameworks

(Partial reproduction from Greenspan & McClelland 2012, p. 3)

Within this broad definition of CSS research, this study does not use scientific theories as a point of departure or in order to test them empirically; rather, theory will be used here in a pragmatic fashion, as an orienting lens through which I can guide my undertakings. Theories and the framework of the CRC are used to guide firstly the choice of the research problem, secondly the questions asked for the purpose of the study; in other words, theories guide the choice of methods. The CRC, alongside the Brazilian ECA and the amended South African Children’s Act No.38, will be used to draw interpretations of the data obtained for this study.
4. METHODS

For the purpose of this study the source of information is derived from qualitative telephone interviews and cross-sectional email-surveys with key informants, i.e. NGO-staff at orphanages, children shelters, and other organizations directly or indirectly involved with the issue of street children in South Africa and Brazil. A cluster sampling of the NGOs will be made based on their availability on the internet, as long as at least a telephone number or an email-address is disclosed. I will also make use of a technique called “snowballing”, which simply means that I will ask whether they can indicate me to a second NGO whom I can contact, and so forth (Desai & Potter, 2014, p. 148).

Thorough examination is also made of the legal framework that guides this study, i.e. CRC, as well as national child protection regulations. Of great importance for this study is also the examination of current UNICEF documents such as The State of The World's Children report series.

4.1 THE COMPARISON BETWEEN BRAZIL AND SOUTH AFRICA

The comparison between Brazil and South Africa is motivated by these countries close political ties and the potential for future political cooperation between the governments as well as the NGOs of these two countries. As the overarching aim of this study is to contribute to changing the reality of street children, I will share my findings with the participating organizations.

Below follows a thorough motivation for these choices as well as a description of the procedure of choosing the participating organizations, the structure of the telephone interviews and an explanation on how the comparison will be made.

Initially this study would be done exclusively with Brazilian NGOs. In the particular case of Brazil, an interesting fact is that the term “street children” as used by, for example, the United Nations Children’s Fund (UNICEF) can be said to have had its origins in Brazil, a point in time when the work of UNICEF with street children began to be formed (Bromling, C. 1997, pp. 2, 3).

I first came to think of Brazil and South Africa in the same context when studying the BRICS. An article by economics professor Jayati Ghosh published at the Canadian global research website (Third World Resurgence No. 274, 2013) describes the potentialities and common challenges of the
members of the BRICS. The BRICS cover now a population of 3 billion people and they have a massive economic output, a feature facilitating this is the large young population of these countries.

Policy makers of the BRICS hold periodical summits where the discussions predominantly revolve around trade and economic cooperation. However, their common challenges are not simply economic ones and they seem to be increasingly interested in finding new ways of cooperation and knowledge exchange. An example of a common challenge of the BRICS is the increasing economic and social inequality among their citizens where even basic social services are excluded for many people. Jayati Ghosh concludes that the potential for these countries to learn from each other is immense and he advocates the need for this knowledge exchange to not be exclusively made in the economic sphere but also to include more people-centred approaches.

The comparison between Brazil and South Africa revolves around their levels of commitment to incorporating the regulations of the CRC into national child protection laws. Another aspect of the implementation of children's rights that is explored and compared here is the presence of official institutions for the protection of children's rights and whether they are sought after by NGOs for legal protection of street children. The national child protection regulations of these two countries will also be compared in their focus and scope.

4.2 THE NGOs

The potential role of NGOs as a bridge and a mediator between families and the government gives NGOs a central importance in the implementation of laws concerning child protection. This role moves downwards in disseminating knowledge to, especially, poor families about children’s rights; poor families are assumed to lack this knowledge and it is primarily from poor families that street children come. Upwards the role of NGOs is to press governments into action and to hold them accountable for their responsibilities towards children.

Overall, there are many advantages in working with NGOs in research. The significance of NGOs in the development field stretches into the international arena and NGOs have historically been driving forces in the establishment of international human rights law (Cubillos 2002, p. 6).

The choice of NGOs will be made based on their availability on the internet, as long as at least a telephone number is disclosed. The selection of NGOs was based on (1) online availability and (2) suggestion by other NGOs, i.e. the snowballing technique. I attempted to make this selection varied
in order to avoid only interviewing similar organizations that might have similar knowledge bases. The NGOs whose staff answer “no” to the first question, i.e. whether they have any contact with street children in their work, will be discarded.

4.3 THE TELEPHONE INTERVIEWS AND EMAIL-SURVEYS

An email-survey containing the same questions and the same structure as the telephone interviews was sent to 46 recipients in South Africa and 62 recipients in Brazil, totalling 108 recipients. The only question that was distinct to the telephone interviews was the one where I asked if the participant had any questions to me. The survey was sent twice, where the second time was a reminder. Every dispatch was followed by one week's time for collecting the answers.

The third week of data collection was spent calling the recipients that had not responded to the email-survey. Every recipient was then called twice. The telephone calls were made in two periods of the day, 9:00-11:00 and 13:30-15:30 O'clock local time. It was assumed that these two time-frames would give the greater chance of not catching the staff in the middle of morning routines or in the middle of lunch time. It is also assumed that the staff will be more inclined to take their time to answer the interview questions if they do not receive the calls too early in the morning or too late in the afternoon.

Firstly, I presented myself and the purpose of the call. Secondly, I asked if any member of the staff was available to answer some questions; only “significant” staff members will came into question based on their availability, i.e. not the cook or the cleaner. The participating members of staff were thus selected through a convenience sampling, i.e. based on their availability. At two occasions, the member of the staff to be interviewed preferred that I called back at some other point of the day, which I did. The answers were summarized and written down as the interview proceeded. That demands high level of concentration, which I assumed feasible. No voice recordings were made for two reasons: firstly, it might make the interviewee more hesitant to answer honestly and without inhibition; secondly, recording interviews takes time, which is a shortage in the context of this study. The interviews are considered simple enough to be able to rely on paper and pen.

The staff were asked about their name and job title, but given the choice of remaining anonymous. I chose not to include questions on gender and age, as that is not an aspect I would be analysing here. The analysis was based on their knowledge as professionals and private citizens, irrespective of age.
or gender. Naturally, when the interviewees chose to remain completely anonymous, no names or job titles were taken, and thus it will not be possible to make inferences as to who gave which statements out of this paper. Finally, I asked if the organization would like to receive a copy of a summary of the research paper, in which case, contact information was exchanged.

Interviews are a very useful and commonly used method of data collection in research because the researcher can get a wealth of information during a short period of time (Desai & Potter 2014, pp. 65,146). Doing telephone interviews in combination with email surveys also offers advantage, because the researcher can get in touch with a great number of participants easily from home, the participants do not get distracted by the researcher taking notes during the interview, and the researcher can calmly write up notes directly after the call is finished (Desai & Potter 2014, p. 150).

To increase the accuracy of the answers given, I presented myself and my study in the same fashion and with the same choice of words to all participants (see appendix 1). The choice of having semi-structured interviews is also motivated by the short availability of time to carry out the study, as open interviews, without pre-determined questions, are more time-consuming. For the complete survey, see appendix 2.

5. Results

5.1 Child Protection Regulation in Brazil and South Africa

Brazil signed and ratified the CRC in 1990. As for the newest optional protocol from the CRC to the Convention on the Rights of the Child on a communications procedure from 2011, Brazil signed it in February 2012 but has yet not ratified it (United Nations, ‘Chapter IV Human Rights’).

The Brazilian Federal Constitution from 1988 is seen as a progressive step after decades of military rule in the country. Specifically, article 227 of the Constitution stresses the rights of children and the responsibility of family, society and the state in protecting these rights (Mickelson 2000, p. 50).

Building on this, the Brazilian Child and Adolescent Rights Act (Estatuto da Crianca e do adolescente – ECA) from 1990 followed the CRC chronologically and ideologically in its scope. Permeating the ECA is the view that children are social actors in their own rights and not mere recipients of help and protection (Duarte et al. 2007, p. 4).
The ECA is considered one of the best child protection regulations in the world (Duarte et al. 2007, p. 4). In reality however, it is frequently ignored, consciously or due to lack of information about it; children have generally very little or no knowledge about it and consequently cannot demand their rights in Brazil (Resende 2012, p. 514).

South Africa signed and ratified the CRC in 1993 and 1995 respectively. As for the newest optional protocol from the CRC to the Convention on the Rights of the Child on a communications procedure from 2011, South Africa has neither signed it nor ratified it (United Nations, ‘Chapter IV Human Rights’).

In South Africa, the main child protection regulation in place is the Children’s Act No.38 of the 2005 legislation, amended in 2007 as the Children's Amendment Act No. 41 (DSDSA n.d. p.13) (PRSA 2008). The Children’s Act is a thorough regulation in accordance with international law, in particular the CRC. It is also a corroboration of the Children's Act of 1983 as well as the country’s 1996 constitution, particularly Section 28 (DSDSA n.d. p. 12) (The Presidency, Republic of South Africa [PRSA] 2009, p. 95).

There are of course other legislations in South Africa that, in a way or another, also cover street children, but the Children’s Act can be said to be the main framework for child protection in South Africa.


“The Children's Act includes street children with other children in need of care and protection. In so doing, it acknowledges the wide range of difficult circumstances that children may face and that one of the responses of children to their circumstances is to turn to the streets, where they may live, work or beg.” (PRSA 2009, p. 96).
5.2 **South African Results**

46 organizations in South Africa were contacted both through email and telephone. The drop-out rate was 87%, resulting in six organizations with complete participation, i.e. providing answers to all questions. Naturally, all participating organizations in South Africa that were contacted dealt with street children. Half of them, namely three organizations, had street children as their main target group.

5.2.1 **The South African Children's Act and Responses**

South African Children’s Act emphasizes the need to facilitate children’s participation, in line with article 12 of the CRC (PRSA 2009, p. 94), which can be seen in Chapter 2, Section 10 on Child Participation. As for the responsibility of the State in making the provisions of the Act known to the public, article 42 of the CRC, the South African Children’s Act makes no clear statements.

Nevertheless, under chapter 2 on General Principles of the South African Children’s Act, some sections imprecisely point to this responsibility. Section 6 on general principles, point 2 (a) states that all undertakings based on the Act must promote Children’s rights as described in the Act. Section 8 on application, point 2, asserts that all State actors must promote children’s rights as described in the Act. Point 3 of section 8 declares that the obligation of promoting Children’s rights contained in the Act is binding. More specific standards are not to be found in the South African Children’s Act. This almost certainly inhibits the application of sections 14 and 15 of the same chapter; these regard access to court and law enforcement, respectively.

The first research question of this study was: Does the government effectively incorporate the contents of the CRC into national child protection law? Considering the unclear statements and missing details in the South African Children's Act, as mentioned above, I must conclude that South Africa does not fully incorporate the contents of the CRC into its national child protection law. That despite the fact that the majority of the participants, 66.6%, mentioned the South African Children’s Act in their responses, which shows that the Act is relatively well-known among NGOs in South Africa. This is particularly important for the potential role of NGOs in supporting street children vis-à-vis the government in having their rights protected and met.
Regarding the second research question in this study: Do NGOs working with street children in these countries consistently turn to the national institutions responsible for protecting the rights of children? All of the participants answered they would turn to the department of social services to demand street children's rights be met. Two of the participants included other organs in their answers, such as the police, the department of justice and Nelson Mandela children’s fund.

The department of social services in South Africa is a central government institution that has the main purpose of managing social security and poverty alleviation in South Africa. The mandate of the department is based on the national constitution and includes the Children’s Act of 1983 (DSDSA n.d., ‘About Us’), which the Children’s Act No.38 of 2005, as amended in 2007, corroborates. Considering that all participants unanimously would turn to this particular government institution indicates that there is a standard procedure that is followed by NGOs in demanding that the government meet street children's rights, the answer to the second research question in the case of South Africa is “yes”, i.e. NGO-staff working with street children in South Africa consistently turn to the national institution responsible for protecting the rights of children.

5.3 THE BRAZILIAN RESULTS

62 organizations in Brazil were contacted both through email and telephone. The drop-out rate was 94 %, resulting in four organizations with complete participation, i.e. providing answers to all questions. Naturally, all participating organizations in Brazil that were contacted dealt with street children. One of them had street children as its main target group.

5.3.1 THE BRAZILIAN ECA AND RESPONSES

The Brazilian ECA is even more diffuse in its standards of the obligation of promotion of Children’s rights and as regards access to court for children whose rights have been violated. Generally, the ECA seems to have more focus on the public as a whole when it comes to protecting children’s rights than the South African Children’s Act. Under the General Section, Designation III on prevention, Article 70 states that everyone, i.e. all citizens, have the obligation to prevent violations of children’s rights. For that, Designation I of the Special Section on service policies, Article 86 emphasizes the need for different actors of society, both governmental and non-governmental, to act together regarding the provision of children’s rights. Article 88, point VI says that the guideline of the service policies is that public opinion should be in focus regarding children’s rights.
The ECA has a guideline that every municipality shall have at least one child rights council to administer children’s rights, found in article 132. There is no focus on these councils’ making the rights known to the public, which is unfortunate.

As for access to court, the ECA guarantees that any child whose rights have been or risk to be violated, in accordance with article 98, shall have access to a public defender, the public office and the judicial system, and that this shall happen free of charge, article 141.

Although all of the participants in Brazil mentioned the ECA, which shows there is widespread knowledge of the national child protection regulation, the answer to the first research questions in the case of Brazil is "no", i.e. Brazil does not fully incorporate the contents of the CRC into its national child protection law, the ECA. This is specially due to the lack of specificities as for its standards of the obligation of promotion of Children’s rights and as regards access to court for children whose rights have been violated.

Regarding the second research question in this study: Do NGOs working with street children in these countries consistently turn to the national institutions responsible for protecting the rights of children? The answers from the participants in Brazil were mixed. 50 % of the participants did not know where to turn to demand street children's rights be met. The other half, two of four, mentioned the tutelary council in common; one of the two further named the public ministry as the real alternative, as the tutelary councils lacked resources and were overburdened, according to the participant.

The tutelary councils, or child rights councils, in Brazil is a service provided by every municipality in the country whose establishment is dictated by law in the National Constitution of 1988, article 227 and the ECA, article 132. These legal standards concern the responsibility of the government in creating public institutions that provide services directed at protecting the rights of children and adolescents.

Considering that 50 % of the participants did not know how to proceed in case a street child’s rights were violated, alternatively helping street children report violations against their rights, I can conclude that NGOs working with street children in Brazil do not consistently turn to the national institution responsible for protecting the rights of children, in other words, there is no standard procedure that is followed by the Brazilian NGOs in such cases.
6. ANALYSIS

6.1 RETROSPECTION

The contents of the CRC were covered in the chapter on theory and analytical framework. States that have ratified the CRC must not only use all their available resources to make sure that the CRC is followed in their territories, but they must also fully convert its regulations into national laws and policies so as to effectively implement children’s rights (UNICEF 2005 *Promoting and Protecting Rights for Children*, para. 5).

Both the Brazilian ECA from 1990 and the South African Children’s Act No.38 from 2005 only partially incorporate the regulations of the CRC into national law despite being detailed national child protection regulations; the ECA, in particular, is considered one of the best child protection regulations in the world (Duarte et al. 2007, p. 4).

This study focused mainly on the responsibility of States in incorporating the contents of the CRC into national child protection laws, as specified in article 4 of the CRC. The other focus of this study was on NGOs making use of the national institutions that are responsible for protecting children's rights within these countries' territories. This is assumed to be one important indication of the effective implementation of international and national child protection regulations and one aspect of implementation that is I strongly recommend and which can be connected to children’s right of participation, their right to be heard as stated in article 12 of the CRC, which, in turn, is intrinsically connected to the right of information as stated in article 42 (United Nations 2009, p. 10).

6.2 COMPARING SOUTH AFRICAN AND BRAZILIAN REGULATIONS

Neither Brazil nor South Africa seem to fully incorporate the contents of the CRC into their national child protection laws, The ECA and the Children's Act, respectively. Particularly, the standards of the two countries missed out on detailed information on how to promote children's rights among the population.

Both Countries include access to court for children whose rights have been violated as an important ingredient in the protection of children's rights, but lack in detailed explanation of procedure.
The most clear differences in emphasis and scope between the two countries’ regulations is that the South African Children’s Act emphasizes the need to facilitate children’s participation more than the Brazilian ECA, while the ECA has more focus on the public as a whole when it comes to protecting children’s rights than the South African Children’s Act. However, both regulations commonly put high emphasis on the responsibility of the State in protecting and implementing children's rights.

6.3 COMPARING BRAZILIAN AND SOUTH AFRICAN RESPONSES

In Brazil, where all participants mentioned the ECA, the knowledge of national child protection regulations seems to be more widely distributed among NGOs than in South Africa, where the equivalent figure was 66.6%. Unfortunately, the participants’ knowledge could not be attributed to government action in any of the cases, indicating a poor level of effective information production from the governments’ sides.

Brazil also performed slightly better than South Africa when it comes to private citizens knowing about child protection regulations, 25% compared to 16.7% in South Africa. In both cases, however, only one participant believed he would have had knowledge of the mentioned regulation as a private citizen, which is a very low percentage in both cases, making private citizens in both countries unaware of street children’s rights as children, which may affect how they see street children negatively. This low percentage also limits the power of the people in demanding that street children’s rights be met, particularly the families and other people close to children on the streets or risking to become street children.

South Africa outperformed Brazil in all other aspects. Although only slightly, South African NGOs had more knowledge of international human rights in form of the CRC than their Brazilian counterparts, 16.7% compared to 0% in Brazil. The low percentage in both cases, however, again limits the power of NGOs and civil society in supporting street children vis-à-vis the government, as well as limiting their capacities for international cooperation among NGOs and other members of civil society.

South Africa also outperformed Brazil in the level of cooperation between the government and NGOs working with street children. The South African government also showed a higher level of engagement in taking the initiative in collaborating with civil society organizations, which had occurred in 50% of cases, compared to 25% in Brazil.
The Brazilian government can also be said to have had a poorer score of good governance as compared to South Africa. Both as regards the knowledge of legal cases for the rights of street children and the standard procedures used to help street children having their rights met vis-à-vis the government. In Brazil, only one of the participants would turn to the public institution that is supposed to care for the rights of children, while 50% of them did not know where to turn at all. In South Africa, the procedure was very consistent and inline with the law.

In short, Brazil and South Africa had mainly five points in common, of which three can be considered negative, while two are positive points:

- NGO-staff generally have some knowledge of national child protection regulations in Brazil and South Africa.
- The presence of legal action taken for the rights of street children is rather frequent in both Brazil and South Africa.
- NGO-staff have generally low or no knowledge of international child protection regulations in Brazil and South Africa.
- Private citizens in Brazil and South Africa generally have very little or no knowledge of applicable national and/or international child protection regulations.
- The governments of Brazil and South Africa are deficient in informing their citizens about applicable national and/or international child protection regulations.

Brazil and South Africa diverged most strikingly in three points:

- South Africa had a higher level of cooperation with the government, 100%, compared to 50% in Brazil.
- South African government was more active in taking initiative for cooperation with the NGOs, 50% of the cases, compared to 25% in Brazil.
- South African NGOs followed a more consequent procedure in demanding children's rights, 100% of the participants would turn to the responsible public institution, compared to 25% in Brazil.
6.4 Concluding Analysis

Unfortunately, the drop-out rate of the contacted organizations was high, making the establishment of conclusions limited. Despite the low number of participating organizations, it is still possible to make inferences from the results.

A possible weakness with my method is that the survey and interview questions were not taken from any existing instrument, rather they were devised by me, leading to questions as to the reliability of inferences made out of the responses to the questions. However, my choice of methods in making telephone calls to the organizations that did not respond to the email-surveys was also a way of producing a respondent-non-respondent check for response bias. Analysis of the answers given through the email-surveys and the telephone interviews show no sign of discrepancies. Thus, the responses acquired for this study are deemed to be trustworthy.

6.5 Good Governance in the Protection of Street Children

This study added important elements that partially cover the gap in the literature. At least some of the major characteristics of good governance may be missing in both countries, these are: effectiveness and accountability. The governments of Brazil and South Africa do not seem to effectively reach out to citizens with information about children's rights, including street children. The lack of knowledge about international children's rights among NGO-staff and the lack of knowledge about children's rights regulations in general among the population is a factor that seriously hinder the demand of accountability of the government.

When it comes to collaboration and implementation, these countries seem to perform better. The governments of the two countries took initiative to cooperate with the participating NGOs rather frequently. Also the frequent occurrence of legal action taken for the rights of street children is a good indication that their rights are implemented.

Street children are probably the ones who have the least knowledge of their rights, as they are often without parental care, out of school and lack stable relationships with adults. NGO-staff’s knowledge of these children’s rights and their role in spreading knowledge about them is paramount, but also paramount is that the population as a whole know about children’s rights and
can act on behalf of street children to demand that the government takes action not to allow children to find themselves forced to take to the streets, instead giving them the opportunity to grow in a safe, healthy and constructive environment where they can develop their potential as the individual social actors they are. Until then, street children will continue to be a risk group that is not properly accounted for by governments.

7. CONCLUSIONS

‘Under international human rights law, States, as the principal duty bearers, are accountable for respecting, protecting and fulfilling children’s rights within their territories’ (OHCHR n.d., p. 14).

The responsibility of States in fulfilling street children's rights concerns the practice of good governance, which is designated by international human rights (UNICEF 2002, p. 3). This practice needs to involve government action on the central, regional and local levels. The high number of street children in South Africa and Brazil point to a lack of responsibility from the government in taking action for the fulfilment of children's rights.

This study was an attempt to take a small but significant step in covering some of the main gaps in the research literature around street children, particularly the incorporation of the CRC in national child protection laws regarding street children. There is also a lack of studies that measure how effective governments are in tackling the situation with street children (Street Action 2010, p. 8).

The findings of this study indicate primarily that:

- The national child protection regulations in South Africa and Brazil do not fully cover the contents of the CRC. They should both deepen the statements given and description around the processes of implementation.
- The most striking difference between Brazil and South Africa was around the standard procedure of NGOs working with street children in turning to the responsible national institutions for the fulfilment of the rights of street children as children whose rights have been violated

This study was what it promised, a small step, but more needs to be done. Further studies could, for example, assess if all of the eight main characteristics of good-governance (participation, respect for
the rule of law, transparency, responsiveness, consensus-orientation, equity and inclusiveness, effectiveness and efficiency, and accountability) are present in these countries and others in respect of street children.

Children are the most vulnerable group in any society and street children, in particular, are deeply affected by poverty and inequality; no child should have to live on the streets. Children are, fortunately, also very responsive to opportunities to develop their potential as social actors. Government action to give children this opportunity is both a moral and a legal obligation that can have very significant outcomes in the lives of these children.

The timing of this report is exciting and promising. Not only is the gravity of the problem reaching the awareness of a wider audience, as mentioned earlier, but also the world is in the middle of a global debate about the new millennium goals to be developed for the period after 2015. This is a time to take action.

South Africa and Brazil must show their commitment to international human rights and to children's rights in particular. They should sign and ratify the newest optional protocol from the CRC to the Convention on the Rights of the Child on a communications procedure from 2011 and invest in making both this and the applicable national and international child protection regulations known among their citizens.

South Africa and Brazil have advanced but faulty national child protection regulations. They could act as good examples among the BRICS and increase their cooperation in the area of social development, particularly in the effective protection of their children so that they do not find themselves living on the streets. South Africa and Brazil could make use of their common political platforms to put the plight of their street children on the political agenda.

REFERENCES

PRINTED WRITTEN SOURCES


**ELECTRONIC WRITTEN SOURCES**


The Group of Twenty (G20) (n.d.) About G20 [online]. Available from <https://www.g20.org/about_G20> [23 April 2014]


**ELECTRONIC VISUAL AND AUDIO SOURCES**

APPENDIX I

PRESENTATION

My name is August de Brito and I am a Master’s student from Sweden writing a thesis about the use of regulations concerning street children.

I am contacting organizations that work directly or indirectly with street children in Brazil and South Africa and would like to borrow a few minutes of your time to answer a few questions. It shouldn’t take more than 3 minutes.

You can choose to remain completely anonymous if you prefer.
APPENDIX II

EMAIL-SURVEY AND INTERVIEW QUESTIONS

MASTER THESIS IN PEACE AND DEVELOPMENT WORK
LINEAUS UNIVERSITY

STREET CHILDREN AND THE IMPLEMENTATION OF CHILD PROTECTION REGULATIONS: COMPARING BRAZIL AND SOUTH AFRICA

EMAIL-SURVEY

Organization:
Name (optional):
Position (optional):

1. Do you have any contact with street children in your work?
2. Have you any knowledge of national and/or international regulations regarding street children and can you mention which regulations?
3. How did you learn about the regulations you mentioned above?
4. Would you have known these regulations if you did not work there or in this field?
5. Do you have any knowledge of a legal case involving the violation of a street child's rights in South Africa/Brazil?
6. Where would you turn to outside your organization to demand street children's rights be met as you understand them?
7. Does your NGO have any direct cooperation with the government, whether it is local, regional or central government?
8. If you answered yes to the previous question, which side did the initiative for this cooperation come from, from the government or from your organization?
9. Do you want to add anything?
10. If you would you like to receive a copy of the results of this study as well as a child friendly version of it, please, fill in your contact information below?
APPENDIX III

LIST OF PARTICIPATING ORGANIZATIONS

PARTICIPATING ORGANIZATIONS IN SOUTH AFRICA

Organization: The Home Stead
Description: Prevention, early intervention drop-in centres, street outreach, intake shelter, family reunification, job creation, therapeutic residential care.
Participant and position: PV Hooper, Director
Mode of contact: email-survey
Contact information: http://thehomestead.org.za/, director@homestead.org.za
Telephone: +27 21 4199763/4
Cape Town

Organization: Onspekt
Description: Prevention of street children and helping off girls on the streets.
Participant and position: Pam Jackson, director
Mode of contact: email-survey
Contact information:
http://www.onsplek.org.za/?page_id=54, onsplek@new.co.za
Telephone: (021) 465-4829
Cape Town

Organization: Heavenly Promise
Description: Drop-in centre for services for vulnerable children. Services rendered from 2005.
Participant and position: Lana O’Neill, project coordinator and founder
Mode of contact: email-survey
Contact information: hpromise@trusc.co.za
Telephone: 084 846 4233 / 084 846 4233
Vredendal, Western Cape
Organization: Kids Haven  
Description: Works with street children and other difficult to place children. Provides pre-, in- and after-care.  
Participant and position: Moira Simpson, director  
Mode of contact: email-survey  
Contact information: [http://www.kidshaven.org.za/](http://www.kidshaven.org.za/), [moiras@kidshaven.co.za](mailto:moiras@kidshaven.co.za)  
Telephone: +27 011 421-4222  
Johannesburg

Organization: Hearts of Hope  
Description: Receives street children removed from the streets by social workers.  
Participant and position: Deborah van Dongen, director  
Mode of contact: email-survey  
Contact information: [http://heartsofhope.org.za/](http://heartsofhope.org.za/), [info@heartsofhope.org.za](mailto:info@heartsofhope.org.za)  
Telephone: +27 (0) 82 458 2677  
Johannesburg

Organization: Percy Batley House  
Description: Works with children aged from 14 to 18, many coming from the streets. Provides care and education and attempts to reunite the children with their families and communities.  
Participant and position: Nuchela, social worker  
Mode of contact: telephone interview  
Contact information: [http://www.percybartleyhouse.co.za/](http://www.percybartleyhouse.co.za/)  
Telephone: +27 021 447 5722  
Cape Town

**PARTICIPATING ORGANIZATIONS IN BRAZIL**

Organization: Associacão Beneficente São Martinho  
Description: Works with children aged 6 to 18 in situations of social vulnerability. Helps improve the social apparatus that lead to children living on the streets. Provides social, educational, and cultural activities and services for street children.  
Participant and position: Leonardo Costa, communication adviser  
Mode of contact: telephone interview  
Contact information: [http://www.saomartinho.org.br/](http://www.saomartinho.org.br/), [saomartinho@saomartinho.org.br](mailto:saomartinho@saomartinho.org.br)
Telephone: (21) 2156-6500/2252-5352
Rio de Janeiro

**Organization**: Lar Batista de Crianças

**Description**: Works with vulnerable children of all age groups, providing shelter and educational services.

**Participant and position**: Juliana, administrative assistant

**Mode of contact**: Telephone interview

**Contact information**: [http://www.larbatista.com.br/](http://www.larbatista.com.br/), contato@larbatista.com.br

Telephone: (11) 3208-3074
São Paulo

**Organization**: Abrigo João Paulo II

**Description**: Works with vulnerable children and adolescents. Focuses on giving them the possibility of becoming active citizens.

**Participant and position**: Camila Monteiro, coordinator

**Mode of contact**: email-survey

**Contact information**: [http://www.metropolevirtual.com.br/abrigojp2/](http://www.metropolevirtual.com.br/abrigojp2/), abrigo@calabria.com.br, as.camilamonteiro@gmail.com

Telephone: (51) 3336-3754
Porto Alegre

**Organization**: Assistência e promocão social exército de salvacão (APROSES)

**Description**: Provides social promotion for children of all age groups. Offers shelter and basic services as well as cultural and educational activities.

**Participant and position**: Milka Santos, national secretary for social work

**Mode of contact**: telephone interview

**Contact information**: social@bra.salvationarmy.org, exercitodesalvacao@salvos.org.com

Telephone: (11) 5591-7077
São Paulo