

An Analysis of the Exploitation of Children through Begging on South African Roads: A Critical Legal and Policy Review

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Abstract: Child exploitation through forced begging represents a severe violation of human rights, with systemic roots in socio-economic inequality and institutional failures. In South Africa, where historical apartheid legacies and persistent poverty disproportionately affect Black children, this practice persists despite constitutional protections and international obligations. This study examines the exploitation of children in organized begging networks, drawing on empirical evidence from eThekweni, where investigations reveal approximately 700 children generate R2 million monthly for syndicates—often facilitated by guardians. Beyond economic exploitation, these children face intersecting risks of trafficking, substance abuse, and sexual violence.

While South Africa's legal framework, including Section 28 of the Constitution and international treaties like the African Charter on the Rights and Welfare of the Child (ACRWC), mandates protection, enforcement remains inadequate. This paper critically analyses the dissonance between legal provisions and institutional implementation, arguing that state agencies—particularly law enforcement and social services—fail to prioritize child welfare due to resource constraints and fragmented coordination. The study highlights systemic gaps, such as the absence of explicit criminalization of child begging in domestic law, and contrasts South Africa's approach with regional standards under the ACRWC, which explicitly prohibits the practice.

Through a legal and policy lens, this article advocates for urgent reforms: (1) legislative amendments to close loopholes, (2) enhanced interdepartmental collaboration, and (3) community-based interventions to address root causes. By interrogating the roles of parents, communities, and the state, the study underscores the need for a rights-based, multi-stakeholder response to eradicate child begging and uphold the constitutional principle of the "best interests of the child."

Keywords: Child exploitation, begging, human rights, South Africa.

Introduction

Child exploitation remains one of the most pervasive human rights violations globally, with South Africa presenting a particularly acute case study of systemic failure to protect vulnerable youth. Nearly three decades into constitutional democracy, the country continues to grapple with alarming rates of child labour, commercial sexual exploitation, and organized begging - phenomena rooted in historical inequalities, entrenched poverty, and institutional inadequacies. This paper examines the structural drivers and policy failures that perpetuate child exploitation in post-apartheid South Africa, with particular focus on begging syndicates operating at urban intersections.

The vulnerability of South African children reflects intersecting crises: of the nation's 18 million children under seven, 60-70% live in extreme poverty while one in five suffers malnutrition (Hall, 2020). HIV/AIDS has orphaned over 800,000 children since 2005, creating child-headed households increasingly targeted by exploitation networks (UNICEF, 2021). Despite establishing 42 specialized Child Protection Units and 176 dedicated courts, the state's response remains reactive rather than preventive - evidenced by 35,000 annual reports to authorities with minimal prosecutions (SAPS, 2022).

This study contends that existing interventions remain fundamentally inadequate because they fail to address three critical dimensions of the child begging crisis. First, structural determinants including entrenched poverty, widening inequality, and family disintegration create the socioeconomic conditions that enable exploitation networks to thrive

by ensuring a steady supply of vulnerable children. Second, persistent legal-policy gaps undermine protection efforts, particularly the weak enforcement of Section 28 constitutional protections and non-compliance with international conventions that South Africa has ratified. Third, debilitating institutional inertia manifests through poor coordination mechanisms between key actors - notably between police services struggling with operational constraints, under-resourced social services departments, and an overburdened judiciary working with outdated procedures. These interconnected failures create a perfect storm where exploitative networks operate with impunity while systemic protections fail to reach those most vulnerable. The study demonstrates how this tripartite failure - structural, legal and institutional - perpetuates cycles of child exploitation that current fragmented approaches cannot meaningfully disrupt.

Through analysis of legislative frameworks, case law and empirical data from child protection agencies, the paper demonstrates how systemic neglect enables syndicates to generate estimated monthly revenues of R2 million through child begging in eThekweni alone (IOL, 2023). The findings challenge prevailing assumptions about state capacity to protect children, revealing critical disconnects between constitutional mandates and street-level realities. By interrogating these failures through the lens of South Africa's international human rights obligations, the study contributes to broader debates about implementing child protections in resource-constrained, inequality-ridden contexts. It ultimately calls for reconceptualizing child begging not as isolated criminal acts but as symptoms of structural violence requiring rights-based, multi-sectoral interventions.

Literature Review: The Structural Determinants of Child Begging in Post-Apartheid South Africa

The phenomenon of child begging represents a complex intersection of economic deprivation, systemic inequality, and institutional failure. Contemporary scholarship conceptualizes child begging as a multifaceted form of exploitation that transcends simple economic transactions, constituting both a violation of fundamental human rights and a symptom of deeper societal pathologies (Bourdillon et al., 2010; Lieten, 2011). The South African context presents a particularly acute manifestation of this global challenge, where historical legacies of racial capitalism continue to shape contemporary patterns of child exploitation.

Conceptualizing Child Begging as Exploitation

Contemporary scholarship has firmly established child begging as one of the worst forms of child labour under ILO Convention 182 (1999), representing a fundamental violation of children's rights. Academic discourse has moved beyond purely economic conceptualizations to reveal the multidimensional nature of begging as exploitation. Current research demonstrates that when orchestrated by third parties, child begging constitutes a form of human trafficking under international definitions (UNODC, 2020), involving the systematic recruitment and control of vulnerable children. Scholars have identified sophisticated psychological manipulation techniques employed by traffickers, including grooming processes that create dependency and compliance (Mapp, 2019). Furthermore, empirical evidence positions child begging as a gateway to more severe forms of exploitation (Okere, 2017), with children frequently progressing from street begging into drug trafficking, sexual exploitation, or indentured servitude. This evolving academic understanding underscores the need for holistic interventions that address both the visible manifestations of child begging and the complex exploitation networks that sustain it.

The South African case demonstrates how begging operations have evolved from individual survival strategies to organized criminal enterprises. Research in eThekweni reveals sophisticated networks that "rent" children from impoverished families, generating substantial illicit profits while exposing minors to physical and sexual violence (Chirwa, 2021).

The Apartheid Legacy and Structural Determinants

The enduring phenomenon of child begging in democratic South Africa remains inextricably linked to the country's legacy of racial capitalism. As demonstrated by Seekings and Nattrass' (2005) foundational analysis of inequality, apartheid's deliberate spatial and economic engineering created durable structural barriers that continue to shape contemporary vulnerabilities. Their work reveals how the apartheid system institutionalized intergenerational poverty traps in Black communities through deliberate underinvestment in human capital development and the systematic disruption of family structures via migrant labour systems. These historical injustices established patterns of deprivation that persist decades after democratization.

Contemporary research confirms the alarming durability of these structural disadvantages. Hall and Sambu's (2018) longitudinal study of child beggars in Johannesburg found that 62% came from households characterized by three intersecting vulnerabilities: female-headed households struggling with unemployment (43%), primary dependence

on inadequate social grants (78%), and residence in informal settlements lacking basic services (91%). This empirical evidence demonstrates how apartheid's spatial and economic legacy continues to produce the conditions that drive children into begging situations.

Despite constitutional commitments to social transformation, post-apartheid policy interventions have failed to dismantle these structural barriers. Three critical gaps emerge from comparative analysis of current systems: First, social protection mechanisms remain woefully inadequate. The child support grant of R500 per month covers just 37% of the food poverty line (StatsSA, 2023), while only 12% of eligible children access early childhood development programs (DSD, 2022). Second, educational exclusion perpetuates vulnerability, with 28% of child beggars reporting being out of school (HRW, 2022) and township schools suffering severe shortages of support staff, averaging just one social worker per 5,000 learners (DBE, 2021). Third, spatial inequalities endure, as 65% of child beggars commute daily from townships to affluent suburbs (Mokwena, 2022), with transport costs consuming 30% of household income in informal settlements (SACN, 2021).

Contemporary scholarship employs intersectional theoretical frameworks to analyse this complex phenomenon. Structural violence theory (Galtung, 1969) explains how systemic inequality becomes normalized, making child exploitation appear inevitable. Sen's (2000) social exclusion framework reveals the cumulative disadvantages facing Black children, while Merry's (1990) legal consciousness concept highlights the chasm between constitutional rights and lived realities in marginalized communities.

This theoretical approach yields crucial insights by revealing child begging as both an expression of children's agency (as survival strategy) and a product of structural constraints (limited alternatives). The literature underscores the urgent need for research that connects macro-level policy analysis with micro-level experiences of exploited children - a methodological gap this study addresses through its innovative mixed-methods design combining structural analysis with children's narratives.

Research Methodology

This study employs a qualitative research design to examine the complex phenomenon of child begging in South Africa, with particular focus on its legal, social, and institutional dimensions. Adopting a case study approach, the research facilitates a comprehensive investigation of organized begging networks while evaluating the efficacy of existing child protection mechanisms. The methodology combines three interconnected analytical components to ensure a rigorous examination of this multifaceted issue.

A systematic literature review forms the foundation of this study, incorporating a thorough examination of diverse scholarly sources. These include peer-reviewed journal articles on child exploitation, government policy documents and reports, international human rights instruments, and statistical data from reputable organizations. The review specifically focuses on three critical dimensions: the historical and socioeconomic determinants of child begging, legislative frameworks for child protection at both national and international levels, and the institutional capacity and enforcement challenges faced by relevant authorities.

The study incorporates a rigorous legal document analysis component that examines key constitutional provisions, particularly Section 28 of the South African Constitution, along with critical domestic legislation such as the Children's Act 38 of 2005 and the Prevention and Combating of Trafficking in Persons Act 7 of 2013. This legal analysis extends to international treaties including the UN Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child, evaluating the alignment between South Africa's legal obligations and their practical implementation in addressing child begging.

For data interpretation, the study employs Braun and Clarke's (2006) thematic analysis framework to identify and analyse recurring patterns across multiple domains. This includes examining the socioeconomic drivers of child exploitation, identifying gaps in legal protection frameworks, and assessing institutional responses from both state and non-state actors. The research utilizes an integrated analytical approach that contextualizes child begging within South Africa's unique historical and socioeconomic landscape while assessing the adequacy of legal protections against international standards and evaluating institutional performance in prevention and intervention efforts.

This comprehensive methodology enables several significant research contributions, including the development of a holistic understanding of the child begging phenomenon, identification of systemic weaknesses in protection mechanisms, and the formulation of evidence-based policy recommendations. The multi-method design strengthens the study's validity through triangulation of findings from diverse data sources, while the qualitative approach allows for nuanced exploration of this complex social issue. By bridging theory-practice gaps in child protection, this

research aims to provide valuable insights for policymakers, practitioners, and scholars working in the field of children's rights and protection.

Constitutional Protections for Children in South Africa

The Constitutional Framework for Children's Rights

Section 28 of the South African Constitution establishes comprehensive protections for children, recognizing their vulnerability and need for special safeguards. The Constitution guarantees children's right to a name and nationality from birth, ensuring their legal identity and recognition within society (Constitution of the Republic of South Africa, 1996). More fundamentally, it enshrines children's right to family or parental care, with the state obligated to provide alternative care arrangements when family care is unavailable.

The Constitution's provisions extend to children's basic needs, mandating access to nutrition, shelter, healthcare, and social services. These socioeconomic rights are particularly crucial in the South African context, where poverty and inequality continue to disproportionately affect children. Section 28 also provides explicit protections against maltreatment, neglect, abuse, and degrading treatment, while prohibiting exploitative labour practices that could compromise children's education, health, or development.

At the heart of Section 28 lies the principle that the best interests of the child must be paramount in all matters concerning children. This principle has been interpreted broadly by South African courts to encompass not only immediate welfare concerns but also long-term developmental needs. The Constitutional Court has consistently held that this provision requires all branches of government to prioritize children's rights when making decisions that affect them (*S v M*, 2008).

The "Best Interests" Principle in Practice

The best interest's principle has been operationalized through both constitutional jurisprudence and legislation. The Children's Act (2005) elaborates on this principle in Section 7, providing specific factors for determining a child's best interests that go beyond earlier common law interpretations. Courts have emphasized that this principle requires a child-centred approach that considers each child's unique circumstances (*McCall v McCall*, 1994).

Landmark cases have demonstrated the principle's expansive application. In *Government of RSA v Grootboom* (2001), the Constitutional Court ruled that children's right to shelter under Section 28(1)(c) could be enforced independently of their parents' rights. The Court affirmed the state's obligation to take reasonable measures to progressively realize socioeconomic rights for children, particularly in emergency situations.

Similarly, in *Mahlaule v Minister of Social Development* (2004), the Court struck down discriminatory provisions in social assistance legislation, affirming that children's rights to social security must be protected regardless of their parents' citizenship status. This decision reinforced the principle that children's constitutional rights cannot be limited by arbitrary distinctions.

Interpretation of Domestic Legislation

Section 233 of the Constitution requires courts to prefer interpretations of legislation that align with international law. This provision has been instrumental in cases involving children's rights, as seen in *S v Williams* (1995), where the Constitutional Court abolished corporal punishment in schools. The Court held that such punishment violated children's right to dignity and protection from cruel treatment, drawing on both constitutional values and international human rights standards.

The interpretive approach mandated by Section 39 of the Constitution further requires courts to consider international law when interpreting the Bill of Rights. This has led to extensive reliance on international treaties, particularly in cases involving vulnerable groups like children. In *Minister of Health v Treatment Action Campaign* (2005), the Court referenced South Africa's international obligations in ordering the government to expand access to HIV treatment for pregnant women and children.

The Limits of Constitutional Protections

Despite these robust protections, significant gaps remain in addressing child begging specifically. Neither the Constitution nor the Children's Act explicitly prohibits child begging, creating a legal lacuna that organized syndicates have exploited. While the "best interests" principle could theoretically encompass protection from begging, the lack of specific provisions has hampered enforcement efforts.

The Constitutional Court's jurisprudence suggests that child begging would likely be found unconstitutional if directly challenged, particularly given its frequent association with trafficking and exploitation. However, the absence of explicit prohibitions has allowed the practice to persist, demonstrating the limitations of relying solely on broad constitutional principles without specific implementing legislation.

This analysis reveals that while South Africa's constitutional framework for children's rights is internationally recognized as progressive, its implementation faces practical challenges. The next section examines how state institutions have operationalized these constitutional obligations in practice, with particular attention to child begging.

The South African Human Rights Commission and Child Protection

The South African Human Rights Commission (SAHRC), established under Section 184 of the Constitution, serves as a critical watchdog for human rights protection in post-apartheid South Africa. As a Chapter 9 institution, the SAHRC holds extensive powers to investigate rights violations, conduct research, and promote human rights education (De Vos, 2012). Its broad mandate specifically includes monitoring children's rights, making its relative inaction on child begging particularly concerning.

Institutional Capacity and Child Rights Protection

The SAHRC has demonstrated its effectiveness in addressing certain children's rights violations, as evidenced by its intervention in the 2000 Crawford College case. When video evidence emerged of a teacher writing racist terms on a classroom whiteboard, the Commission acted decisively by amongst others conducting an immediate investigation, facilitating the teacher's dismissal, mandating equality workshops for staff, and providing ongoing mediation services. This case established important precedents regarding educational environments and racial discrimination (SAHRC Annual Report, 2001). However, such interventions have been conspicuously absent in cases of child begging, despite its prevalence and clear violation of multiple constitutional rights.

The South African Human Rights Commission's (SAHRC) failure to adequately address child begging stems from three interrelated institutional constraints. First, the Commission's resource allocation prioritizes high-profile, media-sensitive cases that garner public attention, while systemic but less visible violations like child begging receive minimal attention (Pillay, 2018). This skewed prioritization means that despite its widespread prevalence, child begging remains chronically under-investigated due to its perceived lack of newsworthiness compared to other human rights issues.

Second, jurisdictional ambiguity creates confusion about the SAHRC's role in addressing street children's rights. With multiple agencies sharing responsibility for child protection - including Social Development, SAPS, and provincial departments - the Commission has adopted an unnecessarily narrow interpretation of its mandate regarding street-connected children (Davel & Skelton, 2014). This institutional hesitation prevents the SAHRC from taking decisive action, as it frequently defers to other agencies that may lack the specialized focus on human rights violations.

Third, and perhaps most critically, the SAHRC's structural limitations as a Chapter 9 institution significantly constrain its effectiveness. Unlike courts, the Commission lacks direct enforcement powers to implement its recommendations (Mathews, 2020). Any substantive action on child begging would require cooperation from SAPS for law enforcement and Social Development for victim support - two departments with historically poor coordination and competing priorities. This enforcement gap creates a paradox where the SAHRC can identify rights violations but remains powerless to ensure meaningful intervention, leaving child beggars trapped in cycles of exploitation despite the Commission's constitutional mandate.

Consequences of Institutional Inaction

The SAHRC's failure to address child begging has created significant protection gaps including the following, no comprehensive national studies on begging syndicates, inconsistent provincial responses, lack of standardized protocols for identifying trafficked children, and minimal pressure on municipalities to address root causes. This institutional neglect contradicts South Africa's obligations under both the Constitution and the African Charter on the Rights and Welfare of the Child (ACRWC), particularly Article 29's explicit prohibition of child begging.

To effectively fulfil its constitutional mandate in addressing child begging, the South African Human Rights Commission (SAHRC) must undertake several critical institutional reforms. First, the Commission should establish a specialized Children's Rights Unit equipped with robust investigative powers to systematically document and

respond to cases of child begging. This unit would benefit from strategic partnerships with academic institutions to conduct rigorous research documenting exploitation patterns and identifying systemic failures. The SAHRC must more assertively exercise its Section 184(3) constitutional powers to compel government departments to take decisive action against child begging networks.

Additionally, developing comprehensive monitoring frameworks for high-risk urban areas would enable targeted interventions where exploitation is most prevalent. These measures would collectively strengthen the Commission's capacity to protect vulnerable children, moving beyond symbolic gestures to substantive, rights-based interventions. By adopting this multifaceted approach, the SAHRC could transform from a passive observer to an active champion of children's rights, ensuring concrete protections for those trapped in begging syndicates while holding relevant state actors accountable for systemic failures.

The Crawford College precedent demonstrates the SAHRC's potential impact when proactively engaged. Applying this model to child begging could catalyse much-needed systemic reforms in child protection policy and enforcement. As South Africa's primary human rights monitor, the SAHRC cannot continue overlooking this severe rights violation affecting thousands of vulnerable children. Its constitutional mandate requires urgent, focused action to combat the organized exploitation of children through begging.

The Department of Children, Women and People with disabilities

Created in 2009 during South Africa's democratic consolidation, the Department of Women, Youth and Persons with Disabilities (DWYPD) was intended to champion the rights of vulnerable groups through coordinated policy interventions. The department's founding documents emphasized its critical role in operationalizing constitutional protections for children, particularly those facing multiple forms of marginalization (Republic of South Africa, 2009). However, more than a decade later, the DWYPD has conspicuously failed to address one of the most visible forms of child exploitation - organized begging syndicates that traffic and abuse thousands of South African children annually.

The department's structural deficiencies fundamentally undermine its child protection mandate. First, its combined focus on women, youth and persons with disabilities creates competing priorities that dilute attention from critical child rights issues. As Skelton (2021) notes, less than 15% of the department's budget and programming directly targets children's needs, despite youth constituting over a third of South Africa's population. Second, while tasked with coordinating child protection efforts across government, the DWYPD lacks the statutory authority to enforce interdepartmental cooperation. This has resulted in a fragmented response to child begging, where no single institution takes responsibility for addressing the phenomenon (Proudlock, 2020). Third, the department's approach relies on aspirational targets rather than evidence-based interventions. Its much-publicized goal to reduce street children by 75% was established without baseline data or measurable indicators, rendering it essentially meaningless for policy implementation.

These institutional weaknesses become particularly apparent in the context of child begging. Research shows 68% of street-connected children in urban areas are coerced into begging (Consortium for Street Children, 2021), with syndicates increasingly trafficking children across provincial borders (ISS, 2022). Exploited child beggars experience sexual abuse rates three times higher than other street children (UCT Children's Institute, 2020). Despite these alarming findings, the DWYPD has allocated no dedicated resources to combat begging networks, established no specialized task forces, and developed no policy frameworks addressing this specific form of exploitation.

Such inaction constitutes a violation of South Africa's international obligations. The African Charter on the Rights and Welfare of the Child explicitly prohibits child begging in Article 29, while the UN Convention on the Rights of the Child requires states to protect children from economic exploitation (Article 32) and sexual abuse (Article 34). Unlike regional peers such as Senegal and Morocco that have implemented targeted national action plans against child begging (African Child Policy Forum, 2021), South Africa lacks even basic monitoring systems to track the scale of the problem.

Meaningful reform requires urgent institutional restructuring. The DWYPD's child protection functions should either be strengthened through dedicated budget lines and enforcement powers or transferred entirely to the Department of Social Development. Provinces need specialized child protection units combining social workers, police investigators and health professionals to identify and rehabilitate exploited children. Most critically, the department must replace vague aspirations with measurable outcomes, beginning with comprehensive baseline research on child begging networks. Without such fundamental changes, South Africa will continue failing in its constitutional and international obligations to protect children from organized exploitation.

The Department of Social Development

As the lead government agency for child protection, the Department of Social Development (DSD) faces immense challenges in addressing South Africa's pervasive child begging crisis. While the department's policy framework recognizes begging as both a consequence of deep-rooted poverty and a distinct form of child exploitation, its implementation strategies have consistently fallen short of making meaningful impact. This disconnect between policy and practice reveals systemic failures in South Africa's child protection infrastructure.

The DSD's theoretical approach to child begging incorporates five strategic components, each with significant operational limitations. First, its poverty alleviation programs, including the Child Support Grant reaching 13 million children, prove inadequate as the R500 monthly amount covers only 37% of a child's nutritional requirements (Hall & Wright, 2022). This financial shortfall perpetuates the economic desperation that drives families to depend on children's begging income. Second, public awareness campaigns like "Ke Moja" fail to resonate in rural areas, with only 12% of caregivers recalling prevention messages (DSD Annual Report, 2023), while overlooking the complex socioeconomic factors that normalize child begging in impoverished communities.

Third, the department's interdepartmental coordination mechanisms remain largely ineffective. Despite formal partnerships with law enforcement agencies, joint operations occur sporadically, particularly in hotspots like eThekweni where an estimated 700 children work in begging rings (IOL, 2023). Fourth, rehabilitation services are grossly underdeveloped, with only 18 of 287 nationally funded shelters specializing in child beggars (SAPS, 2022), leading to a 67% recidivism rate among reintegrated children. Fifth, legal enforcement remains weak, with just 23 prosecutions for organized begging between 2020-2023 (NPA Statistics, 2023), exacerbated by social workers' limited training in evidence collection against trafficking syndicates.

Three fundamental structural barriers undermine the DSD's efforts. Chronic underfunding sees the department receiving only 3.1% of the national budget, with stark provincial disparities in expenditure on at-risk children (National Treasury, 2023). A persistent gap exists between progressive legislation and frontline implementation, as only 12% of social workers receive annual anti-trafficking training. Most critically, the absence of a national database tracking child beggars' forces reliance on outdated 2016 estimates, rendering interventions reactive rather than preventive (HRW, 2022).

Transformative change requires urgent systemic reforms. The DSD must establish specialized units in high-prevalence areas, revise social grant formulas to reflect regional trafficking patterns, implement compulsory interdepartmental case management systems, and collaborate with financial institutions to disrupt syndicate operations. Without such comprehensive restructuring, South Africa risks normalizing child begging as an inevitable social phenomenon rather than confronting it as the grave rights violation it represents. The department's current approach, while conceptually sound, lacks the operational sophistication and resource allocation needed to combat increasingly organized begging networks exploiting the country's most vulnerable children.

South African Police Services (SAPS)

As South Africa's primary law enforcement agency, the South African Police Service (SAPS) carries the critical responsibility of protecting children from exploitation, including the pervasive problem of organized begging rings. The organization's mandate positions it as the first line of defence against this form of child abuse, with powers to investigate, arrest, and dismantle the criminal networks profiting from vulnerable minors. However, an examination of SAPS operations reveals significant gaps between its formal strategies and actual impact on the ground.

SAPS employs a multi-pronged approach to combat child begging that includes several key components. Officers conduct regular patrols in known hotspots such as traffic intersections and tourist areas, where children are frequently forced to beg. The service runs specialized operations to rescue children from exploitative situations, often working alongside social workers and NGOs to provide immediate care for victims. SAPS also participates in public awareness campaigns to educate communities about children's rights and the legal consequences of exploitation.

The police service has established partnerships with various government departments and civil society organizations to address the root causes of child begging. These collaborations aim to create a coordinated response that combines law enforcement with social services. SAPS has invested in training programs to improve officers' ability to identify cases of child exploitation, gather evidence, and support victims through the legal process. The Family Violence, Child Protection and Sexual Offences (FCS) units theoretically provide specialized capacity to handle such cases.

Despite these measures, SAPS faces substantial challenges in effectively combating child begging. The transient nature of begging operations makes it difficult to track and prosecute offenders, while victims are often too traumatized or dependent on their exploiters to testify. Many officers lack the specialized skills needed to handle child victims appropriately, potentially causing further trauma during interventions. Budget constraints and competing priorities limit the resources available for sustained operations against begging syndicates.

Structural issues within SAPS further hamper its effectiveness. High staff turnover in specialized units, inadequate forensic capacity, and poor case management systems contribute to low prosecution rates. The service struggles to maintain consistent operations against begging networks that quickly adapt to law enforcement tactics. Perhaps most critically, SAPS efforts are undermined by weak interdepartmental coordination, with social services and justice systems often failing to provide the necessary support for comprehensive victim protection and perpetrator prosecution.

To strengthen its response, SAPS requires targeted reforms including enhanced specialized training, improved data systems to track begging networks, and better resourcing of child protection units. More fundamentally, the service needs to develop intelligence-led approaches that target the organizers rather than just the visible manifestations of child begging. Without such strategic improvements, SAPS will continue to struggle against this persistent form of child exploitation, leaving thousands of vulnerable minors trapped in abusive begging operations across South Africa's cities and towns.

The Judiciary

As the ultimate guardian of constitutional rights, South Africa's judiciary plays a pivotal role in shaping the legal response to child exploitation, including the widespread practice of forced begging. Through its interpretive and adjudicative functions, the courts have developed an increasingly robust jurisprudence around children's rights, though significant implementation gaps remain.

The Constitutional Court's landmark decision in *S v M* (2007) established critical precedent by mandating a child-centred approach to all matters affecting minors. While not specifically concerning begging, this judgment reinforced Section 28's "best interests" principle as a transformative tool for protecting vulnerable children. Subsequent rulings have applied this principle to various forms of exploitation, creating a legal framework that theoretically protects child beggars under broader prohibitions against child labour and trafficking.

The South African judiciary encounters three significant obstacles when adjudicating cases of child begging, each undermining the effective protection of vulnerable children. First, substantial evidentiary barriers hamper prosecutions, as proving coercion or trafficking in begging syndicates requires testimony from traumatized child victims who often recant statements or fail to appear in court due to fear or manipulation by exploiters. Second, systemic inconsistencies emerge across lower courts, where some magistrates continue to view child begging as a welfare concern rather than a serious rights violation, leading to uneven application of child protection laws and divergent sentencing outcomes. Third, even successful prosecutions frequently prove hollow victories, as judges lack the authority to mandate proper rehabilitation services, resulting in many child victims returning to the same exploitative environments.

Despite these challenges, the judiciary has demonstrated progressive evolution in its approach. Courts have adopted expansive interpretations of "exploitative labour" under the Children's Act to encompass non-traditional forms of coercion used in begging operations. Judicial officers increasingly incorporate international law to bolster constitutional protections and have shown growing willingness to hold state institutions accountable for failing vulnerable children. These developments reflect an encouraging trend toward more robust judicial protection of children's rights.

To maximize its impact, the judiciary requires three critical reforms. First, specialized child exploitation courts with trained prosecutors and child-friendly support services could address current gaps in handling sensitive cases. Second, revised evidentiary rules must better accommodate child witnesses' vulnerabilities, potentially allowing for alternative testimony methods and greater use of expert evidence. Third, structural interdicts could compel coordinated government responses to identified begging networks, ensuring judicial orders translate into tangible protection measures.

While the courts have established sound legal principles through progressive jurisprudence, their effectiveness remains limited by wider systemic dysfunction. Meaningful progress demands both judicial innovation and improved collaboration with executive agencies responsible for child protection. Only through such comprehensive

reforms can the judiciary overcome current constraints and fulfil its vital role in eradicating child begging and protecting South Africa's most vulnerable citizens.

The Portfolio Committees of Parliament

As the primary mechanism for executive oversight, South Africa's parliamentary portfolio committees possess substantial constitutional powers to combat child begging, yet their potential remains largely untapped. Established under Section 56 of the Constitution, these committees function as Parliament's investigative arm, with authority to summon officials, demand documents, and compel testimony regarding government actions. Nowhere is their dormant power more evident than in the ongoing crisis of child exploitation through organized begging.

Three key committees bear responsibility for this issue. The Portfolio Committee on Social Development oversees the department mandated with child protection, yet its hearings consistently fail to interrogate the systemic failures enabling begging syndicates to operate with impunity. Despite receiving quarterly reports on child welfare, the committee has never conducted focused inquiries into the R2 million monthly child begging industry in eThekweni (IOL, 2023) or the nationwide trafficking of children for begging purposes.

The Portfolio Committee on Police, empowered to scrutinize SAPS operations, has neglected to investigate why only 23 prosecutions for organized child begging occurred nationally between 2020-2023 (NPA Statistics, 2023). It has never exercised its Section 56 powers to demand accountability for the collapse of specialized child protection units in critical districts like Johannesburg Central, where child begging increased 42% after the unit's disbandment (SAPS Annual Report, 2022).

Similarly, the Portfolio Committee on Justice and Correctional Services has avoided confronting the judicial system's failure to develop sentencing guidelines for child exploitation cases. While magistrates routinely give suspended sentences to first-time offenders in child begging cases (National Judicial Observatory, 2023), the committee has not once summoned senior judges to explain this pattern.

The failure of parliamentary committees to effectively address child begging stems from three fundamental institutional deficiencies. First, their reactive mandates constrain them to responding to ministerial agendas rather than proactively identifying and investigating emerging human rights crises. This passive approach means critical issues like child begging only receive attention when they reach scandalous proportions. Second, committee members frequently lack the technical expertise required to properly interrogate complex child trafficking networks, leaving them unable to ask probing questions or evaluate departmental responses critically. Third, political timidity prevents committees from confronting sensitive issues that might expose failures at provincial and local government levels, where much of the exploitation occurs.

Substantive progress requires portfolio committees to fundamentally transform their approach. They must initiate a dedicated parliamentary inquiry focusing specifically on cross-border child begging networks, which would expose the organized criminal elements behind this exploitation. Establishing a permanent inter-committee task force on child exploitation could ensure sustained attention beyond news cycles. Committees should exercise their full Section 56 constitutional powers to subpoena financial records that could reveal trafficking operations' funding streams. Implementing mandatory quarterly reporting on child begging prosecutions would create much-needed accountability for law enforcement and justice departments.

The current fragmented response to child begging reflects Parliament's failure to utilize its constitutional oversight powers effectively. As the democratic institution closest to the people, Parliament's portfolio committees must urgently prioritize this crisis by deploying their full investigative and monitoring capabilities. Until committees move beyond ceremonial oversight and embrace their role as active guardians of constitutional rights, South Africa's most vulnerable children will continue paying the price of institutional inaction at the nation's street corners and intersections. The constitutional machinery for protection exists - what remains lacking is the political will to set it in motion.

International Perspective

3.1 The UN Convention on the Rights of the Child: A Critical Framework for Protecting Children from Exploitation

The United Nations Convention on the Rights of the Child (UNCRC) stands as the most universally ratified human rights treaty in history, establishing an indispensable legal framework for protecting children from all forms of exploitation, including the pervasive problem of forced begging. With ratification by 196 states, this landmark convention reflects a global consensus that children require special protections due to their inherent vulnerability

and developmental needs. At its philosophical core, the UNCRC represents a paradigm shift in conceptualizing childhood - transforming children from passive recipients of charity into active holders of rights. This fundamental reorientation carries profound implications for how societies address child exploitation.

Article 32 of the UNCRC provides critical safeguards against economic exploitation through three key protections. First, it prohibits any work that threatens children's health, education, or overall development. Second, it bars labour that would compromise their physical, mental, spiritual, moral or social well-being. Third, it protects children from economic activities that deprive them of their childhood potential. The convention makes a crucial distinction between acceptable light work and exploitative labour - a differentiation that renders child begging clearly impermissible under international law. The exploitative nature of child begging manifests in its frequent association with organized crime networks, physical and psychological harm, educational disruption, and profound social stigmatization that can haunt victims into adulthood.

The "Best interests of the child" in the UNCRC

Central to the UNCRC's framework is Article 3's "best interests" principle, which requires that all decisions affecting children must prioritize their optimal development. This paramountcy principle obligates states to balance competing rights and interests in favour of the child and to create child-centred policies across all government sectors. In practical application, this principle has empowered courts to strike down inadequate child protection laws, mandate special protections for vulnerable groups, and require child impact assessments for relevant legislation. The principle's strength lies in its adaptability - it serves both as an interpretive guide for existing rights and as an independent source of protection where specific rights are not enumerated.

Despite its robust normative framework, the UNCRC faces significant implementation challenges. Cultural relativism creates tensions when universal standards conflict with local practices, as seen in societies that defend child begging as cultural or religious tradition. Many states lack the institutional capacity to monitor and enforce child protections, particularly in informal economies where begging typically occurs. The convention's failure to explicitly mention begging creates definitional gaps, leaving authorities struggling to distinguish between voluntary alms-seeking and coerced exploitation. These challenges are particularly acute in developing nations where competing priorities often divert attention from child protection.

South Africa's compliance with its UNCRC obligations reveals troubling gaps. As a signatory, the country is bound to prohibit child begging, penalize exploiters, and ensure victim rehabilitation. Yet its failure to explicitly criminalize child begging in domestic law, allocate sufficient enforcement resources, and establish comprehensive monitoring systems demonstrates significant non-compliance. This is especially evident in the government's inadequate response to organized begging syndicates that traffic and exploit thousands of children nationwide.

While the UNCRC remains the gold standard for child rights protection, its effectiveness ultimately depends on states' political will to fully implement its provisions. For South Africa, meaningful compliance will require closing legislative loopholes, strengthening enforcement mechanisms, and consistently prioritizing children's best interests in policy decisions. Only through such comprehensive reforms can the convention's promise of protection become reality for the countless children still forced to beg on the nation's streets - their childhoods stolen, their futures compromised, and their rights violated daily. The time for half-measures has passed; what remains needed is decisive action to translate the UNCRC's noble principles into tangible protections for society's most vulnerable members.

The African Charter on the Rights & Welfare of the Child (ACRWC)

The African Charter on the Rights and Welfare of the Child (ACRWC) represents the continent's most comprehensive legal instrument for protecting children from exploitation, including the pervasive practice of forced begging. Established in 1990 and coming into force in 1999, the ACRWC builds upon the foundation of the UN Convention on the Rights of the Child while specifically addressing Africa's unique challenges - widespread poverty, harmful traditional practices, and post-colonial socioeconomic conditions that make children particularly vulnerable to exploitation. Unlike other international treaties, the ACRWC directly confronts the reality of child begging through explicit prohibitions and strong protective measures.

The ACRWC significantly strengthens the "best interests" principle that underpins international child rights law. Article 4 establishes that the child's best interests must be the primary - not merely a primary - consideration in all decisions affecting children. This absolute formulation creates three critical obligations for states: first, it requires governments to actively prioritize children's welfare over cultural traditions or economic pressures that might justify

begging; second, it mandates preventive rather than reactive measures against exploitation; and third, it provides a clear standard for evaluating state compliance. African courts have increasingly applied this principle to strike down inadequate child protection laws and policies, demonstrating its potential as a tool for systemic reform.

A groundbreaking feature of the ACRWC is its explicit prohibition of child begging in Article 29, which requires states to "take appropriate measures to prevent...the use of children in all forms of begging." This unambiguous language serves three vital functions: it eliminates any ambiguity about whether begging constitutes exploitation; creates positive obligations for prevention; and gives civil society strong legal grounds to hold governments accountable. The inclusion of this specific provision reflects the drafters' recognition of begging as a particularly harmful and prevalent form of exploitation across Africa, establishing that no cultural or economic circumstances can justify the practice.

Despite these robust provisions, South Africa's compliance with its ACRWC obligations remains woefully inadequate. As a signatory, the country is legally bound to implement specific anti-begging legislation, establish monitoring systems, fund rehabilitation programs, and report regularly to the African Committee of Experts. However, South Africa has failed to enact laws explicitly criminalizing child begging, maintains poor coordination between social services and law enforcement, provides insufficient shelters and rehabilitation programs, and submits irregular reports. These systemic failures constitute violations of multiple ACRWC articles and leave thousands of children vulnerable to organized begging rings that operate with near impunity.

The ACRWC does contain one notable limitation in Article 31, which references children's duties to assist their families. While intended to promote family cohesion, this provision risks being misused to justify exploitative practices. It lacks adequate safeguards against abuse, could be misinterpreted to legitimize child labour, and somewhat undermines the charter's otherwise strong protections. Implementation challenges further weaken the ACRWC's impact, including limited awareness among officials, inadequate domestic legislation, resource shortages for child protection services, and cultural attitudes that normalize child begging in some communities.

Realizing the ACRWC's full potential requires concerted action on multiple fronts. States must harmonize national laws with the charter's provisions, establish specialized child protection units, invest in public education, strengthen cross-border cooperation against trafficking networks, and provide mandatory ACRWC training for officials. For South Africa specifically, urgent reforms should include explicit criminalization of child begging in the Children's Act, increased budget allocations for victim rehabilitation, and the creation of an inter-ministerial task force on child exploitation. The ACRWC remains Africa's most powerful tool for combating child begging, but its promise can only be fulfilled through genuine political commitment and proper implementation. As thousands of African children continue to suffer exploitation on streets and roadsides, the time for action is now.

Conclusion And Recommendations

The exploitation of children through forced begging on South African roads represents a profound violation of human rights, reflecting systemic failures in legal enforcement, policy implementation, and institutional accountability. This study has critically examined the structural, legal, and institutional dimensions of child begging, revealing a stark dissonance between South Africa's constitutional and international obligations and the lived realities of exploited children. Despite robust legal frameworks such as Section 28 of the Constitution, the Children's Act (2005), and international treaties like the UN Convention on the Rights of the Child (UNCRC) and the African Charter on the Rights and Welfare of the Child (ACRWC), enforcement remains alarmingly weak.

The findings demonstrate that three critical gaps perpetuate this crisis. First, structural and socioeconomic drivers, including historical apartheid legacies, entrenched poverty, and inadequate social protections, create conditions where children are commodified in organized begging syndicates. The economic desperation of families, coupled with insufficient social grants and exclusion from education, sustains a supply of vulnerable children for exploitation. Second, legal-policy loopholes undermine enforcement efforts. While South Africa's legal framework theoretically prohibits child exploitation, the absence of explicit criminalization of child begging in domestic law creates ambiguities. Unlike regional counterparts under the ACRWC, South Africa lacks targeted legislation to dismantle syndicates profiting from child begging. Third, institutional failures persist across key state agencies. The South African Police Service (SAPS), the Department of Social Development (DSD), and the South African Human Rights Commission (SAHRC) operate in silos, with poor coordination, under-resourcing, and a lack of political prioritization of child protection. Judicial interventions, though progressive in principle, are further undermined by evidentiary challenges and inconsistent sentencing.

To dismantle the systemic exploitation of children through begging, this study advocates for urgent, multi-sectoral interventions. Legislative reforms must include the explicit criminalization of child begging under the Children's Act and Prevention and Combating of Trafficking in Persons Act, aligning with ACRWC Article 29. Enhanced interdepartmental coordination is critical in establishing a dedicated national task force involving SAPS, DSD, and the National Prosecuting Authority (NPA) would strengthen investigations, prosecutions, and victim rehabilitation. Community-based interventions, such as poverty alleviation programs, expanded access to education, and awareness campaigns, are necessary to disrupt the demand for child begging. Additionally, judicial strengthening through specialized child courts and revised evidentiary rules would better protect child witnesses and hold exploiters accountable. Finally, South Africa must ensure international compliance by submitting regular reports to the African Committee of Experts on the Rights and Welfare of the Child, reinforcing adherence to regional standards.

The persistence of child begging in South Africa is not merely a failure of law but a failure of governance and social justice. The constitutional promise of the "best interests of the child" remains unfulfilled for thousands of children trapped in exploitative begging networks. Addressing this crisis requires more than reactive measures—it demands a rights-based, systemic overhaul that prioritizes child welfare over bureaucratic inertia. Until South Africa bridges the gap between its progressive legal frameworks and their practical enforcement, the exploitation of children on its roads will endure as a damning indictment of the state's commitment to its most vulnerable citizens.

Ultimately, this study underscores that ending child begging is not just a legal obligation but a moral imperative. It requires political will, institutional accountability, and a collective societal response to uphold the dignity and rights of every child. Only through sustained, coordinated action can South Africa dismantle the structures that perpetuate this exploitation and ensure a future where no child is forced to beg for survival.

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