

UNIVERSITY OF NAIROBI

SCHOOL OF LAW

**THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE MASTERS
OF LAW (LL. M) DEGREE.**

**AN ANALYSIS OF CHALLENGES TO THE ENFORCEMENT OF CHILD
LABOUR LAWS IN KENYA.**

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NOVEMBER 2015

Declaration

I, **CHARLES BARAZA NYUKURI**, do hereby declare that the work presented is my original work and has not been submitted for a degree in any other university. It is hereby presented in partial fulfillment of the requirements for the award of the LLM Degree in Public International Trade and Investment Law.

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Signature

Date

Dedication

This research paper is dedicated to my wife, daughter, son and parents who have been a constant source of inspiration.

Acknowledgement

Utmost gratitude goes to God.

I am particularly grateful to my supervisor **DR. SCHOLASTICA OMONDI** for her valuable guidance, advice, encouragement and for her incisive insights and critical comments on my drafts. The comments and the able guidance and counsel really helped to shape this work in the right direction till its conclusion.

I am and will ever be grateful and indebted to my family especially my wife and beautiful daughters and son – Mrs Patricia Museng'ya Makau Maithya and daughters Eileen Melal Nyukuri and Caitlyn Emerta Nyukuri, Liam Teru Nyukuri and my parents – Jotham Khisa Nyukuri and Neema Giedon Nyukuri for the relentless moral and emotional support and good wishes that has seen me to this level.

A special acknowledgement to all my friends, workmates and all the others that I have not mentioned for their positive criticism of my work and making me explain thoroughly whenever something seemed not clear. I highly appreciate you and may the Lord bless you abundantly.

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LIST OF STATUTES

The Constitution of Kenya 2010.

The Employment Act of Kenya 2007.

The Children's Act of Kenya 2001.

Counter Trafficking in Persons Act 2010.

Sexual Offences Act of Kenya 2006.

Counter Trafficking in Persons Act (2010).

The Employment of Women, Young Persons Act (Cap.227).

The Regulation of Wages and Conditions of Employment Act (Cap.229).

The Industrial Training Act (Cap.237).

The Trade Disputes Act (Cap. 234).

Work Injury Benefits Act- Act No. 13 of 2007.

The Workmen's Compensation Act (Cap. 236).

The Education Act (Cap.211).

LIST OF INTERNATIONAL INSTRUMENTS

Convention Concerning Minimum Age for Admission to Employment, Adoption: Geneva, 58th ILC session (26 June 1973) Entry into force 19th June 1976.

The International Covenant on Civil and Political Rights, Adopted on 10TH December, 1966

The International Covenant on Economic, Social Cultural Rights Adopted on 16th December 1966.

International Labour Organisation, 'ILO Conventions and Recommendations on Child Labour' (*International Labour Organisation*, 2015).

ILO's 1973 Minimum Age Convention No 138.

Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, Adoption: Geneva 87th ILC Session (17 June 1999), Entry into force 19th November 2000.

UN General Assembly 14 December 1990, Resolution 45/112. Also known as the 'Riyadh Guidelines'.

African Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49 (1990), entered into force Nov. 29, 1999.

The United Nations Convention on the Rights of the Child (UNCRC) in 1989.

Convention No. 81 on labour inspection in industries.

Convention No. 129 on labour inspection in agriculture.

LIST OF ABBREVIATIONS

ACRWC: African Charter on the Rights and Welfare of the Child.

AU: African Union.

CBOs: Community-Based Organizations.

CDF: Community Development Fund.

FKE: Federation of Kenya Employers.

ILO: International Labour Organisation.

IPECL: International Programme on the Elimination of Child Labour.

LATF: Local Authority Transfer Fund.

MDGs: Millennium Development Goals.

NCLR: National Council for Law Reporting Council.

NGOs: Non-Governmental Organizations.

NPCL: National Policy on Child Labour.

OAU: Organization of African Unity.

OSH: Occupational Safety and Health.

SFRTF: The Street Family Rehabilitation Trust Fund.

UN: United Nations.

UNCRC: United Nations Convention on the Rights of the Child.

WFCL: Worst Forms of Child Labour.

ABSTRACT

Whereas a wealth of knowledge regarding child labour exists, minute information is existent regarding the adequacy and competence the legal framework governing child labour in Kenya upholds. Consequently, findings of the study may contribute to bridging the knowledge and information gap that exists in this regard. Additionally, the study hopes to generate additional knowledge to contribute to already existing information on child labour.

The outcomes of the research may be useful in the implementation of laws and policies to guarantee effective measures are instigated to fight child labour in Kenya. The study findings may provide useful background information that may be essential in the process of conceptualizing and enacting laws and policies to govern child labour in Kenya. Additionally, the findings of the study may stimulate the enactment of a statute to specifically address child labour in Kenya.

CHAPTER ONE: INTRODCUTION

1.1 Introduction

Child labour has been defined as the engagement of a child in paid or voluntary work, or activities that are cognitively, socially, psysiological, immoral, and detrimental to the perceived normal growth of kids.¹ It involves chores that deprive them of prospects for schooling, participation in vocational and other training programmes or that which requires them to assume the multiple burdens of schooling and work.² The degree of child labour may be salient and sometimes extreme to the extent of posing psychological and physical harm to the children. Psychological retribution in the form of leaving one's family to foreign lands is a big challenge to child labour in Kenya. However, researches on child labour in Kenya classifies the hazard depending on the form of work, age of the child, and time sent on the chores; the similarities are shared by different countries fighting child labour. In essence, there exists no prequalified definition of child labour in the world.

Actually, not every labour executed by kids is categorized as child labour that is to be beset for eradication. The execution of work that is not harmful to their normal growth and development and appears to affect their education is normally adjudged to be entirely positive.³ In fact, activities involving helping out their parents and siblings in house chores, participating in the family activities and businesses to earn some pocket money during the weekends or holidays is not child labour. Such undertakings

¹ International Labour Organisation, 'What Is Child Labour?' (*International Labour Organisation*, 2015) <<http://www.ilo.org/ipecc/facts/lang--en/index.htm>> accessed 10 April 2015.

² Ibid.

³ D Nanjunda, *Child Labour and Human Rights: A Prospective* (Gyan Publishing House 2008)5.

positively add value to children's growth and in improving the well-being of their family members.

The International Labour Organisation (ILO) pioneered the initiative to establish a child labour framework that adopts different legislations around the world to mitigate child labour the 20th century resurgence on child labour has set minimum age for employment as the first measure to curb the vice⁴. Subsequently, child labour received a fair share of attention at international, regional and national levels. In 1973, the ILO adopted the Minimum Age Convention⁵ which requires member countries to prioritize and pursue active policies and legislative agenda to prohibit and restrict employment and child labour. In 1999, the ILO adopted the Worst Forms of Child Labour Convention.⁶ The convention seeks to strengthen the existing conventions on child labour and focus international attention regarding the urgency to act upon and eliminate any form of child labour in the long run. These truces were designed to be sector specific to accommodate the difference in school leaving age as the reference point of distinguishing child labour from any other form of labour in line with a majority of western states.⁷

Cullen alludes the existence of specific standards in various jurisdictions succeeded by the ILO Convention 138 of 1973 which demystifies three key categories of work.⁸

⁴ International Labour Organisation, 'ILO Conventions and Recommendations on Child Labour' (*International Labour Organisation*, 2015)
<<http://www.ilo.org/ipecc/facts/ILOconventionsonchildlabour/lang--en/index.htm>> accessed 10 April 2015.

⁵ Convention Concerning Minimum Age for Admission to Employment, Adoption: Geneva, 58th ILC session (26 June 1973) Entry into force 19th June 1976.

⁶ Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, Adoption: Geneva 87th ILC Session (17 June 1999), Entry into force 19th November 2000.

⁷ Holly Cullen, 'Child Labour Standards: From Treaties to Labels' in Burns Weston (ed), *Child Labour and Human Rights: Making Children Matter* (Lynne Rienner Publishers 2005)87-115.

⁸ Holly Cullen, *The Role of International Law in the Elimination of Child Labour* (Martinus Nijhoff 2007)34.

The reference point is fifteen years as the prescribed school leaving age.⁹ The second category describes light chores whereby kids above 13 years of age (12 in developing countries) combine restricted hours with schooling hours.¹⁰ The third rationale is hazardous labour whereby the minimum age is set out at 18 but 16 is at times allowable provided that adequate protective procedures are existent.¹¹

Over time, child labour issues commenced by involving children's rights issues particularly after the Convention on the Rights of the Child (CRC) was officially commissioned in 1989. Regarding the CRC, the nature of the exertion is what determines whether a specific activity be defined as 'labour' or not.¹² Children require physical safeguarding from any risky labour that might be detrimental to their health, may contribute to possible compromise of their mental, moral, spiritual, physical, or psycho-developmental and social issues that affect their education.

There are a number of deficiencies of the definitions of child labour in the above treaties. Firstly, the fact that 'economic activity by children' excludes domestic chores is likely to lead to a gender based examination of the occurrence and intensity of adolescent waged hours. Second, it is not necessarily the nature or the kind of drudgery that makes an activity dangerous but also its greatness. The intensity of the work (i.e. the total number of hours a child works in the native chores), should be correspondingly significant as the structure of the work. In light of the above sentiments, UNICEF delineates child labour as labour that surpasses the minimum

⁹ Report of the Director General of the International Labour Organization, 'The End of Child Labour: Within Reach-Global Report Under the Follow Up to the ILO Declaration on Fundamental Principles and Rights at Work' (2006) Available at <<http://www.ilo.org/public/english/standards/relm/ilc/ilc95/pdf/rep-i-b.pdf>> accessed April 14 2015.

¹⁰ Ibid.

¹¹ Ibid.

¹² 'Convention on the Rights of the Child' (*United Nations Human Rights Office of the Commissioner for Human Rights*) <www.ohchr.org/en/professionalinterest/pages/crc.aspx> accessed April 14 2015.

sum of hours, depending on the age of a child and the type of work.¹³ Hence, it is only if the work poses a danger to the child's physical, cognitive, social and psychological development that it should be considered as detrimental and case in point; child labour. The UNICEF definition fails to address the specific number of hours a child should work and what constitutes physical, cognitive, social and psychological. For instance, in Kenya some industries have certain chemicals that may be harmful to a child's health and wellbeing. The implication of this is that working in such an environment for an even an hour may be dangerous for the child's health.

In 2000, world leaders made a commitment to achieve Millennium Development Goals (MDGs) as a way of freeing people from extreme poverty and multiple deprivations. The UN Millennium Development Goals (MDGs), conceptualized by the UN Secretary General in 2001, emphasize on structured mechanisms for implementing the Millennium Declaration. In essence, the MDGs comprises of eight goals supplemented by eighteen numerical and time-bound targets and forty eight indicators intended to improve living conditions and remedy key global inequities by 2015. Goal 1 to 3 call for eradicating poverty in every form, attaining collective primary school education, promoting gender equality and empowering women to strive in achieving gender parity in education while Goal 6 calls for mitigating the extreme consequences of HIV/AIDS. The commitment by world leaders to achieving these goals, particularly goal 1 to 3, is critical in combating child labour.

Poverty is acclaimed to be the trigger of socially accepting child labour in the society. Nonetheless, child labour is the principal basis of poverty, as it attracts children to the prospects of engaging in work for money; thereby denying children the prospects of

¹³ UNICEF, 'UNICEF Factsheet: Child Labour' (*UNICEF*, 2015)
<http://www.unicef.org/protection/files/child_labour.pdf> accessed 20 April 2015.

acquiring education and crucial skills required to obtain decent work and incomes as adults.¹⁴ The eradication of child labour is an indispensable prerequisite to annihilation of extreme poverty and hunger (MDG 1). Child labour and the MDGs are intimately associated. The associations are forthright and have a tendency to run both ways. The combination of poverty and illiteracy constitute the principal common grounds. Forms of poverty associated to social injustices and social exclusion that is most closely related to child labour. Moreover, some countries or regions are considered poor, there are examples of governments that have made the political decision to invest above all in the key public services of health and ensuring education for all. Lack of provision of education and child labour are closely related. The salient reason for criticizing the scourge of child labour is that it comes at the cost of human development. Achieving universal primary education (MDG 2) is contingent to freedom from labour to allow children to attend school and perform well.

The underlying assumption is that the assertion in some international agreements, including the ILO's 1973 Minimum Age Convention No 138, that reiterates the need for compulsory schooling up until children reach the prescribed working age. Indeed, the aim for attaining universal primary learning also contributes to giant steps towards the eradication of child labour as it emphasizes the importance of schools to the children. There is also a gender equality dimension (MDG 3) to child labour, in reference to the biased activities that inexplicably deprive numerous girls of proper education and to complement their burdens through extreme household chores. The schooling of girls, prospect mothers, play a vital role in reducing child mortality (MDG 4) and refining maternal health statistics especially in developing countries (MDG 5), just as it does in preferring education of kids over work in the

¹⁴ Cullen, *The Role of International Law in the Elimination of Child Labour* (n 9).

next generation. Battling HIV/AIDS (MDG 6), too, has a bearing on child labour since AIDS orphans are amongst children at risk and since this disempowerment of women and girls escalates the danger that they may become infected.

The absenteeism of child labour from the MDG agenda is a lamentable omission that needs to be amended with a nous of urgency if the intention is to accomplish the MDGs. It is significant to distinguish that the strategies, guidelines and programmes that are being put in place in the milieu of the MDGs and the PRSPs are so intended as to have most influence, directly or indirectly, in decreasing the demand for and the supply of child labour and escalating educational prospects for all children. As roadmaps to MDGs, the PRSPs encompass, vital features of any effort to diminish child labour. The emphasis on poverty eradication itself is of course primary among them, as is the restructuring of the curriculum system to increase amenities and progressive quality. The hassle in agriculture and rural expansion in many PRSPs is reassuring at least for most engaged in child labour in the rural areas. The same goes for the precedence conferred to the health sector, given the prevalent vulnerabilities to health hazards that the child workhands face, and the augmented chances of social marginalization faced by unhealthy children in underprivileged communities. The World Commission on the Social Dimensions of Globalization articulated the importance of coherence within the UN family and the world-wide economic organizations in support of the essential ideologies on the right to work stipulated by the ILO autonomy of association, the privilege of collective bargaining, liberty from forced labour, discernment and child labour. The coherence is pivotal as it is required also in the execution of the MDGs and if they are to contribute constantly and efficiently to the abolition of child labour.

Of importance is the inclusion of all the stake holders in the participatory dialogue process in the context of the PRSP goals and guidelines are defined. This development offers an amazing prospect for child labour stakeholders to influence proceedings, policy makers and organizations, as has been the occurrence in certain countries, for example Kenya, United Republic of Tanzania, Nepal. In retrospect, the perceived stratagems and guidelines need to be exposed to arduous scrutiny from the viewpoint of their influence on child labour.

At the regional level, the Organization of African Unity (OAU) that was recently rebranded to the African Union (AU) adopted the African Charter on the Rights and Welfare of the Child.¹⁵ The Charter sets out the rights and defines the universal principles and norms for the status of children. The Charter seeks to promote and protect the fundamental privileges and welfare of the child. Article 15 of the Charter enumerates that children shall be protected from all forms of trade and industry exploitation and from execution of any labour that may be deemed hazardous or likely to impede with the child's physical, mental, spiritual, moral, or social development. State parties to the present Charter are required to implement appropriate statutory and executive procedures to safeguard the full enactment of this Article. Article 15 emphasizes on the relevance of the formal and informal sectors of service and having repute of the pertinent requirements of the International Labour Organization's mechanisms related to children, as long as state parties shall in particular: (a) make available through legislature: wage ceilings for admittance to every form of employment; (b) arrange for proper directives of hours and circumstances of service; (c) be responsible for executing appropriate penalties and other sanctions to guarantee

¹⁵ African Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49 (1990), entered into force Nov. 29, 1999, Available at < [http://www.au.int/en/sites/default/files/Charter En African Charter on the Rights and Wlefare o f the Child AddisAbaba July1990.pdf](http://www.au.int/en/sites/default/files/Charter%20on%20the%20Rights%20and%20Welfare%20of%20the%20Child%20AddisAbaba%20July1990.pdf)> Accessed April 20 2015.

the effective and operational implementation of this Article; (d) promote the dissemination of statistics, facts, and data on the dangers of child labour to all sectors of the community.

At the national level, the Government in collaboration with other partners has undertaken a number of interventions towards addressing child labour. This includes endorsements of ILO Conventions 138 on Minimum Age of Employment and 182 on Worst Forms of Child Labour. Others are implementation of the Children's Act (2001), development of a National Action Plan for the Elimination of Child Labour in Kenya (2004-2015), and other programmes aimed at tackling child labour through education.

The Constitution of Kenya delineates a child as an individual who is below the age of 18 years.¹⁶ Children are variously involved in child labour and/or hazardous work. This makes child labour to be one of the greatest developmental challenges, particularly in developing countries. The Constitution affords children the right and liberties to be unrestricted and obligatory basic education. It also guarantees protection of children from abuse, inhuman treatment and hazardous or exploitative labour. The Employment Act (2007)¹⁷ prohibits employment of children. Kenya has a number of laws and regulations governing child labour. These include the Constitution, Children's Act (2001),¹⁸ Sexual Offences Act (2006), Employment Act (2007) and Counter Trafficking in Persons Act (2010).¹⁹ The Constitution of Kenya prohibits forced labour, slavery and servitude. The Children's Act (2001) forbids all forms of hazardous child labour. The Act also outlaws child trafficking and

¹⁶ Article 260 of the Constitution of Kenya 2010 also perceives a child as one under the age of 18 years.

¹⁷ The Employment Act of Kenya 2007.

¹⁸ The Children's Act of Kenya 2001.

¹⁹ Counter Trafficking in Persons Act 2010.

employment of children into the army. The Sexual Offences Act (2006) forbids child trafficking for the purposes of sexual abuse, advertising of child sex tourism, child prostitution, and child pornography.²⁰ The Employment Act (2007) prohibits employment of children below 13 years. Section 56(2) of the Act grants that a child of between 13 and 16 years is critical to the clause of performing light work which is not possible to be destructive to the child's well-being and growth, attendance at school, and participation in vocational and other training programmes. The Act, therefore, prohibits the employment of children in the Worst Forms of Child Labour. Finally, the Counter Trafficking in Persons Act (2010) outlaws all forms of trafficking in persons, including children.²¹ While the laws and regulations governing child labour, including the WFCL are in place, enforcement of the laws remains a challenge.

Despite the interventions, child labour remains a global challenge with local, county, nation-wide and local variations. A 2010 Report by the ILO projected that there were some 306 million children aged 5 to 17 years in employment in the world in 2008. Of these, about 70 per cent or 215 million were in child labour with more than half (115 million) being in hazardous work.²² Globally, Sub-Saharan Africa has the utmost frequency of child labour.²³ One in every four children in the region is involved in child labour.²⁴ The children work in agriculture, industry and service sectors of the economies.²⁵

Child labour is a global challenge. Globally, the number of children in child labour was estimated at 215 million in 2008 down from 222 million in 2004. The proportion of boys engaged in child labour increased from 53.8 per cent in 2004 to 59.3 per cent

²⁰ Sexual Offences Act of Kenya 2006.

²¹ Counter Trafficking in Persons Act (2010).

²² National Child Labour Policy 2012.

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid.

in 2008. The implication is that boys were more exposed to child labour than girls, with an average of 13.1 per cent higher incidence rate over the period 2004 to 2008.

The number of children aged 5 to 14 years in child labour decreased from 170.4 million in 2004 to 152.9 million in 2008. In contrast, the number of children aged 15 to 17 years in child labour increased by 20.2 per cent from 51.9 million in 2004 to 62.4 million in 2008. Much of the decline in the number of 5 to 14 years old children who were engaged in child labour may be explained by the decline in the number of girls in that age category that were involved in child labour.

Global statistics also show that the number of children in hazardous work declined by 10.2 per cent from 128.4 million in 2004 to 115.3 million in 2008. Consistent with the high incidence of boys in child labour, 64.2 per cent of the children in hazardous work in 2008 were boys while 36 per cent were girls. Children in 5 to 14 years age cohort constituted 45.9 per cent of the total number of children in hazardous work in 2008. Those in the 15 to 17 years age category were the majority at 54.1 per cent. Over the 2004 to 2008 period, the incidence of 15 to 17 year old children in hazardous work increased by 13.7 percentage points. This means that children in the 15 to 17 year age cohort are more exposed to hazardous work as compared to those in the 5-14 years age category.

Compared to other regions of the world, Sub-Saharan Africa has the highest incidence of child labour and hazardous work. The number of children engaged in child labour in the region stood at 65.1 million in 2008. In 2008, Sub-Saharan Africa had a child labour incidence rate of 25.3 per cent and a hazardous work incidence rate of 15.1 per cent. This is compared to a global estimate of 13.6 per cent and 7.3 per cent,

respectively. The implication is that while a large number of Sub-Saharan Africa children are already in child labour, many more of the region's children are at risk of involvement in child labour and hazardous work than children from other parts of the globe.

In Kenya, the number of working children declined by 47.4 per cent from 1.9 million in 1999 to about one million in 2008.²⁶ However, the 2008 estimate was based on a household survey. The implication is that it does not include children that are engaged in child labour but are living or operating from the streets. It was also estimated that over 4 million children of school going age were out of school in 2009 and could be working.

In almost all regions, boys and girls are similarly likely to be involved in child labour. However, in the Middle East, North Africa, Latin America and the Caribbean, boys are slightly more likely than girls to be involved in child labour. Gender disparities are observed, however, in the types of activities carried out, with girls far more probably involved in domestic chores.²⁷

1.2 Statement of the problem and issues arising

While there exists a number of legislative instruments which address child labour in Kenya, the lack of consolidated legislation on child labour has hampered efforts to contain the vice. Consequently, the incidence of child labour has been on the increase in the country. This has far reaching implications on the victims of child labour due to its numerous negative effects.

²⁶ Available at <<http://data.unicef.org/child-protection/child-labour#sthash.BII2MpvR.dpuf>> accessed April 20 2015.

²⁷ Ibid.

1.3 Justification of the study

While there is a wealth of information on child labour generally, little information is available on the adequacy of the legal framework governing child labour in Kenya. Consequently, the findings of the study may contribute to bridging the knowledge and information gap that exists in this regard. Additionally, the study hopes to generate additional knowledge to contribute to already existing information on child labour.

The findings of the study may be useful in the formulation of laws and policies to ensure that effective measures are put in place to combat child labour in Kenya. The study findings may provide useful background information that may be essential in the process of conceptualizing and enacting laws and policies to govern child labour in Kenya. Additionally, the findings of the study may stimulate the enactment of a statute to specifically address child labour in Kenya.

The study objectives also fit within Kenya's long term development plan, Vision 2030.²⁸ Specifically, one of the Kenya's goals under the social pillar of Vision 2030 is to invest in the people of Kenya especially children. The findings of the study will go a long way in facilitating the realization of this goal.

1.4 Research Objectives

The overall objective of the study is to examine the adequacy of the various laws that address child labour in Kenya.

The study seeks to achieve the following specific objectives:

1. To examine the adequacy of the laws governing child labour on child labour practices and identify existing gaps in Kenya.

²⁸ Government of Kenya, 'Kenya Vision 2030: The Popular Version' (2006).

2. To establish the effects of the gaps in the Kenyan legislative framework governing child labour.
3. To make recommendations on measures that can be taken to enhance efficiency and effectiveness of the legal framework governing child labour in Kenya.

1.5 Research Questions

The study is guided by the following research questions:

1. How adequate are the laws governing child labour on child labour practices and what gaps exists?
2. What are the effects of the gaps in the Kenyan legislative framework governing child labour on the policies developed to combat child labour in Kenya?
3. Which measures can be taken to enhance efficiency and effectiveness of the legal framework governing child labour in Kenya?

1.6 Hypothesis

The study proceeds on the hypothesis that there is lack of an adequate legal framework governing child labour in Kenya. This has consequently had adverse effects on the efforts to combat child labour in the country with the result that the practice is still rife despite the existing legislative and policy interventions.

1.7 Theoretical framework

The study is guided by two theories namely the Child as Household Assets theory and the Poverty Hypothesis theory. The Children as Household Assets theory was

advanced by Gary Becker.²⁹ According to this theory, Becker asserts that kids are intimately a value based on the gender and potential contribution to the society. Ideally, parents decide the number of children they'd like in the family depending on their resources, cultural predispositions, and family planning initiatives. Further, the theory alludes that there exists a quality-quantity trade off exists as parents choosing many children are less prudent in providing quality education. In retrospect, the human capital alternative makes ³⁰ a better alternative to schooling. Furthermore, the perceived diversification of risk is an incentive to having many children; hence providing the alternative between schooling and child labour.

The theory illustrates the reason behind children being offered as labourers in the family setting to supplement the income of the household. According to the Kenya National Bureau of Statistics from 2009 to 2013 there has been a steady increase in secondary school enrolment from 445,321 (2009) to 617,528 (2013). ³¹ This is sharp contrast compared to the students who make it to form four which is 337,310 (2009) and 448,667 (2013). The study shows that many students drop out to support their families.

Initially, empirical analysis of the trade-off between child labour and schooling supports the quality-quantity theorem ascertained earlier. Rosenzweig and Wolpin³² assert that improved fertility may lower the quality of the child, in retrospect, Hanushek ³³ considers the trade-off between educational attainment and family size in

²⁹ Gary Becker, *Human Capital* (Columbia University Press 1964) 60.

³⁰ Gary Becker and H Lewis, 'On the Interaction Between Quantity and Quality of Children' (1973) 81 *Journal of Political Economy* 279-288.

³¹ Available at <<https://data.hdx.rwlab.org/dataset/enrolment-in-secondary-schools-by-level-and-sex-2009-2013/resource/f8e7f965-3387-4536-9bbc-8785e71ac22a>> accessed June 8 2015.

³² R Rosenzweig and K Woplin, 'Testing the Quantity-Quality Fertility Model: The Use of Twins as a Natural Experiment' (1980) 48 *Econometrica* 228-240.

³³ A Hanushek, 'The Trade-off between Child Quantity and Quality' (1992) 100 *Journal of Political Economy* 647-660.

the United States of America. Considerable evidence exists whereby, on average, progenies in bigger families in both developed and developing nations obtain less education, perform below par on aptitude tests, and are malnourished.³⁴ Siblings in the same family whose ages are less spaced receive the least investment in terms of education.³⁵

However, Montgomery, Kouame and Oliver³⁶ assert the existence of contrary evidence in Ghana and Cote d'Ivoire. Furthermore, Patrinos and Psacharopoulos³⁷ research on Paraguayan children depicts that there exists no relation to the extent of enrolment and the number of children. The same concept applies to Brazil (Psacharopoulos and Arrigada, 1989; Levison, 1991)³⁸. Chernichovsky³⁹ (1985), in his studies on school choices of kids in Botswana, actualizes that family composition increases educational excellence. Levison (1991) holds the opinion that a positive correlation between family size and schooling may occur since there are diminishing returns in domestic welfare. With a huge population of children available to engage in household work, the opportunity cost of education for any one child may be quite low according to the dataset that shows the enrolment in Secondary Schools by Level and Sex for the period 2009-2013 by the Kenya National Bureau of statistics Economic Survey 2014.⁴⁰

³⁴ H Patrinos and G Psacharopoulos, 'Educational Performance and Child Labor in Paraguay' (1995) 15 International Journal of Educational Development 47-60.

³⁵ B Powell and L Steelman, 'The Educational Benefits of Being Spaced Out: Sibship Density and Educational Progress' (1993) 58 American Sociological Review 367-381.

³⁶ A Montgomery, A Kouame and R Oliver, 'The Tradeoff between Number of Children and Child Schooling: Evidence from Cote d'Ivoire and Ghana' (1995) LSMS Working Paper 112.

³⁷ Patrinos and Psacharopoulos (n 34).

³⁸ D Levison, 'Children's Labor Force Activity and Schooling in Brazil' (University of Michigan 1991)40.

³⁹ D Chernichovsky, 'Socioeconomic and Demographic Aspects of School Enrollment and Attendance in Rural Botswana' (1985) 32 Economic Development and Cultural Change 319-332.

⁴⁰ Available at <<https://data.hdx.rwlabs.org/dataset/enrolment-in-secondary-schools-by-level-and-sex-2009-2013/resource/f8e7f965-3387-4536-9bbc-8785e71ac22a>> accessed June 8 2015.

The issues of child labour is somewhat subjective especially in regard to the asset notion prescribed upon the child. Although child input in the welfare of the household is deemed complementary, it is vital that the family venture is focused more on raising a holistic child in terms of financial independence in the future. As ascertained earlier, child labour especially in Kenya is a product of exploiting the children's contribution in improving the welfare of the household; as is the trend with developing countries. Fathers should actively engage their boys in active participation of predetermined activities while mothers should in turn take charge of their daughter's holistic development. Cases of complementarity concerns the work in tapping their human capital in the formal labour market may require her daughters to replace her contribution to home work. Therefore, human capital personified in a mother is correspondent with more homework and less education for her daughters. The theory fails to illustrate the different chores that are reserved for boys and girls. The second theory will try and illustrate why we have the imbalance.

The second theory advanced by Nardinelli is the Poverty Hypothesis. Despite the universal acclamation that child labour is primarily a by-product of poverty, parents have a salient role to play in developing their children economically and independently. However, the trickle effect arising from the policies may indeed compel parents in viewing child labour as an opportunity of improving the welfare of the family members.⁴¹ Such a situation may compromise the independence of the children in actualizing their lives free from child labour. The model strives to demonstrate why children are used as household assets and gives the context in which this happens. The theory tends to provide solutions and gives a comparative analysis for the same.

⁴¹ C Nardinelli, *Child Labour and the Industrial Revolution* (Indiana University Press 1990)100.

Existing literature and research conducted on child labour around the world concurs to the fact that parents may involuntarily push their children to child labour without having preconceived motives. The main predisposing factor being poverty, the parents face numerous challenges in meeting subsistence needs due to resource constraint and unavailability of adequate resources. Depending on the size of the family and their needs, older children may be forced to engage in child labour. Developing countries mostly depend on agricultural subsistence for a living; labour is usually a communal aspect, a rather meagre source of child labour activities.⁴² The poor labour markets in the developing countries is entirely based on allocations and seasonal fluctuations. With the absence of rain, food for subsistence and salaries from manual labour on the farms is mostly not enough; hence, contributing to an upsurge of child labour in the society.

The study disentangles the potential labour supply in the family in to adult labour and child labour. Under normative conditions, assuming the stand of the works after Basu and Van⁴³. The occurrence of child labour is an indication of the market and organized catastrophes and hence it may be the greatest parental decisions given the predominant restraints.⁴⁴ It can, thus, be inferred that parents prefer child labour after exhausted the existing adult labourers in the domiciliary. This ought not be a resilient hypothesis given that youngsters' efficiency is less than that of grownups. Basu and Van did also contemplate that child labour and adult labour are substitutes but subjected to a productivity shifter.⁴⁵

⁴² P Krishnan and E Sciubba, 'Links and Architecture in Village Networks'' (2006) 65.

⁴³ K Basu and P Van, 'The Economics of Child Labour' (1999) 88 American Economic Review 412-437.

⁴⁴ S Bhalotra and C Heady, *Child Farm Labour: The Wealth Paradox* (Unpublished Discussion Paper No 03/553 Department of Economics University of Bristol 2003) 93.

⁴⁵ Basu and Van (n 44).

Parents may force their children to work if the disposable family earnings is so low and cannot meet their sustenance requirements. A decline in productivity due to weed infestation, insect damage, livestock destroy the crop, aphids that eat germinating crops, storm/wind, sickness of a family associate are several of the sources of a deterioration in output of a domiciliary. Theoretically, this point of view, has a likelihood of bringing down consumption outlays unless households are insured to mitigate against these forms of challenges and shocks. However, such prescribed assurances are less widespread in rural Ethiopia.

Coping is an integral part of the mechanisms to mitigate child labour and supporting literature points out that the sale and liquidation of non-fixed and fixed assets, borrowing, an increase in the labour supply.⁴⁶ In fact, the financial bailout in form of credit facilities is an indispensable coping mechanism. Credit facilities in developing countries are still a challenge owing to the bureaucracy involved in accessing financial institutions. This leaves these household to resort to conniving ways of obtaining the money. However, it is imperative to point out that different households engage different measure in cushioning themselves from such financial constraints⁴⁷. More often than not, child labour has been increasing for the past decade. Researchers attribute the increase to financial constraints. More likely than not, parents are faced with tough situations with improbable verdicts involving sending their children out for child labour.

⁴⁶ P Bardhan and C Udrhy, *Development Microeconomics* (Oxford University Press 1999) 50.

⁴⁷ K Beegle, H Dehejia and R Gatti, 'Child Labor and Agricultural Shocks' (2006) 81 *Journal of Development Economics* 80-96.

Kochar⁴⁸ alludes that that household men escalate their normal hours of work in response to unforeseen discrepancies in crop yields. Nonetheless, emphasis should be stressed, here, that in economies like Ethiopia have efficiently tackled the inadequacies existing in labour market has poorly developed the propensity to do this is very rarely. It might, however, be that parents allocate teenagers' school or leisure time to household farmhouse events and/or home chores.

1.8 Research methodology

The study will be a qualitative research. This will entail reviewing available information on the subject matter of the study. In this regard, the study will primarily utilize secondary sources of information such as books, journal articles, reports, policy documents, university dissertations and internet sources among others.

The study will also analyse relevant legislative instruments such as the Constitution of Kenya 2010 and statutes that address child labour.

1.9 Literature Review

The literature review is undertaken in chapter two of the study. The literature review is guided by the objectives of the study which are: to evaluate the legal framework governing child labour in Kenya, to examine the impact of the laws governing child labour on child labour practices in Kenya, to identify the existing gaps on legislative framework governing child labour in Kenya, to establish the effects of the gaps in the Kenyan legislative framework governing child labour on the policies developed to combat child labour in Kenya and to make recommendations on measures that can be taken to enhance efficiency and effectiveness of the legal framework governing child

⁴⁸ A Kochar, 'Smoothing Consumption By Smoothing Income: Hours-Of-Work Responses to Idiosyncratic Agricultural Shocks in Rural India' (1999) 81 *The Review of Economics and Statistics* 50-61.

labour in Kenya. The review is done with an aim of identifying the gaps in the existing literature on child labour. It is these gaps that provide the entry point for the study.

1.10 Assumptions

Since the study does not involve going to the field, it proceeds on the assumption that the information contained in various reports both from the government and non-governmental organizations is a fair representation of the nature and extent of child labour in Kenya.

1.11 Scope and limitation of study

While there are various age classifications of children, the study will be limited to persons who are under 18 years of age. This is because as per the Constitution of Kenya 2010, the age of majority is 18 years. As such, for purposes of the study, a person who is under the age of 18 years is considered to be a child.

Secondly, the scope of the study is limited to children living in rural areas and informal settlements such as slums in Kenya. This is because incidences of child labour are more prevalent in such areas as compared to the urban areas where there are high levels of awareness.

The study will be undertaken in period between June and December 2015. As such, the study will be limited to the information available on the subject matter of the study up to and including December 2015.

1.12 Chapter Breakdown

The study is divided into five chapters which are outlined below.

Chapter One: Introduction

This chapter introduces the study. It encompasses the research objectives, research questions, justification of the study, scope and limitation of study, the study hypothesis, the theoretical framework for the study and the research methodology.

Chapter Two: Literature Review

This chapter reviews literature that is available on the subject matter of the study. The literature review is undertaken along thematic areas that flow from the subject matter of the study. The literature review is done with an aim of establishing the gaps in the literature that has been written on child labour particularly in Kenya. It is these gaps that provide an entry point for the study. The specific thematic areas along which the literature review is undertaken include:

Chapter Three: Analysis of laws and regulations on the worst forms of Child Labour

This chapter evaluates the legal framework that governs child labour globally, regionally and in Kenya. As such, the chapter discusses relevant global, regional and national legal instruments. The chapter looks at some gaps in the Employment Act and offers recommendations. The evaluation is done with an aim of highlighting the deficiencies in the current legal framework governing child labour both in the global and national context Kenya. The chapter also looks into the agencies responsible for child labour law enforcement.

Chapter Four: Factors that contribute to child labour practices in Kenya

This chapter seeks to establish how other countries have tackled the problem of child labour. The chapter further looks at some factors that contribute to child labour practices being alive to social and legal barriers.

Chapter Five: Recommendations

This chapter provides a conclusion to the study. The conclusion will detail whether the study objectives have been realized, research questions answered and the study hypothesis proved. The chapter also presents recommendations on measures that can be taken so as to strengthen the legislative framework governing child labour in Kenya.

CHAPTER TWO: LITERATURE REVIEW

2.1 Introduction

This chapter examines the literature based on studies that have been done and are related directly or indirectly to this study. The literature is presented thematically. The various themes captured in the literature review include labour, child protection in Kenya, access to education in Kenya and participation of pupils in education. The chapter also reviews literature related to the concept of maternity, theories and studies behind maternity protection, previous research and findings relating to the implementation and efficacy of the new labour laws in addressing maternity leave.

2.2 Forms of Child Labour in Kenya

In 2013, UNICEF estimated that 150 million of children across the world were involved in some harmful forms of child labour.⁴⁹ According to UNICEF estimates, in Sub-Saharan Africa, 1 in 4 children aged 5-17 years provides labour in homes or in productive sectors of the economy.⁵⁰ The estimates showed that more boys than girls were involved in child labour.⁵¹ However, such gender differentials arose due to bias in measuring child labour by focusing more on sectors of the economy while neglecting girls' contribution within homes. Girls' engagement in homes is an invisible form of child labour that is often not measured.⁵² The UNICEF Report notes that 90% of children affected by domestic labour are girls.⁵³

⁴⁹ Available at <<http://www.unicef.org/sowc2013/?>> accessed October 30 2015.

⁵⁰ Ibid.

⁵¹ Available at

<http://www.unicef.org/sowc2013/files/Table_9_Stat_Tables_SWCR2013_ENGLISH.pdf>
accessed October 13 2015.

⁵² Available at

<http://www.unicef.org/sowc2013/files/Table_8_Stat_Tables_SWCR2013_ENGLISH.pdf>
accessed October 13 2015.

⁵³ UNICEF, Child Protection from Violence, Exploitation and Abuse (UNICEF 2013) Available at
<http://www.unicef.org/protection/57929_58009.html> accessed September 6 2015.

While child labour takes many different forms, countries have only committed themselves to eliminate the worst forms of child labour.⁵⁴ Such forms of child labour are defined by Article 3 of ILO Convention No. 182. These forms of child labour include slavery, child trafficking, forced labour, use of children as soldiers, child prostitution and involvement of children in pornography related activities.⁵⁵

Other worst forms of child labour include engaging children in crime, sale or trafficking of drugs, industrial work and any other work that has detrimental effects on development of children.⁵⁶ UNICEF supports the ILO Convention and explains that engagement of children in any form of work that is not age appropriate is morally wrong.⁵⁷ However, in classifying child labour there is need to consider the age of the children involved, the type of work they do, the conditions under which they work, the effects of the work and the objectives of the work.⁵⁸ Child labour was introduced in Kenya by white settlers who had cash crop plantations during the colonial era.⁵⁹ While there is desire to eradicate all forms of harmful child labour, often, contextual issues lead to difficulties in combating the problem. Manda observes that in Kenya, child labour can be associated with high levels of poverty, child headed households due to effects of HIV/AIDS, numerous conflicts that displace children, high prevalence of domestic violence leading to family breakdown and traditional practices

⁵⁴ Available at http://www.unicef.org/publications/files/UNICEF_Annual_Report_2013_web_26_June_2014.pdf > accessed 15 October 2015.

⁵⁵ International Labour Organization, *Global Employment Trends for Youth* (ILO 2004) Available at <www.ilo.org/wcmsp5/groups/public/-ed_emp/-emp_elm/trends/documents/publication/wcms_114351.pdf> accessed 15 October 2015.

⁵⁶ Available at http://www.unicef.org/publications/files/UNICEF_Annual_Report_2013_web_26_June_2014.pdf > accessed 15 October 2015

⁵⁷ Available at http://www.unicef.org/publications/files/UNICEF_Annual_Report_2013_web_26_June_2014.pdf > accessed 15 October 2015.

⁵⁸ UNICEF, *Child Protection from Violence, Exploitation and Abuse* (UNICEF 2013), Available at http://www.unicef.org/protection/57929_58009.html > accessed 6 September 2015.

⁵⁹ Manda D K, *Costs and Benefits of Eliminating Child Labour in Kenya* (Kenya Institute for Public Policy Research and Analysis 2003) 20.

such as sending children to herd cattle or marrying them off at an early age.⁶⁰ The Human Development Report of 2012 indicated that in Kenya, half of boys and a third of girls, of school going age, attend school after age of 16. There are differentials in terms of effects of child labour on education along gender lines.⁶¹ Culture and resultant perceptions have played a big role in influencing girl child access to education.⁶² Gender roles and patriarchal society values tend to consign women to domestic duties and subsidiary role. This in effect influences parents' attitudes towards girl child education and the attitude of girls towards their studies. According to the ILO, successive governments in Kenya have used poverty reduction as a broad strategy for tackling child labour.⁶³ Majority of the initiatives have sought to reduce adult unemployment so as to ensure parents can take care of their children. The Jubilee government in its election manifesto promised to come up with social protection programs that would reduce inequality and alleviate chronic poverty.⁶⁴

According to Manda, the main traditional forms of child labour in Kenya include high involvement in tedious domestic work, children in the streets engaging in waste picking or scavenging in dustbins for survival, heavy use of child labour in agriculture and child prostitution.⁶⁵ Children in Kenya are also used in crime, drug trafficking, children used in smuggling illicit goods and minimal industrial engagements.⁶⁶ Child

⁶⁰ Ibid.

⁶¹ Available at <<http://knoema.com/HDR2013/human-development-report-1980-2012>> accessed 18 September 2015.

⁶² Available at <<http://knoema.com/HDR2013/human-development-report-1980-2012>> accessed 18 September 2015.

⁶³ International Labour Organization (2010b). Kenya - Developing an Integrated National Social Protection Policy. Social Security Department, (International Labour Organization 2010) Available at <<http://ilo.org/gimi/gess/ResFileDownload.do?resource=19224>> accessed 16 May 2013.

⁶⁴ Available at <<http://softkenya.com/jubilee-coalition-manifesto/>> accessed 2 October 2015.

⁶⁵ Manda (n 60).

⁶⁶ Available at <<http://www.cmi.no/publications/file/5527-the-situation-of-youth-and-children-in-kibera.pdf>> accessed 9 September 2015.

labour negatively affects children as it results into physical injuries, mutilations, long term illnesses, HIV AIDS, pesticide poisoning and growth deficiency.⁶⁷

2.3 Reasons for child labour

Child labour persists in the Kenyan society due to a number of factors. Manda states that some of the factors that contribute to child labour include: poverty in the villages and slum settlements in towns, diseases like HIV/AIDS, which orphans children, conflicts such as tribal clashes in Kenya and domestic violence.⁶⁸ Poverty in Nairobi remains real as evidenced by the number of people staying in informal settlements. Additionally, high levels of insecurity are a product of poverty and unemployment.⁶⁹

2.4 Poverty and other causes of child labour

Poverty is at the core of the problem of child labour.⁷⁰ However, there are other contributing factors. As an example, not all children from poor households engage in child labour, and some poor societies manage to keep the incidence of child labour low.⁷¹ In Ghana, socio-cultural factors such as ignorance and misconceptions, inadequacies of the education system, and institutional weaknesses in the application of child labour laws are also important causes of child labour. Nevertheless, the poor are more vulnerable to the kind of exploitation that is found in child labour, in part because poor households often need the income earned by their children. Hence, poverty is often the principal cause. Moreover, poverty interacts with and reinforces other factors. Income poverty, which limits access to private goods and services,

⁶⁷ UNICEF, *Child Protection from Violence, Exploitation and Abuse*, (UNICEF 2013) Available at <http://www.unicef.org/protection/57929_58009.html> accessed 6 September 2015.

⁶⁸ Available at <<http://www.cmi.no/publications/file/5527-the-situation-of-youth-and-children-in-kibera.pdf>> accessed 9 September 2015.

⁶⁹ Available at <<http://www.cmi.no/publications/file/5527-the-situation-of-youth-and-children-in-kibera.pdf>> accessed 9 September 2015.

⁷⁰ Available at <<http://www.poverties.org/poverty-in-kenya.html>> accessed 10 September 2015.

⁷¹ Available at <<http://www.poverties.org/poverty-in-kenya.html>> accessed 10 September 2015.

forms only a part of the relationship between poverty and child labour. Poverty in terms of access to common goods and services is equally important. For example, households in localities where state-provided infrastructure includes potable water, electricity and roads are much better off economically than those from areas that lack such amenities. Furthermore, deprived areas have higher levels of poverty because they lack reliable product markets, transport, financial and other productivity-enhancing services. Such deprivations may lead to risky behaviour by parents and children from poor households, such as engaging in the WFCL.⁷²

⁷² National Plan of Action (NPA) for the Elimination of the Worst Forms of Child Labour in Ghana (2009 – 2015)

CHAPTER THREE: ANALYSIS LAWS AND REGULATIONS ON THE WORST FORMS OF CHILD LABOR

3.1 Introduction

The legitimate environment that shields children from all types of child work has been enhanced by an enactment and activities by the Government. These incorporate the late institution of the Constitution of Kenya 2010, Employment Act 2007 and use of different global laws. With the laws set up to shield children from most exceedingly terrible types of child work a couple of zones should be enhanced in making the laws viable. This part will highlight a few articles of the Constitution that secure children and dive further into particular areas of the Employment Act lastly evaluate some universal instruments. The part will likewise take a gander at the three flow of child work; most exceedingly bad types of child work, least age necessity and the offices in charge of child work law implementation.

International, regional and local mechanisms governing child labour

The International law shielding children from most exceedingly awful types of work are caught in Article 32 of the CRC builds up the privilege of children "to be shielded from monetary misuse and from playing out any work that is probably going to be perilous or to meddle with the child's training, or to be hurtful to the child's wellbeing or physical, mental, otherworldly, good or social advancement." States that are gathering to the tradition bear the obligation ("authoritative, managerial, social and instructive") of executing the arrangement. Specifically, they are accused of giving a base age(s) for admission to work, direction of hours and conditions, and for forcing sanctions for break of these. Territorially, the African Charter on the Rights and

Welfare of the Child Article 15 gives that: Every child might be shielded from all types of financial misuse and from playing out any work that is probably going to be risky or to meddle with the child's physical, mental, otherworldly, good, or social improvement. The second section of this article perceives the commitment of States to take administrative and different measures to secure this privilege, including the foundation of least age for business.

Locally, on 27 August 2010, Kenya proclaimed into law another Constitution which was overwhelmingly bolstered at the national submission on the fourth of that month. In addition to introducing another political and fair allotment, the new Constitution sets out a standardizing and basic system for the insurance of human rights in Kenya. The new Constitution has a far reaching Bill of Rights which sets out both the general rights stretching out to all people (children included) as a rule and those of particular gatherings that is the children, the adolescent and people with incapacities. The smaller than expected bill of rights for children is set out at article 53. A child is characterized under article 260 as any person who has not accomplished the age of eighteen years.

Article 2(5) gives that the general guidelines of universal law will be a piece of the law of Kenya. Article 2(6) advance gives that bargains approved by Kenya will be a piece of the laws of Kenya. This implies such bargains as the Convention on the Rights of the Child⁷³, the International Covenant on Civil and Political Rights⁷⁴, the International Covenant on Economic, Social Cultural Rights⁷⁵, the United Nations

⁷³ Adopted by the United Nations Assembly on the 20th November, 1989 and entered into force on 2nd September, 1990. Available online on <http://www2.ohchr.org/english/law/crc.htm> Accessed 3rd August 2012

⁷⁴ Adopted on 10th December, 1966 and entered into force on 23rd March, 1976. Available on <http://www2.ohchr.org/english/law/ccpr.htm> Accessed 3rd August 2012

⁷⁵ Adopted on 16th December 1966 and entered into force on 23rd March 1976. Available on <http://www2.ohchr.org/english/law/cescr.htm> Accessed 3rd August 2012

Guidelines for the Prevention of Juvenile Delinquency⁷⁶, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice⁷⁷, and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty the United Nations Standard Minimum Rules for the Treatment of Prisoners⁷⁸, the Code of Conduct for law enforcement authorities⁷⁹, the UN standard least principles for non-custodial measures (Tokyo rules)⁸⁰, The African Charter on the Rights and Welfare of the Child among other human rights instruments which has a direction in children rights will now be relevant in Kenya. These global principles additionally give a measuring stick to surveying government's consistency in understanding the privileges of the child in Kenya, having them as a major aspect of the national law is an open door for increasing current standards in advancing the human privileges of all including children. Under Article 21(4) the State is required to institute enactment to satisfy its universal commitments as for human rights and essential opportunities⁸¹.

Children under the new constitution have been perceived as a helpless gathering and additionally a gathering meriting unique assurance⁸². Truth be told, children were not specified in the old constitution. Article 53 of the Constitution makes prompt commitments upon the State to satisfy financial privileges of children. As a result, the administration is will undoubtedly convey medicinal services, training, nourishment and sanctuary to all children regardless of budgetary ramifications. The new obligation on the State concerning instruction for example will be more prominent

⁷⁶ Adopted by the UN General Assembly 14 December 1990, Resolution 45/112. Also known as the 'Riyadh Guidelines'. Available at <http://www.un.org/documents/ga/res/45/a45r112.htm> Accessed 3rd August 2012

⁷⁷ Adopted by the UN General Assembly 29 November 1985, Resolution 40/33. Also known as the 'Beijing Rules'. Available at <http://www2.ohchr.org/english/law/beijingrules.htm> Accessed 3rd August 2012

⁷⁸ Adopted in 1955 and approved vide resolution 663c of 31st July, 1957 Available at <http://www2.ohchr.org/english/law/treatmentprisoners.htm> Accessed 3rd August 2012.

⁷⁹ Entered into force on 17th December, 1979

⁸⁰ Adopted on 14th December, 1990 Available on <http://www2.ohchr.org/english/law/tokyorules.htm> Accessed 3rd August 2012.

⁸¹ Article 53(2)

⁸² See article 21(3) and Article 53

than that accommodated in the Children Act, which vests duty on both guardians and government. Under a similar Article the children have a privilege to assurance from mishandle, disregard, destructive social practices, all types of viciousness and barbaric treatment and discipline and exploitative work⁸³. This arrangement gives a premise to digging in the obligation of the state to shield the children from brutality. Standard of the best enthusiasm of the child is dug in the Constitution facilitate raising the benchmark for guaranteeing the assurance of the privileges of the child. The impact of global human rights standard is emphatically obvious⁸⁴.

The Employment Act 2007 provisions

The Employment Act sets the base age for work at 13 and disallows most exceedingly awful types of child work. Area 53 of the Act continues to give the bureau secretary forces to layout what constitutes most noticeably bad types of child work⁸⁵. Segment 54 states that grievances might be made to the work officer or cop if that individual considers any child to be utilized in any movement which constitutes most noticeably awful type of child work. Segment 56 forbids the work of children less than 13 years old. Children between the age of 13 and 16 perhaps utilized to perform light work. Area 57 denies bosses from going into composed contracts with children somewhere around 13 and 16 years old with the Act punishing managers who do as such. Area 58 confines children representatives from taking care of hardware and Section 59 gives time restriction to children working it expresses no individual should utilize a child in a mechanical undertaking between the hours of 6.30 p.m. furthermore, 6.30 a.m. Segment 61 obliges businesses to keep an enrol of child workers and Section 63 accommodates assurance of age.

⁸³ Article 53(1)(d).

⁸⁴ Article 53(2)

⁸⁵ UN Development Group. United Nations Development Assistance Framework for Kenya 2014-2018. Nairobi; 2014. <http://www.undg.org/docs/13463/UNDAF-Kenya-2014-2018.pdf>

The above areas from the Employment Act give challenges confronting the Act. Segment 53 gives the bureau secretary energy to make directions of the pronouncing any work, action or contract of administration destructive to the wellbeing, security or ethics of a child. It will be hard to direct what constitutes most exceedingly awful types of child work in our nation with various societies and ways of life. For instance in the Luhya people group it is typical for a child to take cows and direct other family unit tasks while in Nairobi a child would wake up and take a school transport. Segment 54 is makes a potential legitimate issue by giving the ability to report grumblings to work officer and cop. S. 54 (2) offers energy to the two officers to explore such matters. This will make an emergency in light of the fact that the researching forces are with the police they have what it takes and hardware to get grievances, examine and indict. Area 57 precludes going into an agreement with a child which is all together yet opens space for verbal contract. The entire of section seven of the Act has provisos on assurance of the child at work from time, machinery and portraying the kind of work, since a child can't go into an agreement it is feasible for any business willing to procure a child to have a children's officer or liaise through notice with a children's officer.

3.2 Worst forms of child labour and light work by children

ILO Convention No. 182, which portrays the most exceedingly dreadful sorts of child labour (WFCL), goes well beyond by including unsafe work as one of the four most exceedingly horrible structures. This Convention, which does not allow uncommon cases and denies youngsters from being possessed with these sorts of work: (an) a wide range of subjection or practices like oppression, for instance, the arrangement and trafficking of kids, commitment subjugation and serfdom and compelled or important work, including obliged or required enrolment of kids for use in prepared

conflict; (b) the usage, securing or offering of a kid for prostitution, for the era of foulness or for express performances;(c) the use, getting or offering of a child for illicit activities, particularly for the creation and trafficking of medicines as portrayed in the relevant worldwide treaties;(d) work which, by its demeanour or the conditions in which it is done, is most likely going to hurt the prosperity, security or morals of kids. Since the passage of Convention No. 182 in 1999 and the subsequent fast endorse by most ILO part States, impressive thought has been given to the underlying three of the most perceptibly awful structures, including trafficking. Sadly, what gets less thought – a region harder to portray, some battle – is the fourth segment from Convention No. 182, implying work that harms the prosperity, security and morals of kids. The Convention itself does not portray what this joins, rather forsaking it to the countries to do in that capacity as what we more often than not call the "dangerous work list". Regardless, the ILO's Worst Forms of Child Labor Recommendation, 1999 (No. 190), the non-limiting principles that run with Convention No. 182, gives some sign concerning what work should be prohibited. It encourages part States to offer thought to work that opens kids to physical, energetic or sexual abuse; work underground, submerged, at hazardous statures or in confined spaces; work with unsafe mechanical assembly, apparatus and gadgets, or that incorporates the manual dealing with or transport of overpowering loads; work in an undesirable circumstance, which may, for example, open kids to risky substances, administrators or shapes or to temperatures, disturbance levels, or vibrations hurting to their health; work under particularly troublesome conditions, for instance, work for broaden timeframes or in the midst of the night or work that does not consider the probability of returning home each day.

3.3 The Minimum Age Question and Hazardous Work

It is helpful to consider risky work of kids with respect to two specific ages amasses: the more young kids who are under the base age for work and should be in school, and the more settled youngsters who are of legitimate working age. Generally speaking, if the amazingly energetic are in hazardous work, they are the requirement for movement. If what they do is most likely going to put their prosperity or progression at peril, the fundamental option by virtue of more energetic kids is to remove them from the work, while for more prepared youngsters there is a choice: it is conceivable that they may be ousted from the dangerous situation, or the threats may be lessened through change in working conditions with the true objective that the work is not any more drawn out likely to put their prosperity at risk. The expression "inclined to jeopardize the prosperity" (Convention No. 138) or "inclined to hurt the prosperity" (Convention No. 182) or "inclined to be risky" (CRC) is basic.

Right when countries endorse Convention No. 182 and Convention No. 138, they submit themselves to choosing work to be denied to individuals less than 18 years of age. Article 4 of Convention No. 182 says: 1. The sorts of work implied under Article 3(d) [work which, by its propensity or the conditions in which it is finished, is most likely going to hurt the prosperity, security or morals of children] may be controlled by national laws or bearings or by the talented power, in the wake of meeting with the relationship of chiefs and experts concerned, considering critical general rules, particularly Paragraphs 3 and 4 of the Worst Forms of Child Labor Recommendation, 1999.

2. The talented power, after talk with the relationship of organizations and authorities concerned, may perceive where the sorts of work so chose exist. 3. The summary of

the sorts of work chose under segment 1 of this Article ought to be discontinuously broke down and altered as vital, in talk with the relationship of administrators and masters concerned.

3.4 Agencies Responsible for Child Labour Law Enforcement

In 2014, the Ministry of Labor, Social Security, and Services (MLSSS) used 95 work officers and 500 kid protection officers. Information was not available on whether work officers were given planning on usage of child labour laws in the midst of the year. The Government allocated approximately 1.6 million Kenyan shillings to the MLSSS's Child Labor Division in prior years; in any case, the MLSSS's money related arrangement is inadequate to address Kenya's work necessity needs. Ask about found no information on the amount of work agents, the number, sort, repeat, zone, or nature of the examinations⁸⁶. Look at found no information on the amount of kid work law encroachment found, what number of references were issued, or whether fitting disciplines were associated. Additionally, work inspectors don't have the capacity to issue fines or disciplines when they encounter a workplace encroachment this suggests managers are getting away with wrongdoing⁸⁷. The Government realizes an emergency, without toll, the country over youngster hotline to report kid maul, including kid work, and suggest visitors to relationship for social affirmation organizations.

3.5 Conclusion

⁸⁶ILO Committee of Experts.Direct Request concerning Labor Inspection Convention, 1947 (No. 81) Kenya (ratification: 1964) Published: 2013 accessed February 27, 2014; <http://www.ilo.org/ilolex/english/iloquery.htm>

⁸⁷ILO. Kenya: Labour Administration and Inspection Programme (LAB/ADMIN)) Geneva; February 7, 2011. http://www.ilo.org/labadmin/info/lang--en/WCMS_151305/index.htm

3.5 Conclusion

In conclusion national, common and overall sanctioning that shield kids from dangerous work needs to consider the way that African kids need to work and help at their homes when they accomplish a specific age which is considered as "create" to work. For example most youngsters go to class in the morning and toward the night go help their people in the field. Under the CRC⁸⁸ a child should be protected from '... playing out any work that is most likely going to be hazardous or to interfere with the child's guideline... " this article is a more noteworthy measure of western culture than of African as it doesn't address standard African practices where a kid ought to help his/her family by performing errands which are at times troublesome. For example in completely dry ranges a youngster was/is required to go and bring water kilometres a long way from home and with a noteworthy jerry can.

⁸⁸ Article 32 (1)

CHAPTER FOUR: FACTORS THAT CONTRIBUTE TO CHILD LABOUR PRACTICES IN KENYA

4.1. Introduction

The assignment of shielding children from exploitative and dangerous working conditions stays one of the best difficulties confronting every one of the on-screen characters who are working in association to battle child work. The accompanying is a brief dialog of a portion of the components adding to child work hones.

The wonder of child work is not new in Kenya and the world over. In many social orders it is generally and to a great extent acknowledged and perceived as the method for coaching and empowering children to build up specific aptitudes, to set them up for specific parts in the public eye and figure out how to be free. The situation and conditions in which child work happens has changed prompting to the request by world countries to grill and characterize diverse ideas or features of child work. There are currently three acknowledged aspects of child work: child work, child work and the Worst Forms of Child Labor⁸⁹. Child work will be work done by children for reasons for socialization and ordinary improvement under supervision the length of it doesn't deny them of their education and different rights. Child work is for the most part characterized as work attempted by children in the age gathering of 5-17 that keeps them from going to class and hinders their general development or potentially advancement. The most exceedingly bad types of child work is work which appears as subjugation or servitude, prostitution or explicit execution, medicate trafficking or work which is probably going to hurt the wellbeing, security or ethics of the child. The accompanying are some social elements that add to child work rehearses in Kenya.

⁸⁹Anti Slavery International: Child Domestic Workers, a Handbook on good practice in program interventions, 2005.

4.2. Social, Cultural and Gender Dimension of Child Labour

Culture is one of the variables that has direct implications on the flow of children into the labour market. Various social orders or various social requests make kids start working at outstandingly energetic age which are related to traditions and social components. They acknowledged that kids need to learn capacities that can be valuable for their future. As showed by Tauson⁹⁰ in provincial Guatemala; watchmen incline toward their kids to work since they consider it valuable for them as they learn work aptitudes. Obinna E and Osita-Oleribe⁹¹ expect that various families in Africa require their kids to help in contributing towards family compensation.

The pastoralist groups have solid and profound situated social convictions, introductions and practices that do shape dynamic and energetic organizations of basic leadership and administration. Sadly, these frameworks and foundations tend, in many occurrences, to oppress ladies and further advances to deny them certain rights. The idea of social – social practices among the indigenous people groups is expansive and mind boggling as it incorporates an entire collection of information, aptitudes, customary and human innovativeness and association with nature, crafts of depictions and expressions, among numerous different traits. Culture is not static in spite of being a solid wellspring of personality, medium of correspondences and representations⁹². In many indigenous groups, culture gives unrealistic energy to the male sexual orientation. The lady is by and by weak and voiceless. Indigenous ladies are testing this, be that as it may, they require more support, differing abilities, specialized limit and space to have the capacity to well-spoken and propel their

⁹⁰Tauson ,Michaelle (2009). "Child Labour in Latin America: Poverty as Cause and Effect.

⁹¹Obinna E. Osita-Oleribe(2007). "Exploring the causes of child labour". International NGO Journal 2 (1): 6–9.

⁹² SIDA studies, (UD) NO 3: Discussing Women’s Empowerment- Theory and practice

necessities and goals. The quantity of associations drove by indigenous ladies is irrelevant and their interest in the improvement and basic leadership procedures is similarly powerless. Nonetheless, some noteworthy endeavors are coming up however have needed sufficient assets to accomplish more critical additions. The expansive human rights plan among these gatherings/groups has not considered key issues, for example, child work. The IPOs need to incorporate child work and other normal indecencies in their support and mindfulness creation programs. The pioneers of these IPOs are essentially male-drove and basic leadership procedures are male-dominated and controlled. The avoidance of child work in their plan possibly a genuine impression of discipline that indigenous groups append to this issue. These people group still need to be seen and comprehended as "untouched" by the globalization forms and that their social qualities and standards are still completely operational and they see that tolerating that child work exist conveys disgrace to the entire group.

4.3 Poverty as root cause

There are a few conditions that influence kid work. Concentrates on have shown that the most notable reason being neediness⁹³. Decisions about tyke work and schooling are by and large made by guardians. In the event that the family live underneath the destitution line, guardians see youngsters as part of benefactor in their family pay. Basu⁹⁴ utilized a hypothetical model of kid labour, where he demonstrated the main reason guardians send youngsters to work is a direct result of their low income. Consequently poor guardians can't manage the cost of tutoring for their kids. Therefore, for the most part poor households are to send constrained their kids to

⁹³ Bhat BA and Rather TA,(2009). Child labour in the handicrafts home industry in Kashmir: A sociological study, Int NGO J,4 (9). 391-400.

⁹⁴Basu, K. and P. H. Van (1998). "The Economics of Child Labor,"American Economic Review,88, 412 - 417

work as opposed to sending to class. Rena demonstrates that that destitution and underdevelopment drives youngster work. She found that the high predominance of destitution among nations, including India, China, Bangladesh, Pakistan, Sri Lanka, Papua New Guinea, Ethiopia, Uganda, Mozambique, Malawi, Sudan, and Chad increases the tyke work. Accordingly, kid work is across the board all through Africa, and Asia. Agreeing to the investigations of Edmonds and Pavcnik⁹⁵ and Akarro and Mtweve⁹⁶ they expect that handling destitution can be an immaculate answer for decrease kid work. Other than neediness, numerous variables impact the frequency of kid work which can be recorded in the following focuses.

4.4 Family size

In reality, huge poor families for the most part have a larger number of youngsters required in kid work than kids from littler family units, which shows family estimate affect child labour. Guardians oblige their youngsters to work since they are not ready to deal with the requests of an expansive size family. There is likewise sexual orientation contrasts among family measure. Not everybody and of all age in the family are acting as child labour, which relies on upon the tyke's age and sex, for instance young men will probably took care of school than young ladies. More established kin frequently contribute more to the family wage⁹⁷. Okpukpara⁹⁸ established that in Nigeria, more kids, where will probably go to class than more established youngsters, where for the most part young men go to schools than young ladies.

⁹⁵ Edmonds, E. and N. Pavcnik (2005), "Child labor in the global economy", *Journal of Economic Perspectives* 19: 199-220.

⁹⁶ Akarro, R. R. J. and N. A. Mtweve (2011). "Poverty and its association with child labour in Njombe District in Tanzania: The case of Igima Ward." *Curr. Res. J. Soc. Sci* 3(3): 199-206.

⁹⁷ Ahmad, Ayaz (2012) Poverty, Education and Child Labour in Aligarh City-India. *Stud Home Com Sci*. pp. 165-172.

⁹⁸ Okpukpara B.C. and Odurukwe N. (2006). Incidence and determinants of child labour in Nigeria: Implications for poverty alleviation. AERC Research Paper, 156 African

4.5 Urban migration

Notably, families that reside in the rural areas move to the urban areas in order to enhance their standards of living. As a result of that, they are frequently compelled to live and work in the road as they need access to essential prerequisites, for example, nourishment, shield and so on and these youngsters get to be road specialists as sellers. For the most part road specialists are helpless against viciousness and turn out to be more vulnerable to illicit works, for example, taking, trafficking medications and prostitution⁹⁹. These kids live in urban destitution; numerous child labourers live in unfortunate poor conditions ghetto territories and work in poor environment, for example, household work, or work in lodgings and restaurants. Many urban areas in creating nations have encountered fast urbanization¹⁰⁰. This implies the populace is expanding in urban communities because of migration and characteristic development. Urban neediness is a multidimensional marvel. Urban neediness in creating nations faces numerous difficulties in their day by day lives. Notably, many needy individuals are living under extraordinary hardship, because of unemployment. The issue of destitution can have shortcomings in the economy and absence of value to the rendering of services¹⁰¹. Neediness alludes to a capacity of social, financial and political structures and procedures that makes unequal conveyance of assets, both inside and in the worldwide setting between groups. Expanded urbanization has brought about neediness in the urban communities. Urban destitution raises ghettos. These zones are portrayed by high unemployment, poor sanitation, deficient access to

⁹⁹ Yadav, S., and Sengupta, G. (2009). "Environmental and Occupational Health Problems of Child Labour:

Some Issues and Challenges for Future." J. Hum Ecol. 28.2

¹⁰⁰ Serwadda-Luwaga, James. (2005). Child labour and scholastic retardation A thematic analysis of the 1999

Survey of Activities of Young People in South Africa. Thesis (MA (Demography) University of Pretoria.

¹⁰¹ Shitole, G. Y. (2005) Urban Poverty Management in India with special Reference to Micro-finance to Urban Poor in Mumbai. New Marine Lines, Mumbai.

clean drinking water and insufficient lodging. As indicated by Dash¹⁰² thousands of poor people move to Delhi, where transient families and their youngsters are compelled to work for survival and monetary opportunities.

4.6 Relationship between Child Labour, Family income and Education

Absence of education or low quality education is another component that adds to high rate of kid work. Education is viewed as one of the primary other options to nullify child labour. For all intents and purposes family wage influences youngsters' education and poor guardians can't bear to pay for kids notwithstanding, kids are propel to work and are less selected. In the accompanying segment gives a review amongst education and child labour and how education is most imperative potential substitute for kid work second the reasons why youngsters don't go to class. Third, kids are required to balance work and school. Thus, their academic performance tends to be undermined by child labour.

4.6.1 Child labour and schooling

A couple studies and all-inclusive relationship, for instance, ILO UNICEF, UNESCO and World Bank have attested that training can minimize the prevailing degree of child labour. Arguably, Bhat's¹⁰³ analysis can be essential for progression, for example training can enable adolescents acquire skills that will allow them to contribute positively to the community. Furthermore, education can upgrade the lives of the youths and their families. Also, refined adolescents can make sense of how to be constructive members of the society. Thus, it is likely that they will be generous

¹⁰² Dash, Bishnu Mohan, (2013). Factors Contributing the Incidence of Child Labour in Small Scale Commercial Establishments: A Study in Delhi . OIDA International Journal of Sustainable Development, Vol. 05, No. 12, pp. 41-58.

¹⁰³ Bhat BA and Rather TA,(2009). Child labour in the handicrafts home industry in Kashmir: A sociological study, Int NGO J,4 (9). 391-400.

upon succeeding. As per Khan¹⁰⁴ Children who require training or drop out of their school, generally require data and are feeble against mishandle. In this way they get the chance to be uneducated or inept work. Different associations, for instance, IPEC-ILO, UNICEF, UNESCO and World Bank are fighting against tyke work by endeavouring to offer access to education to all kids (UNICEF, UNESCO, 2008). They consider that education is an underlying need. In this manner UNICEF is working with other guide workplaces, governments and UN associations to meet the UN Millennium Development Goals by 2015 to ensure crucial education to all youths. Today numerous countries have figured out how to achieve the target of giving comprehensive essential education. In any case, the progress is still direct in low pay countries, for example in Sub-Saharan Africa. According to Akarro and Mtwewe (2011) the amount of key and assistant school remains direct in making countries since a large number of youths are being constrained to function rather than going to class. In spite of the way that there could be unmistakable reasons other than kid work, which impacts primary school enrolment. Parental unemployment, low nature of teachers and high cost of education, unfortunately have affected enrolment rates in low income countries¹⁰⁵.

4.6.2 The opportunity costs of education

The cost of education is another issue among poor families. This has added to the misuse of kids. Schools should be moderate and available. Kondylis and Marco (2006) expect, that schools accessible in creating nations may expand school

¹⁰⁴ Khan, A. (2007). Stakeholders' perceptions and action for addressing students' dropout in a government secondary school in Karachi (Unpublished master's dissertation). Aga Khan University, Karachi, Pakistan. Available at: http://ecommons.aku.edu/theses_dissertations/197

¹⁰⁵ Sakurai R. (2006). "Child labour and education" .Background paper prepared for the Education for All Global Monitoring Report 2007 Strong foundations: early childhood care and education.

enrolment however may not diminish the rate of kid work. For instance it appears in Tanzania where numerous youngsters drop out school and add to family unit wage. Bhat (2010) contends that the quality education a keep kids far from work, consequently it is imperative for a school to have taught educators in sufficient numbers to keep up high understudies instructor proportion in the classrooms. However for some poor guardians it can be expensive to send their youngsters to class, as they families live on kids' wage and can't manage the cost of school charges, garbs or other extra expenses (Bhat, 2010). This is an issue in creating nations to give quality free essential education since it will cost cash for governments. Betcherman¹⁰⁶ accepted that schools require enhancing through quality instructing and learning. It is some way or another critical that every nation gives educational strategies to build education among youngsters. Without a doubt, that underlined that mandatory education enactment can help youngsters to go to class and handle child labour, the approach program in regards to child labour must give free great quality and obligatory education to working kids in poor districts. Baht¹⁰⁷ implied that quality education for kids up to fifteen years ought to be given. This is the way the stream of youngsters into the work market can be diminished by giving working kids and previous working kids with educational open doors (Baht, 2011). It is both unlawful for youngsters to be out of school and for them to work. Then again there are numerous youngsters brushing work with school or dropping out of school. There are vast dropouts in Bangladesh, India and Pakistan with 13 million youngsters drop out-of-school and rising. Pakistan alone has 7.3 million grade school matured kids, not

¹⁰⁶Betcherman, Gordon Fares , Jean Luinstra, Amy, Prouty, Robert (2004). Child labour education and children's rights. World Bank group .

¹⁰⁷ Bhat, Bilal Ahmad(2011).Child Labour in the Cotton Industry of Uzbekistan: a sociological study. Centre of Central Asian Studies, University of Kashmir. Vol. 54.2011, 1, pages. 84-99

selected in school¹⁰⁸. Guardians consider sending their kids to work rather than school as a result of the cost of education, low quality absence of instructors and school supplies or poor instructing.

4.6.3. Combining school and work

Numerous youngsters need to work so as to have the capacity to go to class and take care of the immediate expenses of family wage. ILO expresses that if a kid consolidates school with work it may be troublesome for him or her to go to class in view of extend periods of time work can meddle with class or homework (ILO;2004). In any case, a few studies contend that kid work does not affect youngsters' school participation. These incorporate; Omokhodion and Odusote¹⁰⁹, they contended that child labour and tutoring may not be connected in light of the fact that numerous child labourers who go to class likewise work, to improve family salary and school charges. For youngsters in Kenya, Moyi¹¹⁰ indicates 45% of the kids in the study join work and education; just 5% of the kids commit their time only to work. Haile and Haile (2011) utilizing overview information from provincial Ethiopia demonstrate that young men are more inclined to go to class and to consolidate school with family financial action. In any case, young ladies are more able to consolidate residential work with school or included in household work with no school participation.

¹⁰⁸ Brown, Gordon (2012). Child Labour & Educational Disadvantage – Breaking the Link, Building Opportunity.

¹⁰⁹Omokhodion, F. O., S. I. Omokhodion, and T. O. Odusote. (2006). "Perceptions of Child Labour Among Working Children in Ibadan, Nigeria." *Child: Care, Health & Development* 32(3):281-286.

¹¹⁰Moyi, Peter (2011). Child labor and school attendance in Kenya. *Educational Research and Reviews* Vol. 6(1), pp. 26-35.

The administration ought to address some of these difficulties through approach and enactment. A portion of the holes distinguished above can be determined through dynamic engagement with residents through district and national governments.

CHAPTER FIVE: RECOMMENDATIONS

5.1 Introduction

In spite of the fact that the battle against child labour anyplace on the planet dependably exhibits colossal difficulties, kid work is not a practice that can be dispensed with by a solitary association or automatic mediation. The battle against child labour requires a firm articulation of political will at the most abnormal amount and the assignment of a capable national power that considers the nearby substances of the practice. This part reacts to the components brought up in section four and prescribes conceivable arrangements in the focuses highlighted beneath.

5.2 Harmful Cultural Practices

Social thoughts regarding youngsters' work and how this varies from kid work particularly rely on upon the unique situation. Likewise with the idea of kid manhandle, the meaning of child labour is one that must be consulted between the experts and the group. As indicated by the "UN Convention on the Rights of the Child" a youngster is any individual who is less than eighteen years old¹¹¹. This definition has strategy suggestions. Child labour along these lines alludes to the work of kids in a work that is perilous, unsafe or dangerous to them physically, mentally, socially and ethically, or that which affects with their studies¹¹². In numerous African societies, the possibility that youngsters' work in the family unit is a piece of a typical socialization handle, which sets them up for their future parts in life is a typical observation. As indicated by this view, child labour is viewed as a fundamental piece of family work association, which depends on a family structure and not as a type of kid manhandle. For young ladies, this thought of household work keeps on going up

¹¹¹ Available at <<http://childrensrights.ie/childrens-rights-ireland/un-convention-rights-child>> accessed 24th October 2015.

¹¹² Osemwegie, Adesuwe, *Street Children in Lagos* (UNDP/UNCHS/World Bank Urban Management Programme Regional Office for Africa 1998).

against an extra essentialness. A young lady's skill in residential tasks is seen as an additional preferred standpoint when she wants to get hitched. Numerous Kenyan men who are still dedicated to conventional qualities consider this as a critical quality in a lady. Accordingly, individual and group discernments about youngsters' work combined with a general absence of open mindfulness and comprehension of the privileges of kids add to the imperceptibility and weakness of local child labourers. Endeavours to battle child labour needs to address these social states of mind that are profoundly installed in the social textures of numerous Kenyan communities.

5.3 Mainstreaming Gender

Sufficiently representing sexual orientation concerns is basic to the achievement of early intercessions to battle child labour and of later mediations elevating effective move to not too bad work. As noted at different focuses in this Report, young lady youngsters confront unique boundaries as far as practicing their rights to education and insurance from kid work, inferable from variables, for example, early marriage, the requests of residential obligations inside their own home and conventional parts. This highlights the all-encompassing requirement for comprehensive training procedures, including young lady amicable schools, which are versatile to and steady of the one of a kind tutoring challenges confronted by young lady youngsters. It additionally calls for focused intercessions tending to the assortment of social, social and monetary elements that leave young lady youngsters particularly helpless against specific sorts of child labour, including business sexual misuse and household work.

Female youth in numerous areas experience the ill effects of fewer opportunities in the work market and more noteworthy troubles in travelling to average work. They

are likewise frequently restricted to a smaller scope of word related opportunities than their male partners. Young ladies' profession directions can be extremely constrained as an after effect of societal and familial desires that they quit their work after marriage or after the introduction of their first kid. The disadvantaged position of female youths in the job market underscores the necessity for continued efforts towards guaranteeing rise to circumstances and treatment of young ladies and men in education and in work.

5.4 Creating the Conditions for Change

A solid government responsibility to interest in the key segments of training and standardized savings will likewise be basic in the advance in wiping out child labour and deleting the tolerable work deficiency. While national asset roofs obviously matter, choices concerning asset distributions can have a noteworthy effect inside a given asset. It is likewise basic that global collaboration, organizations and help proceed in supporting national endeavours which relate to the employment of the youth and child labour. Social accomplices have essential parts to play in this unique situation.

The realization of sustainable advancement in fighting child labour and advancing nice work for youth likewise requires a strong administrative environment which is in accordance with universal models and which is viably mainstreamed into national improvement arranges and programs. This has the essential impact of flagging national purpose and of giving a system to activity. Inside the child labour setting, the approval of ILO Convention No. 182 on the Worst Forms of Child Labor and ILO Convention No. 138 on the Minimum Age has now happened in many nations of the world. The basic next stride on the authoritative front is to guarantee that these Conventions are viably tamed into national enactment and adequately authorized.

This procedure ought to incorporate the elaboration of national arrangements of perilous work that is disallowed for all people underneath the age of 18 years.

5.5 Intervening Early

Youngsters' initial school leaving and untimely association in work can contrarily impact the pathways to work taken by youthful people. This proof underscores the basic significance of interceding right on time in the lifecycle to battle kid work and instructive underestimation as a major aspect of a more extensive procedure to enhance youth business results. Expelling kids from work and getting them into school are enter objectives all by themselves as well as basic to guaranteeing that kids enter pre-adulthood with the fundamental information and abilities for further learning and effectively transitioning to working life. Early mediation additionally deters the requirement for all the more expensive therapeutic measures later in the lifecycle. The objective of child labour disposal, as such, is an essential beginning stage for the acknowledgment of the worldwide Decent Work Agenda for all, including among youth¹¹³. Luckily we don't need to rethink the wheel as far as how to mediate to battle child labour. We can expand on the wide assemblage of proof concerning the reasons for child labour and broad programming background tending to child labour that has amassed in the course of the most recent two decades. The Roadmap for Achieving the Elimination of the Worst Forms of Child Labor, embraced at The Hague Global Child Labor Conference (2010)¹¹⁴ and the Brasilia Declaration on Child Labor rising

¹¹³ A recent learning package to support trade unions, employment services, education and training institutions, as well as youth organizations, in their initiatives aimed at raising young people's awareness of their rights at work, see ILO (2014), op. cit. 62 World Report on Child Labour 2015.

¹¹⁴ Available at < <http://www.ilo.org/ipec/Campaignandadvocacy/GlobalChildLabourConference/lang--en/index.htm> > accessed on 4 October 2015.

up out of the III Global Child Labor Conference (2013) ¹¹⁵ together offer a key structure for strategy endeavors.

The confirmation and experience aggregated to date indicates two arrangement columns which are particularly essential in fighting child labour: education and social assurance. Guaranteeing free, necessary and quality training through to the base time of business, furnishes families with the chance to put resources into their youngsters' education as a contrasting option to child labour and makes it beneficial for them to do as such. Extending social assurance keeps child labour from being utilized as a family unit survival system even with financial stuns and social helplessness.

5.6 Facilitating the Transition from School to Work

The work advertise prospects of youthful people, at the end of the day, and specifically, comes back to training in the work market, can impact family unit choices concerning the division of kids' chance amongst work and school prior in the lifecycle. Discoveries speak to another critical contention for tending to youth business and child labour issues as an inseparable unit: not just does kid work influence youth business prospects yet youth work prospects clearly influence child labour¹¹⁶. Growing average work opportunities for youth, and especially for helpless youth, it takes after, is not just basic for tending to the adolescent business emergency but on the other hand is a vital component of a technique that locations child labour.

While there is nobody estimate fits all way to deal with handling the young work emergency the broad existing collection of proof and approach encounter focuses to an arrangement of center strategy regions that should be considered in connection to

¹¹⁵ Available at <<http://www.ilo.org/ipec/Campaignandadvocacy/BrasiliaConference/lang--en/index.htm>> accessed on 6 October 2015.

¹¹⁶ http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_240032.pdf accessed on 17th October 2015.

national and neighborhood conditions. The ILO gives far reaching direction in light of past proof and involvement in the Call for Action on the Youth Employment Crisis concurred by governments, specialists and businesses at the June, 2012 International Labor Conference.⁹² Besides master work macroeconomic approaches, particular sorts of intercessions considered especially important incorporate upgrading youngsters' ILO (2012), operation. cit. PART VI The route forward 63 employability through putting resources into education and preparing; fortifying work market foundations; and empowering youth business¹¹⁷.

5.7 Addressing Children in Hazardous Work

Unsafe work among youths matured 15 to 17 years constitutes a most exceedingly awful type of child labour and an infringement of worldwide work measures. It additionally constitutes a noteworthy deterrent to accomplishing better than average work for all, including among youth. A sum of 47.5 million youths of this age gathering are in perilous work, representing 40 for every penny of every utilized juvenile matured 15 to 17 years and more than one-fourth of all child labourers. These stark numbers underscore the significance of agreeing unique consideration regarding the basic 15–17 years age bunch in endeavours to battle child labour and in endeavours to advance not too bad work for youth.

It is essential to note that while we are centering here on youngsters, unsafe work is not worthy for grown-up laborers either. The ILO Conventions on occupational safety and health (OSH) ¹¹⁸ and on labour examination¹¹⁹ offer assurance for all laborers.

¹¹⁷

http://www.ilo.org/wcmsp5/groups/public/@ed_dialogue/@sector/documents/publication/wcms_240701.pdf accessed 18th October 2015

¹¹⁸ ILO Convention No. 155 on Occupational Safety and Health (1981); ILO Convention No. 187 concerning the Promotional Framework for the Occupational Safety and Health (2006).

¹¹⁹ ILO Convention No. 81 on Labour Inspection (1947); or ILO Convention No. 129 on Labour Inspection (Agriculture) (1969).

Taking out unsafe work of youngsters can enhance security and wellbeing of all laborers – a definitive objective. In cases where youths in the 15–17 years age gathering are working in divisions or occupations that are assigned as risky¹²⁰ or where there is no degree for enhancing working conditions, the strategy necessity is clear – they should be expelled from the unsafe employment. In these occurrences it is basic that there is a methodology set up for furnishing pulled back youth with satisfactory bolster administrations and renewed opportunities for securing not too bad work. Chance relief is a vital alternative in cases where labour conditions exist. Such a methodology includes measures to expel the danger, to isolate the tyke adequately from the peril so as not to be uncovered, or minimize the hazard connected with that risk. Advancing the combination of word related well-being and wellbeing criteria and unsafe child labour into the sorting out and bartering motivation of exchange unions ought to be another key component of a procedure to battle dangerous work among youth.

5.8 Ensuring informed policy development

In spite of noteworthy advance in building the confirmation base in the fields of kid work and youth business, essential information crevices hold on, constituting a vital imperative to strategy detailing. Key crevices include: the particular effect of child labour on future work market results, and on how this effect may shift contingent

¹²⁰ It is important to reiterate that ILO Conventions No. 138 and No. 182 state that the specific types of employment or work constituting hazardous work are determined by national laws or regulations or by the competent authority. When countries ratify ILO Conventions where youth are exposed to hazards in sectors or occupations that are not designated as hazardous in national hazardous work lists and where scope for change No. 182 and No. 138, they commit themselves to determining work to be prohibited to persons under 18 years of age. Article 4 of ILO Convention No. 182 in this context specifies: The types of work referred to under Article 3(d) [work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children] shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, taking into consideration relevant international standards, in particular Paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation, 1999.

upon various sorts of kid work and relying upon whether child labour is consolidated with school participation; the particular sorts of perilous work performed by youth, and the elements that underlie their association in dangerous work. Creating sufficient estimation criteria for risky work is a vital related need; the part of youth work economic situations and comes back to education – and of desires in these regions – on family unit choices concerning kids' school and work prior in the lifecycle; the effect of arrangements and mediations identifying with child labour and youth business. There is a requirement for more proof, entomb alia, on the effect of arrangements focusing on unsafe work among youth, the effect of youth business approaches on kid work, and on the effect of child labour strategies.

BIBLIOGRAPHY

Bardhan P and Udrhy C, *Development Microeconomics* (Oxford University Press 1999).

Basu K and Van P, 'The Economics of Child Labour' (1999) 88 *American Economic Review*.

Becker B and Lewis H, 'On the Intercation Between Quantity and Quality of Children' (1973) 81 *Journal of Political Economy*.

Becker G, *Human Capital* (Columbia University Press 1964).

Beegle K, Dehejia H and Gatti R, 'Child Labor and Agricultural Shocks' (2006) 81 *Journal of Development Economics*.

Bhalotra S and Heady C, *Child Farm Labour: The Wealth Paradox* (Unpublished Discussion Paper No 03/553 Department of Economics University of Bristol 2003).

Chernichovsky D, 'Socioeconomic and Demographic Aspects of School Enrollment and Attendance in Rural Botswana' (1985) 32 *Economic Development and Cultural Change*.

'Convention on the Rights of the Child' (*United Nations HUMAN Rights Office of the Commissioner for HUMAN Rights*)
<www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

Cullen H, 'Child Labour Standards: From Treaties to Labels' in Burns Weston (ed), *Child Labour and Human Rights: Making Children Matter* (Lynne Rienner Publishers 2005).

——, *The Role of International Law in the Elimination of Child Labour* (Martinus Nijhoff 2007).

Government of Kenya, 'Kenya Vision 2030: The Popular Version' (2006).

Hanushek A, 'The Trade-off between Child Quantity and Quality' (1992) 100 *Journal of Political Economy*.

International Labour Organisation, 'What Is Child Labour?' (*International Labour Organisation*, 2015) <<http://www.ilo.org/ipec/facts/lang--en/index.htm>> accessed 10 April 2015.

Kochar A, 'Smoothing Consumption By Smoothing Income:Hours-Of-Work Responses to Idiosyncratic Agricultural Shocks in Rural India' (1999) 81 *The Review of Economics and Statistics*.

Krishnan P and Sciubba E, 'Links and Architecture in Village Networks'' (2006).

Levison D, 'Children's Labor Force Activity and Schooling in Brazil' (University of Michigan 1991).

Montgomery A, Kouame A and Oliver R, 'The Tradeoff between Number of Children and Child Schooling: Evidence from Cote d'Ivoire and Ghana' (1995) LSMS Working Paper 112.

Nanjunda D, *Child Labour and Human Rights: A Prospective* (Gyan Publishing House 2008).

Nardinelli C, *Child Labour and the Industrial Revolution* (Indiana University Press 1990).

Organisation IL, 'ILO Conventions and Recommendations on Child Labour' (*International Labour Organisation*, 2015)
<<http://www.ilo.org/ipecc/facts/ILOconventionsonchildlabour/lang--en/index.htm>>
accessed 10 April 2015.

Patrinos H and Psacharopoulos G, 'Educational Performance and Child Labor in Paraguay' (1995) 15 *International Journal of Educational Development*.

Powell B and Steelman L, 'The Educational Benefits of Being Spaced Out: Sibship Density and Educational Progress' (1993) 58 *American Sociological Review*.

Report of the Director General of the International Labour Organization, 'The End of Child Labour: Within Reach-Global Report Under the Follow Up to the ILO Declaration on Fundamental Principles and Rights at Work' (2006).

Rosenzweig R and Woplin K, "'Testing the Quantity-Quality Fertility Model: The Use of Twins as a Natural Experiment' (1980) 48 *Econometrica*.

UNICEF, 'UNICEF Factsheet: Child Labour' (*UNICEF*, 2015)
<http://www.unicef.org/protection/files/child_labour.pdf> accessed 20 April 2015.