

The Invisible Child Worker in Kenya: The Intersection of Poverty, Legislation and Culture

COLLETTE A. SUDA

Institute of African Studies, University of Nairobi

ABSTRACT

Although data on the prevalence and magnitude of child labour are inadequate, the number of children working under intolerable conditions in Kenya is estimated at over 3 million. However, the number of domestic child workers and children working in the informal sector are much more difficult to estimate because child labour in these two sectors is largely invisible. This invisibility is mainly attributed to the privacy of the domestic sector, the ineffectiveness of legislation, inadequate capacity on the part of the labour inspection unit, paucity of data, cultural values and perceptions as well as lack of public awareness. The problem is compounded by the fact that no legal minimum age of employment has been set in either the informal or the domestic sector. In addition, a lot of Kenyans are not aware of the problem of child labour in general and that of domestic child worker in particular. Children's work as domestic servants is generally regarded as a normal process of child up-bringing and many families and child employers expect children to work and contribute to their families' income.

Poverty is one of the underlying causes of child labour and one that also interacts with other factors in mutually reinforcing and complex ways and thus the need to argue the links and interplay between some of these factors. The way forward in the combat against child labour is through a public-private partnership of all the actors at all levels and across all sectors because poverty is a multi-sectoral problem and the main sites of invisible child labour are the informal and domestic sectors.

To be more effective, sustainable action against invisible child labour should be designed to bring different groups of actors together into a partnership to address the problem and should put a great deal of emphasis on the empowerment of the community, the family and the working children as the central focus of attention and targeted local interventions, particularly in the urban slums. This should be done simultaneously with the promotion of community participation to mobilize local resources for expanding basic social services to poor urban neighbourhoods and increasing access to them by families and individuals.

Keywords: child labour, Kenya, informal sector

INTRODUCTION

Child labour is a global problem with regional sub-regional, national and local variations. Despite the paucity and fragmentation of accurate and up-to-date

information on the nature and magnitude of child labour, available statistics indicate that, in Africa, about 41% (80 million) of the children aged 5-14 are involved in exploitative and hazardous forms of work which not only compromise their health, safety, dignity and morals, but also deny them the right to grow, develop and enjoy their childhood. In Kenya, an estimated 3-4 million children between the ages of 6 and 14 are not in school but are spending their childhood working under conditions which often impede their overall development. Some of these children had never enrolled in school while many others had dropped out after only a few years. Many children who have dropped out of primary school usually end up working in a wide range of sectors which include commercial agriculture, tourism industry, quarries and mines, miraa growing areas of Nyambene district, gold mining areas of Kakamega district, garbage collection, fishing industry, the public transport sector where they move from place to place as *matatu touts*, and the domestic sector.

There are different forms of invisible child workers. These include children in commercial sex work, in pornography, in bonded labour, in domestic service, in the fishing industry and very young children who are left to look after other younger siblings when parents or guardians are away.

This paper focuses on the invisible child worker in the domestic sector, the difficulties experienced by the child worker, socio-economic and cultural forces which produce child labour and the implications of all this for sustainable action against child labour in Kenya.

1. POVERTY AND DOMESTIC CHILD LABOUR

The roots of domestic child labour range from family disintegration, a growing shortage of affordable housing and food in the urban settings to rising unemployment that keeps many families and individuals in extreme poverty. Many of these circumstances are caused by rapid cultural change and deteriorating structural conditions. Poverty is one of the underlying causes of domestic child labour. According to the Welfare Monitoring Survey of 1994, the proportion of the population living below the poverty line in Kenya was 47% in the rural areas and 29% in the urban areas. The absolute poverty line was estimated at 980 Kenya Shillings per capita income for the urban areas (Republic of Kenya 1999: 3; World Bank 1994).

The poverty situation in Kenya has worsened over the last 26 years. The number of poor people increased from an estimated 3.7 million in 1972-1973 to 11.5 million in 1994. In 1997 about 12.5 million Kenyans were living in poverty and by the end of 1999, about 15 million people in Kenya (about half the total national population) were experiencing living standards below the absolute poverty line now set at less than 3,000 Kenya Shillings per month (about 40 US) (Republic of Kenya 2000: 8). The recently launched Poverty Reduction Strategic Paper (PRSP) acknowledges the escalating poverty level in Kenya

which currently has "more than half of the population living below the absolute poverty line" (Republic of Kenya 2001: 20)

The majority of the Kenyan poor live in the rural areas and have little or no access to land and other productive resources, physical goods and income which results in individual and/or group deprivation, vulnerability and powerlessness. (Beneria and Bisnath 1996; Bahemuka et al. 1998).

The results of a Welfare Monitoring Survey of 1997 indicate that the overall incidence of poverty in Kenya was about 53% in the rural areas and 49% in the urban areas. The overall national incidence of poverty was estimated at 52 percent (Republic of Kenya 2000). The table below summarises the overall poverty situation in Kenya over a five-year period.

Table 1: The Incidence of Poverty in Kenya by Region - 1992, 1994 and 1997

Regions	Percentage of Overall Poverty in Kenya		
	1992	1994	1997
RURAL AREAS (Provinces)			
1. Central	35.89	31.93	31.39
2. Coast	43.50	55.63	62.10
3. Eastern	42.16	57.75	58.56
4. Nyanza	47.41	42.21	63.05
5. Rift Valley	51.51	42.87	50.10
6. Western	54.81	53.83	58.75
7. North Eastern	-	58.00	-
TOTAL RURAL	47.89	46.75	52.93
URBAN AREAS			
1. Nairobi	26.45	25.90	50.24
2. Mombasa	39.17	33.14	38.32
3. Kisumu	-	47.75	63.73
4. Nakuru	-	30.01	40.58
5. Other Towns	-	28.73	43.53
TOTAL URBAN	29.29	28.95	49.20
TOTAL KENYA	44.78	40.25	52.32

Source: Welfare Monitoring Survey Series: 1992, 1994 and 1997.

The poverty data in Table 1 show regional variations, which correspond with the general employment pattern of child workers who take up jobs in the domestic and informal sectors to supplement their family incomes. Many of the domestic child workers in the urban areas tend to come from the most impoverished North Eastern, Nyanza, Eastern, and Coast Provinces as well as the most densely populated Western province. In fact, North-Eastern, Eastern and some parts of Coast Provinces are among the most impoverished regions in the country with

hardly any infrastructure or basic services. These areas fall under the Arid and Semi-Arid (ASAL) ecosystems with extreme forms of poverty exemplified by severe food and water shortages. An increasing number of domestic child workers in Kenyan urban households tend to come from these regions.

A growing number of children are also pushed into the domestic service from poor urban household, many of which are headed by women with low education, limited skills, and decreasing opportunities for economic advancement. A number of poverty reduction programmes in Kenya have been designed to address the specific needs of women and other social categories of people living in poverty. One such initiative is the Micro and Small Enterprises Programme, which focuses on the provision of credit and training to female micro-entrepreneurs in the rural slums. Other poverty eradication initiatives include the Urban Slums Development Project of the Nairobi City Commission, the Street Children Fund, the Education Bursary Programme to assist bright children from poor families, and the School Feeding Programme. Taken together, these and other local initiatives underscore the multidimensional character of poverty and its devastating effects on women and children whose work in the domestic sector remains statistically invisible.

2. THE HOUSEHOLD AS THE DOMESTIC SITE FOR THE INVISIBLE CHILD LABOUR AND SOME OF THE DIFFICULTIES EXPERIENCED BY DOMESTIC CHILD WORKERS

In the domestic sector, a lot of female children are hired as maids mostly in low- and middle-income urban households where they are overworked and underpaid. Male children also work in the domestic sector often as houseboys and gardeners basically under similar exploitative and dehumanizing conditions. Most child workers in Kenya's urban households are young girls between the ages of 10 and 18. The girl child domestic worker is therefore a common feature of most urban households in Nairobi and other major urban centres in Kenya. Most of the domestic child workers live in with their employers and work under difficult and deprived circumstances which reflect the deplorable conditions in and around the household. Full time domestic child workers are frequently engaged in long hours of multiple household chores which deny them the right to growth, recreation and education and subsequently affect their overall well being.

Given the harsh and hostile working environment in some households, most of the child workers lack adequate care and protection and are usually vulnerable to physical and emotional violence, economic exploitation and sexual and verbal abuse. In addition, most domestic child workers are paid pittance for their long hours of labour. Others are paid in kind.

Among those who are paid in cash, some have their wages paid to their parents, guardians or other adults ostensibly because the children themselves are

still considered too young to handle money even though they endure long hours of work under unfavourable conditions. This practice exemplifies exploitation because the child who does the work is actually denied the rewards to his/her labour since child labour is a product of poverty and its complex interaction with other forces such as high unemployment, urbanization, family disintegration, large family sizes and transitional cultural values, the money earned by working children is needed for family sustenance. The primary reason why children work is to augment their families' incomes. It is a survival strategy and a source of livelihood for themselves and their families.

Other difficulties experienced by child workers in domestic settings include inadequate food and clothing, lack of a proper place to sleep, inadequate medical care, lack of opportunity for quality education, verbal abuse and sexual harassment (in the case of girls). Such abusive and exploitative working conditions are harmful to the children's health, safety, morals and dignity. But due to their age, vulnerability and invisibility, domestic child workers are unable to organize themselves to demand better working conditions and therefore continue to suffer sexual, social and economic exploitation and other forms of abuse in the privacy of their employer's homes and houses.

The type of deprivation suffered by most maids is not only economic, but social, emotional and moral as well. Social because many of them have no real friends or the opportunity to make any given the nature of their lives and conditions of their work and emotional because many of them are not treated with love and respect by their employers and other members of the family, who, because of the social distance, cannot deal effectively with the feelings of maids or houseboys. The fact that domestic child employers do educate their own children when the child worker in the household is of school going age but out of school is not only an issue about social and economic distinctions in society, but also about moral judgements of what is right and wrong, and our personal and public obligations to children as a constituency.

3. GENDER DIMENSION OF THE INVISIBLE CHILD LABOUR

Most of the domestic child workers in low-income Kenyan urban households are girls. Domestic female child workers contribute approximately 37% of child labour in Africa, which is considered the highest participation rate across all countries of the South (ANPPCAN 1998). A study of Sinaga Women and child Labour Resource Centre (1996) indicates that most domestic female child workers employed as maids in Nairobi's low-income households are between the ages of 10 and 18. Sinaga is a community-based organization, which focuses on the girl child working in the domestic sector in the urban slums. It runs several rehabilitation programmes for the girls who have been domestic child workers to develop their capacity.

There are two broad categories of female domestic child workers. One category of girls in domestic service are those who are living with their own families and helping with household chores. Many of them have dropped out of school and others have never enrolled primarily because of poverty, but also as a result of cultural prejudices and institutional arrangements, which underlie gender inequality. Many girls in this category are relatively young compared to those who come to take up jobs in the domestic sector for non-family members. The other category of female child workers are those who are brought in from the rural areas or the urban slums for domestic work. Although the working and living conditions of both categories of child workers may be different, both are involved in dead-end jobs and experience varying forms of abuse and exploitation, including the denial of educational and training opportunities, which could hold the key to their future.

At the time of employment, many employers usually promise to support their child workers receive basic training in certain skills such as tailoring or go to school part-time. However, once the children have been employed, such promises are quickly forgotten. The children remain a source of cheap and unskilled labour in the households.

Chronic poverty and the inadequate educational system in Kenya have contributed to the prevalence of child labour in general and increasing presence of young girls working in the domestic sector in particular. As a result of cost-sharing, Kenyan parents are spending more money on the education of their children than the government. The existing education policy in Kenya has partly contributed to the prevalence of child labour. Basic education in Kenya is neither free nor compulsory. Under the current 8-4-4 system of education, for example, parents are overburdened by high levies and the children are over-worked by a crowded curriculum. The Poverty Reduction Strategic paper has summarized the effect of cost-sharing on the girl child education as follows:

The cost of education especially in primary schools is a huge burden on many households. The many school requirements such as several textbooks for every subject, school uniform, school development fund, additional hiring of teachers by Parent/Teacher Associations and other frequent and unplanned levies have all acted to deplete the meagre household incomes. For many parents who cannot afford the high cost of education, their children drop out of school and work to supplement household budgets. The situation is worse for the girl child who becomes the first victim to drop out of school due to the boy child preference in a situation of reduced resources (Republic of Kenya 2001: 19).

When children are kept out of school they become potential child workers and constitute a reservoir of cheap and unskilled labour. A growing number of child workers are school dropouts who cannot continue, mainly because of the inability to pay school levies and other factors associated with the school environment.

The primary school enrolment rate in Kenya currently stands at 78.8% for boys and 76.5% for girls while the completion rate is 55% for boys and only

35% for girls (Republic of Kenya 1997a, 1997b; ILO 1997). These figures show a dropout rate of more than 50% and a higher proportion of girls who are potential child workers. In Africa, two-thirds of the children who drop out of school are girls. This is due mainly to a combination of cultural factors and structural constraints, which produce and reinforce gender disparity. Many girls who have dropped out of school or those who had never enrolled tend to seek wage employment in the domestic sector and also drift quite easily into commercial sex and run the risk of becoming pregnant at an early age or contracting sexually transmitted diseases while the boys tend to get involved in a wide range of petty trade in the informal sector and escape activities on the streets.

4. THE CHALLENGE OF PROTECTING DOMESTIC CHILD WORKERS

The task of protecting domestic child workers from exploitative and hazardous working conditions remains one of the greatest challenges facing all the actors who are working in partnership to combat child labour. The following is a brief discussion of some of the factors contributing to the invisibility of domestic child labour and impede efforts to provide protection.

4.1. THE PRIVATE NATURE OF THE DOMESTIC SECTOR

A major challenge in the combat against domestic child labour is the difficulty in gaining access to the sector, establishing the magnitude of the problem, raising awareness and mobilizing partners to take sustainable action against the practice. The domestic sector is technically out of reach for labour inspectors since most of the children who work here are confined to their employers' homes and houses located in different parts of the urban areas and very difficult to penetrate. And even when labour inspectors do penetrate these premises there is no employment contract between the child worker and the employer. Furthermore, many employers of domestic child workers pay an intermediary who is an adult rather than the children themselves. The problem is further compounded by the fact that some employers present these working children either as their relatives or friends of the family but not as child workers. A similar problem exists in the informal sector where child workers are involved in a variety of enterprises and tend to move from one place to another as in the case of *matatu touts*, child hawkers and children involved in commercial sex work.

This work pattern often hampers efforts to obtain reliable information on the prevalence of child labour. The under-reporting, which often results from this,

accounts in part for the invisibility of child labour in the informal and domestic sectors.

4.2. INEFFECTIVE LEGISLATION

In Kenya, the Ministry of Labour and Manpower Development (MLMD) has the main responsibility of implementing labour laws. One of its mandates is to improve labour inspection and to enforce the law regulating employment of children and their working conditions. However, these laws mainly regulate the employment of children in the larger, more formal and more organized industrial sectors but are not effective in the informal sector and the domestic service mainly due to limited resources, the general attitude of the public who consider child labour as a normal and acceptable practice, and the invisibility of child labour in the informal and domestic sectors. Although Kenyan labour laws and regulations prohibit the employment of children in some specific sectors like quarrying and mining, manufacturing, fisheries, plantation agriculture, construction and other large industrial establishments, there is no legal minimum age for the employment of children in the informal and domestic sectors. This void has opened the floodgates to child labour abuses, which are legally invisible and therefore cannot technically be the subject of legal prosecution.

Kenya has ratified Convention No. 81 on labour inspection in industries and Convention No. 129 on labour inspection in agriculture. In accordance with these conventions, there is a system of labour inspection which includes inspection of premises, records, machines and facilities, among other things as well as the power to initiate legal proceedings in the event of contravention (Katambo 1996). However, labour inspection is difficult in the informal and domestic sectors mainly because children move from place to place, there are no employers' register showing the names of working children, the children's wages are paid to adults and not to the children themselves and the law enforcement agencies lack the necessary resources needed to do their work more effectively. As a result of these challenges, child labour in the informal and domestic sectors escapes child labour inspection and enforcement of employment legislation. One obvious consequence of this invisibility is the difficulty in providing protection to children working in the domestic sector where no legal minimum age for employment exists.

Although it is difficult for labour inspectors to penetrate the domestic sector and provide protection against child labour abuses, a number of Non-Governmental Organizations (NGOs) and Community-Based Organizations (CBOs) are actively involved in the withdrawal of domestic child workers from exploitative and hazardous work situations and are helping with rehabilitation and other preventive initiatives.

4.3. INADEQUATE DATA

Most cases of domestic child labour are not reported partly because of fear of prosecution, but also because the domestic sector is technically inaccessible. Lack of accurate, comprehensive and up-to-date information on the nature and magnitude of domestic child labour remains one of the biggest challenges in the fight against the practice. Under-reporting of cases of domestic child labour also means that much of the work done by children in this sector is not reflected in the national statistical surveys and is therefore invisible.

4.4. CULTURE

Cultural ideas about children's work and how this differs from child labour very much depend on the context. As with the concept of child abuse, the definition of child labour is one that has to be negotiated between the professionals and the community. According to the "UN Convention on the Rights of the Child" a child is anyone who is under the age of eighteen. This definition has policy implications. Child labour therefore refers to the employment of children in any type of work that is dangerous, harmful or hazardous to them physically, psychologically, socially and morally, or that which interferes with their education. (Osemwegie 1998; United Nations General Assembly 1989).

In many African cultures, the idea that children's work in the household is part of a normal socialization process, which prepares them for their future roles in life is a common perception. According to this view, child labour is considered an integral part of household labour organization, which is based on a family structure and not as a form of child abuse. For girls, this idea of domestic work continues to take on an additional significance. A girl's competence in domestic chores is perceived as an added advantage when she is planning to get married. Many Kenyan men who are still committed to traditional values consider this as an important quality in a woman. Thus, individual and community perceptions about children's work coupled with a general lack of public awareness and understanding of the rights of children contribute to the invisibility and vulnerability of domestic child workers. Efforts to combat domestic child labour have to address these social attitudes that are deeply embedded in the cultural fabrics of many Kenyan communities.

CONCLUSION

The forces that produce child labour are many, complex and interrelated. Increasing poverty, population growth, urbanization, unemployment, family disintegration, irresponsible parenthood, an education system which keeps children out of school and lack of public awareness of the harmful consequences of child labour are among the major factors associated with the prevalence of domestic child labour in Kenya. Domestic child labour, which is invisible but prevalent in the urban household settings, is a product of these multiple and interrelated factors. Child labour in the domestic sector involves several intolerable aspects of exploitation, which undermines children's rights as detailed in the UN Convention on the Rights and Welfare of the Child.

Although an increasing number of children from poor families are joining the informal and domestic sectors as workers and continue to be exposed to various forms of exploitation, the greatest challenge facing all the actors in the fight against child labour is how to penetrate the domestic sector, expose the plight of these working children and offer protection. The private nature of the domestic sector, inadequacies in the legislation the difficulties with inspection, lack of awareness, inadequate data and cultural attitudes all contribute to the invisibility of the domestic child labour and hampers efforts to provide protection.

SOME SUGGESTIONS FOR THE WAY FORWARD

Although the fight against child labour anywhere in the world always presents enormous challenges, child labour is not a practice that can be eliminated by a single organization or programmatic intervention. On the one hand, the fight against child labour requires a firm expression of political will at the highest level and the designation of a responsible national authority (Nyambari 1998: 1). Kenya has no comprehensive national policy on child labour. There are however, several legal provisions governing the employment of children and these are scattered in different Acts. What is needed is an explicit, coherent and comprehensive policy on child labour, which addresses all forms of intolerable child labour, the various strategic sectors where they predominate and sustainable measures to combat it. More importantly, an effective strategy against child labour requires a concerted action at all levels by governments, employers and workers' organizations, Non-Governmental Organizations (NGOs), representatives of working children and their families and other members of civil society all united in a coherent, integrated and multi-sectoral approach. This kind of public - private sector partnership at different levels not only holds good promise for sustainable action against domestic child labour but

can also provide a larger framework within which to mobilize community resources and initiate community - based interventions.

Child labour interventions can be classified into two broad categories, namely preventive and protective measures. At the national level, different actors in Kenya have developed child labour programmes focusing on very broad policy issues such as poverty alleviation, education, legislation and rural development. These policy issues provide the basis for long-term preventive measures. The more specific protective (or rehabilitative) measures have involved the development and implementation of programmes targeted at the immediate withdrawal of children from hazardous and exploitative working conditions as well as their rehabilitation and the provision of viable alternatives to the children and their families. Much of the outreach work done by the Central Organization of Trade Unions (COTU), SINAGA and other NGOs and CBOs is both protective and rehabilitative in nature.

A number of local NGOs and Community - Based Organizations (CBOs) are actively involved in the fight against child labour. Many CBOs working in the urban areas are able to penetrate the domestic sector and rescue the invisible child worker with the support of the local communities. Once withdrawn from intolerable working situations, the children are offered a range of services through the programmes, which are run by the CBOs and local NGOs. The services include vocational training, education (taking children back to school), shelter, feeding, medical care, re-uniting them with their families (for those who are willing), counselling and awareness creation. The child labour programme, which is run by the Federation of Kenya employers (FKE) focuses on sensitization and advocacy. It seeks to enhance public awareness and understanding of the rights of children, the dangerous consequences of child labour and the need to eradicate the practice.

While the larger policy issues such as the universal provision of free and compulsory basic education, enhanced opportunities for adult employment, and poverty reduction remain fundamental upstream concerns, community - level interventions ought to be built on a partnership between all the players, first to avoid duplication of efforts and secondly to strengthen the capacity of the community, the family and the children themselves to combat domestic child labour in a sustainable way. It is this integrated, multi-sectoral and participatory approach, which can facilitate sustainable action against the invisible child worker in Kenya. With regard to education, perhaps the starting point is for the community to develop and improve their children's creativity and self-esteem. Some of these can be achieved through non-formal forms of education, which are designed to address the educational needs of the children and their communities and also to empower them to participate in other sectors of the economy.

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ABBREVIATIONS AND ACRONYMS

ANPPCAN	African Network for the Prevention and Protection Against Child Abuse and Neglect.
COTU	Central Organization of Trade Unions (Kenya)
FKE	Federation of Kenya employers
MLMD/CLU	Ministry of Labour and Manpower Development/Child Labour Unit.
SINAGA	Sinaga Women and child Labour Resource Centre.

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