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A Review Paper on agricultural policies and the elimination of child labour in Kenya: key issues, gaps and opportunities

**International
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the Elimination
of Child Labour
(IPEC)**

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1. Preamble

This assessment is a contribution to the commemoration of the World Day Against Child Labour (WDACL), i.e. June 12, for the year 2007. The report analyses key issues, gaps and opportunities regarding the extent to which Kenya's agricultural policies and laws address elimination of child labour especially its worst forms. Recommendations are made on how to fill the identified gaps as a way of accelerating the fight against child labour in agriculture.

1.1 World Day Against Child Labour (WDACL)

In 2002, the ILO initiated the World Day Against Child Labour (WDACL), which is marked on the 12th of June every year to harness the commitment, motivation and inter-agency collaboration in addressing global elimination of child labour. Each year WDACL events have focused on thematic areas on Worst Forms of Child Labour (WFCL). The 2007 theme will focus on child labour in the agriculture sector. Towards this end, various international agriculture organizations started meeting in September 2006 to discuss the importance of eliminating child labour in the agricultural sector. The organizations include the International Labour Organization (ILO), International Fund for Agricultural Development (IFAD), Food and Agriculture Organization (FAO), World Food Programme (WFP), the International Food Policy Research Institute (IFPRI), and the International Union of Food, Agriculture, Hotel, Restaurant, Catering, Tobacco and Allied Workers Association (IUF).

The global effort has culminated in a cooperation which will be marked by national initiatives to mark the 2007 WDACL. In Kenya, the Ministry of Labour and Human Resource Development (MOLHRD), The Ministry of Agriculture (MOA), ILO International Programme on the Elimination of Child Labour (ILO/IPEC), Central Organization of Trade Unions (COTU), Federation of Kenya Employers (FKE), FAO and other partners have initiated the process in marking this year's event. The 2007 celebrations will focus on three core themes, namely the creation of awareness on hazards in agriculture, promoting youth employment opportunities and mainstreaming elimination of child labour in agriculture policies and programmes. The events to be held on or around 12th of June will be guided by a Kenya specific theme *"Children in the Present, Farmers in the Future, Stop Exploitative Child Labour in Agriculture"*.

It is against this background and the specific focus on WFCL in agriculture that a rapid assessment of agriculture related policies and laws was proposed with a view to ascertaining whether such laws and policies have mainstreamed prevention of child labour in the sector and if not how they can be revised to address the prevention of WFCL of child labour in the agriculture sector. The study findings are expected to form part of the build-up activities in marking the WDACL including policy discussion forums. The findings will also inform the way forward in ensuring effective policy and legal framework in prevention and elimination of WFCL in the agriculture sector.

1.2 Purpose and rationale for the policy review

The consultant was assigned the task to carry out a review of agriculture policies and laws in order to highlight the extent to which such laws and policies address the

protection and prevention of children from WFCL in the agriculture sector. The strengths identified in the reviewed documents were to be used to advocate for effective prevention and protection of children against hazardous work in the agriculture sector. The gaps identified in the reviewed policies and laws were to inform proposed policy dialogue sessions and the review of such laws and policies for effective prevention of children from being exposed to hazards in the agriculture sector. According to the terms of reference, the review findings would culminate in a report whose findings and recommendations will be widely disseminated in marking 2007 WDACL. The report shall also be used in subsequent policy and law review forums as well as protection, prevention and withdrawal of children from WFCL in agriculture campaigns.

1.3 Objectives of the policy review

The overall goal of the review of agriculture related laws and policies and programmes was to support the mainstreaming of elimination of child labour in agriculture laws and policies. The specific objectives were:

- To review the extent to which relevant agriculture related laws and policies incorporate the protection and prevention of children from WFCL in the agriculture sector.
- To inform agriculture related policy and legal framework review in mainstreaming the prevention and protection of children from hazards in the agriculture sector.

1.4 Methods

The review was undertaken using review of policies and documents contained in the section on references, interviews with officers from the Ministry of Agriculture (Policy and Agricultural Coordination Department and Youth and Gender Department), ILO-IPEC and FAO. Inputs from a media breakfast briefing on reporting on child labour and a stockholder's forum where the preliminary report of this review was presented informed the final report.

2. Background and context

It is now recognized that child labour encompasses all forms of work, which threaten the mental, social, physical and moral development of the child (ILO Conventions No. 138 and No. 182, ILO Handbook for Parliamentarians No. 3 of 2002 and the National Draft Child Labour Policy, 2002). Such threats include interference with schooling opportunities for the child, mental and other health issues of the child.

Unlike child work in which children engage in activities for learning and socialization, child labour in some instances entails a situation in which a child (persons under 18 years) works for more than 4-6 hours, unsupervised by a responsible adult and exposed to hazards or conditions that endanger the physical, mental, moral and social well-being of the child. In other severe working conditions such as commercial sex work, use of harmful machinery and chemicals, quarrying and mining etc., the hazards are immense irrespective of the number of working hours or supervision by a responsible adult. It is possible to conceptualize child work, child labour and worst forms of child labour (hazardous work) in a continuum with child work being at the lower edge, followed by child labour and then hazardous labour/work. A child may therefore inadvertently enter child labour and eventually hazardous labour when the intention was child work. Thus care must be taken by those interacting with children to ensure that circumstances that may lead to a child getting into child labour and hazardous work are understood. Kenyan law (Employment Act) and ILO Convention No. 138 have proviso for children aged 16 to work. Work done by children aged between 16-18 years is meant to be light work and not hazardous labour. Neither should this work be a substitute for schooling and growth and holistic development of the child.

Kenya has ratified both the ILO Conventions No. 138 (Minimum Age) and No. 182 (Worst Forms of Child Labour) and has made progress towards the preparation of a National Child Labour Policy. Following the ratification of the United Nations Conventions on the Rights of the Child (UNCRC) and the Africa Charter on the Rights and Welfare of the Child (ACRWC) in 1989/90, Kenya enacted The Children Act in 2001, which combined all pieces of legislation on children's issues. Kenya, through the National Council for Children's Services (NCCS) is also in the process of developing a National Children Policy, which will consolidate all laws and policies relating to children. Established under the Children Act 2001, the NCCS has been sensitizing on the UNCRC using the 2006 UNCRC report.

The Employment Act, Education Act and Sexual Offences Act, among other laws further contain provisions that protect children against physical and other forms of abuse and exploitation. The Employment Act, for instance, allows children aged sixteen to work but strongly prohibits hazardous child labour.

Recent data (Pinnacle Development Consultants, 2004; Chutha, 2004; Republic of Kenya's Child Labour Report, 2001; and Njoka & Kamau, 2006) shows that the agricultural sector is the greatest contributor to child labour in Kenya. The recently launched ILO Global Report on Child Labour (2006), further attests to this fact and points out that child labour in agriculture could be accounting for over 75 per cent of all economically active children

especially in economies that are predominantly based on agriculture. Production of commodities such as coffee, cotton, tea, sisal, dairy products among others rely substantively on child labour either in commercial or subsistence sub-sectors, large and smallholder undertakings.

According to available evidence in the latest (1998/1999) Government of Kenya Child Labour Report 2001 and Manda et. al. (2003) Kenya has 1.9 million working children. Commercial agriculture and fisheries sub-sectors employ 34.0 per cent of children compared with subsistence agriculture (23.6 per cent) and domestic and related services (17.9 per cent). What this means is that over half (57.6 per cent) of all working children are in fishing, commercial and subsistence agriculture sub-sectors. The Kenya Integrated Household Survey 2006, which has a module on child labour, is eagerly awaited to update these statistics.

Children in Kenya are known to work on places where they are exposed to all sorts of health hazards, e.g. inhaling chemicals or handling dangerous machines (Child Labour Survey

1998/1999). ILO Convention No. 182 defines such extremes (slavery, bondage, forced labour, prostitution, pornographic performance, drug trafficking, etc.) as Worst Forms of Child labour, which must be eliminated immediately and effectively since they harm the health, safety and morals of the child

3. Agriculture and child labour

Kenya has since independence relied heavily on agriculture as the base for economic growth, employment creation, and foreign exchange generation (Pinnacle Development Consultants, 2004, Republic of Kenya, 2007). The sector is also a major source of the country's food security and a stimulant to growth of off-farm employment. This is an important sector given that approximately 80 per cent of the country's population live in rural areas and depend on agriculture for their livelihoods. Agriculture contributes 26.1 per cent of GDP. Although in 2006 agriculture contributed below the average, the sector is related to such leading sectors as tourism and transport through forward and backward linkages.

Agriculture has two dimensions, i.e. commercial agriculture and subsistence agriculture. Subsistence agriculture largely caters for household consumption while commercial agriculture is market and profit driven and envisages the participation of large plantations/estates as well as smallholder farms. The large plantations are critical power centres as they are run by huge national, multinational and transnational firms.

As mentioned earlier, children constitute a large part of the labour force in the subsistence agriculture sector. The participation of children in commercial agriculture could be highly concealed due to the labour enforcement mechanisms adopted following years of activism and work with the plantation owners (Njoka & Kamau, 2006). However, child labour in subsistence agriculture is both pervasive and hard to see and tackle particularly given the highly traditional, culturally-oriented and poverty-laden social structure of most Kenyan and African communities in which children are expected to "work" and to be part of the family economy. Although poverty in Kenya is said to have reduced from 56 per cent two years ago to 48 per cent in 2007 (2007 Economic Survey), many families are still having their children pushed into labour to supplement household incomes.

Children working in agriculture are exposed to various hazardous situations and are also at risk of being exploited, hence the need for farmer and extension worker training and sensitization in efforts to eliminate child labour (ILO, 2005). Besides exploitation in wages and in the terms and conditions of work such as exposure to dangerous social and environmental health, the living conditions are often very poor with substandard hygienic conditions, poor sanitary facilities or total absence, unsafe drinking water, overcrowded living space, and lack of medical care and social amenities. These hazards have often been taken lightly since in many cases, the working children are said to be "helping" within families or "doing their duties" after school or during holidays (Moyi, undated). The latter is especially very problematic since whether a child works during or after schooling hours may not solely determine exposure to hazards.

Agriculture is a strategic sector when dealing with the elimination of child labour since it creates conditions (exploitation, monotony and drudgery) which push children and youth into other child labour users ((Njeru & Njoka, 1999), e.g. commercial sex exploitation of children (CSEC), street children and domestic child labour. Policies that make the sector attractive and more lucrative in terms of productivity and incomes are therefore likely to have multiplier effect on other areas of child labour.

Practical Action and PELUM (2005) point out that agriculture in Africa has been on the decline and that aid (referring to European Commission aid) in the sector has not yet benefited the poor. Aid has indeed created dependency on food provisions and threatened local productivity systems. Productivity of smallholders has actually declined due mainly to poor access to land, environmental degradation, poor access to markets and low investment in agricultural research, training and extension, and limited private sector participation in filling these gaps.

In Kenya, despite the fact that the economy is growing at 6.1 per cent (2007/2007 financial year), agriculture is not growing at par with the broader economy and the other sectors such as tourism and transport (Economic Survey, 2007). Despite its declining performance, agriculture has continued to support the livelihoods of over two thirds (70 per cent) of the labour force. This has mainly been because the decline in agriculture's performance since the mid-1980s was not matched with any real transformation in the economy which would have ensured that the share of other sectors in GDP and employment increased as agriculture's share declined (Alila & Atieno, 2006). As a result, incomes have continued to decline as poverty has continued to entrench itself in the rural areas. The implication for Kenya and Africa in general is that the poor farmers continue to be poorer thereby being rendered helpless in terms of options and opportunities, which make them more predisposed to have children work in lieu of being in school, thereby perpetuating the vicious cycle of poverty and child labour.

The 2006 ILO Global Report on Child Labour points out that although child labour is decreasing by 11 per cent worldwide; the least progress has been in sub-Saharan Africa, including Kenya. Countries in Latin America and the Caribbean have recorded the most remarkable change as evidenced by a 67 per cent reduction in the child labour incidence. Conversely, countries in Sub-Saharan Africa including Kenya have performed dismally in elimination of child labour. Efforts by agencies supported under the Ministry of Labour and Human Resources Development in collaboration with ILO-IPEC may have yielded impressive numbers and targets of withdrawn and prevented children (Onyango, 2003), but these efforts are a drop in the ocean given the sheer magnitude of child labour in Kenya and the possibility of further proliferation given the high levels of poverty in the rural areas and urban informal sector.

Some of the factors identified to explain the increased impact on, and reduction of, child labour in Latin America and the Caribbean include: political good will, unwavering support to international instruments, a combination of economic development and human development policies, and effective national coordination of efforts. Political goodwill was especially vital in terms of having the appropriate policies in place and enforcing them effectively. This calls for commitment to elimination of child labour among Parliamentarians, Police and the Judiciary.

What the experience of Latin America and the Caribbean means is that even if child labour is high particularly in agriculture, unwavering political goodwill and commitment to its elimination, coupled with the anti-child labour policies in agriculture, can contribute substantially towards eliminating the malaise. What is the agricultural legislation in Kenya saying on child labour?

4. Agricultural policies in Kenya

Agricultural policies have experienced substantial shifts since independence (Nyangito, 1998). Emphasis has changed from government controls and participation in production and marketing to liberalization in the 1980s. The policies have sought to address issues of commodity production particularly with regard to input structures, pricing of products and agricultural marketing processes. From a child protection lens, this change without a comprehensive anti- child labour policy to effectively mitigate against rampant WFCL in the sector means more exposure of children to the forces of demand and supply in an open market system. Given that a liberalized market is critically important for poverty alleviation, the challenge that emerges is to have liberalization with sensitivity to such adverse conditions as child labour. Even if parents need the income in a liberalized and possibly thriving agricultural sector to raise their children and send them to school, it is imperative to cushion these children from child labour, especially its worst forms.

According to Alila and Atieno (2006), the key agricultural policy concerns in Kenya have included:

- Increasing agricultural productivity and incomes, particularly for smallholders.
- Emphasis on irrigation as an option to over-reliance on rain-fed agriculture.
- Encouraging diversification into non-traditional products/commodities and value addition so as to reduce vulnerabilities.
- Enhancing food security.
- Promoting private sector participation in agriculture.
- Ensuring environmental sustainability.

These concerns are within the Strategy for Revitalizing Agriculture (SRA) 2004-2014, which is the government's medium to long-term strategy to the country's agricultural renaissance. SRA has the broad objective of progressively reducing unemployment and poverty through revitalization of the agriculture sector. The primary objective is the provision of a policy and institutional environment that is conducive to raising agricultural productivity, promoting investment and encouraging private sector in agriculture enterprises and agribusiness.

Given that SRA is only beginning operationalization and implementation and yet it has no strategic links to child labour, it is yet to be seen whether the strategy will make agriculture attractive and lucrative to the future generation, i.e. children and youth? This will happen if the incomes and living standards in the rural areas are massively raised. If it does not achieve this dimension, the strategy will not result in the ultimate goal of enhancing employment and poverty reduction. As mentioned earlier, the rural conditions in agriculture tend to push children and youth out of rural areas into urban areas where exploitation and worst forms of child labour and abuse are rampant, e.g. street children (Njeru & Njoka, 1999).

Another important aspect is the SRA emphasis on commodities, production and marketing processes and the conspicuous silence on social and psychological aspects such as child labour and child abuse. While SRA's goal is noble and achievable in the short-term, this underestimation of "soft issues" is itself a time bomb because the agriculture as a learning process is not emphasized. As such, children and youth are not educated and socialized to appreciate agriculture as a viable source of livelihood in adult life but rather the exploitative nature that children especially from poor background are exposed to. With the development needs of the children and youth being unaddressed in the lead economic sector in the country, the result is likely to perpetuate apathy among the youth who have increasingly turned to other sectors of the economy for employment, often abandoning agricultural activities in the rural areas.

The Ministry of Agriculture has been revising her policies in-line with the SRA and below is a listing of the policies under review:

- 1) Harmonization of legislation: A Harmonization Bill consolidating the 130 Acts relating to agriculture has been developed and submitted to the Minister.
- 2) The Pest Control Products Act Cap. 346 and rules: A PCPB Amendment Bill 2005 has been discussed, agreed on by stakeholders and forwarded together with a Cabinet Memo to the Minister. Some 6 Legal notices containing amended regulations were gazetted in September 2006.
- 3) Amendment of the Coffee Act No. 9 of 2001: A concept paper on coffee industry improvement was adopted and approved by the Cabinet in December 2004. Some sections of the Coffee Act were fast-tracked through the Finance Act, 2005 and the remaining sections are with the Attorney General for legal drafting and publishing. Coffee rules for direct marketing have already been gazetted. A Coffee Development Fund is already in place.
- 4) Development of a Sessional Paper on Cotton and a Bill to repeal the Cotton Industry Act Cap. 335: Cotton Bill has been given assent by the President and is now an Act of Parliament, 2006. Rules are ready and the Kenya Cotton Development Agency (KCDA) is about to be gazetted and operationalized.
- 5) Development of the Pyrethrum Industry Session Paper and Amendments of the Pyrethrum Act, Cap. 340: Final Bill has been drafted and a Pyrethrum Processing Company of Kenya (PPCK) is in the offing.
- 6) A Sessional Paper and Sugar Amendment Bill of the Sugar Act No. 10 of 2001: liberalization and restructuring of the industry is captured in the Draft Sugar Bill. There is now a Draft Sugar Arbitration Rules 2006 and a Nyando Sugar Belt Restructuring Cabinet Memo.
- 7) Sessional Paper and Bill to amend the National Cereals and Produce Board Act, Cap. 338: efforts proposed in the new NCPB Bill 2006 are geared to commercialize the grain industry. The Attorney General is drafting the Draft Cereals Bill 2006.

- 8) Sessional Paper on Soil Fertility and a Bill on Fertilizers and Soil Conditioners: These have been developed in 2006 and are undergoing stakeholder analysis.
- 9) National Food and Nutrition Policy: This updates the Sessional Paper No. 2 of 1994 on National Food Policy. The new policy is ready for stakeholder engagement.
- 10) National Potato Industry Policy: The policy and strategy have been developed and the Legal Notice No. 44 of 27 May 2005 on potato standards is being implemented.
- 11) National Seed Industry Policy: Policy, Bill and Cabinet Memo are with the Minister, while the Seed and Plant Varieties Cap. 326, Amendment Bill, 2006 is under legal drafting. The Seed Industry Arbitration Tribunal was gazetted in August 2006.
- 12) National Sisal Industry Policy: draft ready proposing greater involvement of smallholders and private sector in the sisal industry.
- 13) National Agricultural Sector Extension Policy: draft ready giving extension a sector-wide approach.
- 14) Sessional Paper on Strategy for Revitalizing Agriculture: draft ready.
- 15) National Horticultural Development Policy: Draft ready and stakeholders have been consulted. A Horticultural Development Company of Kenya to carry out the commercial activities of HCDA is envisaged.
- 16) Oil Seed Crops Development Policy: Oil Crops Development Authority, a parastatal established under Legal Notice No. 80 of 2 May 2001. Draft policy with Minister.
- 17) Nut Crops Development Policy: draft policy ready and Minister has signed Cabinet Memo.
- 18) KEPHIS (Kenya Plants Health Inspectorate Services) Bill: in draft.
- 19) Cassava Policy: being developed.

The campaign against child labour in agriculture stand the chance of inclusion in the various policies if only the policy outline can go beyond commodities, production and marketing. That notwithstanding, policy formulation process in Kenya usually takes 5-10 years since the following stages should be followed:

- a) Identification of a policy gap.
- b) Drafting of a policy intervention or a policy paper.
- c) Stakeholder consultations.

- d) Preparation of a Bill and a Cabinet Memo.
- e) Submission of the Policy Paper, (Rough) Draft Bill and Cabinet Memo to the Minister for onward presentation to Cabinet for discussion and approval.
- f) Legal Drafting of the Bill by the Attorney General.
- g) Stakeholder consultations.
- h) Tabling of the Draft Bill in Parliament – reading and discussion.
- i) President assenting to the Draft Bill once passed by Parliament.
- j) Bill becomes law.
- k) Regulations in form of Legal Notices.
- l) Strategies for implementation.

The policies in the agricultural sector as in other sectors often take long to address what they were earmarked for. Unsurprisingly, teething problems remain unresolved. The question for this paper is whether or not the agricultural policies address child labour. Another question is whether or not it is possible to shorten the lengthy policy process by accelerating some of the stages, e.g. drafting, support from Parliament, etc.

In the next section, selected policies are further analysed to assess their adequacy in addressing the elimination of child labour as well as highlight some key opportunities for the same.

5. Links between agricultural policies and child labour

Analysis of agricultural policies reveals that they do not at all address child labour or even mention it. All the policies are silent on the issue of child labour either because this is supposed to be the domain of the Ministry of Labour and Human Resources Development (MOLHRD) or it is simply seen as an issue of the Children's Department.

The Coffee Amendment Bill, 2006 also has no single mention of children or child labour in spite of the known WFCL that children are exposed to in coffee plantations, some of which are less than ten miles from the capital city Nairobi. The Bill streamlines coffee management and provides for a Coffee Development Fund whose functions are farm development, farm inputs, farming operations, price stabilisation, factory modernisation and capacity building for management. These functions would be most ideal in infusing sensitisation and action against child labour and other abuses within coffee production and marketing should the policy demand the same.

The coffee sub-sector is a major employer of children. Coffee is a major commodity in the country with the bulk emanating from smallholder farmers. Most child labour in this sector is invisible including often-contested cases in plantations. As coffee production is being revamped, it would be a great opportunity to entrench elimination of child labour in policy, including provisions against children being exposed to dangerous chemicals and work conditions, and working under harsh conditions such as cold weather, picking and transporting heavy loads of coffee beans.

Another employer of children is cotton production. Unfortunately, the Draft Cotton Bill 2005 does not protect children from exploitative child labour. The Bill provides for the Cotton Development Board and the Kenya Cotton Development Authority. These two bodies have immense powers in regulating the cotton sub-sector including the Cotton Development Fund, technology adoption, information linkages, register ginner and processors among other actors, etc. These functions are a critical stepping stone in checking malpractices in the sub-sector, including child labour and related forms of child abuses.

Following the Africa Growth Opportunities Act (AGOA) in the United States, cotton production is being revived with the hope that the use of locally produced cotton in the garment industry within the export-processing zones in Kenya's major towns would contribute to poverty reduction. However, this effort appears to have stalled hence the government efforts in the Draft Cotton Bill 2005.

Cotton production by smallholders is especially a child labour intensive undertaking particularly during the picking and marketing/transportation seasons. Areas where cotton is grown also happen to be the poverty ridden arid and semi-arid lands, hence, the demand for child labour is high. Links between the Cotton Bill and child labour are in this regard inevitably necessary.

The National Agricultural Sector Extension Policy 2005, which stresses on plurality of extension services to cover more crops, integration of services, role of private sector and other stakeholders and decentralization of extension, equally fails to mention or address

the prevention of child labour in agriculture. As extension acquires more prominence, the extension staffs provide the best opportunity in agriculture outreach activities to reach communities at the lowest levels, hence effectively address the providers and users of child labour alike. Given that they have training on community education and sensitization, extension officers can be important change agents who can strengthen awareness creation, linkages with other stakeholders as well as undertake the surveillance role in order to sustainably mitigate against child labour in the sector.

Having perused numerous policies in the agriculture sector, the only close mention of children is contained in the Ministry of Agriculture (2007) Joint Cabinet Memorandum on the National Food Security and Nutrition Policy where children are mentioned when making reference to malnutrition and nutritional deficiencies. The memo therefore only addresses the nutritional component of child protection needs, again, sidestepping one of the most prevalent problems in the sector, child labour.

While analysing the causes of poor food security in the country, the National Food Security and Nutrition Policy 2007 highlights the lack of access to adequate food which results in various forms of nutrition problems: protein and energy malnutrition, iodine deficiency disorders, iron deficiency, and vitamin A and zinc deficiency. In 2003, 30 per cent of the children were stunted, 20 per cent were underweight and 6 per cent severely malnourished. Nationally, an estimated 1.8 million children (30 per cent) are classified as chronically undernourished. If this were to be taken further, research could reveal that the malnourished children, whose families are also likely to be in agriculture, could also be in child labour or at risk of getting engaged in child labour. Yet the sectorial laws and policies do not benefit from this linkage. However, the policy comes out more clearly on children when referring to right to nutrition, indicating that the GoK will:

“Develop systems to implement the right to proper nutrition and health care for all children as per the Children Act.”

The mention of, or even link to, child labour is, however, totally absent as in the rest of the policies, e.g. The Cashew nut Policy (2006), The National (NCPB) Corporation Bill (2006), the Sessional Paper on National Seed Industry (2006), the Seeds and Plant Varieties Act (Amendment) Bill (2006) and the National Policy on Potato Industry (2006).

Apart from not mentioning child labour, these policies could have established links with related GoK policies such as Education Act, Employment Act, Children Act and Places of Work (Occupational Health and Safety) Act, among others as these provide the basis for addressing child labour and other forms of child abuses. This has been a lost opportunity. It is only the National Food Security and Nutrition Policy (2007) that attempts to mention the Children Act.

Due to the centrality of coffee, sisal, sugar and cotton in the livelihoods of smallholders, who are major users of invisible child labour based on traditional cultural justifications, policies relating to these commodities deserve even more urgent attention, as are those related policies on pest control, irrigation and extension.

6. Implicit focus on child labour

Although GoK agricultural laws and policies are weak and silent on child labour, there have been programmes that attempt to address child labour. These initiatives have an implicit policy reference and are discussed below.

6.1 Ministry of Agriculture efforts

From the study's informants, reference to child labour is only implicit in the Ministry of Agriculture's two-fold concepts of:

- “family labour”; and
- “a value of 0.5 accorded to a working child”.

All labour emanating from members of a family is family labour and the value of 0.5 is for economic estimation of a child's contribution. Children are thereby underpaid since they receive half the adult's earnings. In estimation criteria does not alienate children's contribution from child labour. There is no reference to the Employment Act that sets the minimum age of entry into employment. In effect it is not possible to tell whether this policy assumes that child labour, in spite of it being a violation of the rights of children, is good because of its economic value.

The Ministry's Gender and Youth Division/Department has been working with the youth to sensitize them to appreciate farming. The youth are encouraged to go to school, where sensitization on agriculture is done within young farmers clubs in primary school and the 4-K (*Kuungana, Kufanya Kusaidia* Kenya¹) clubs in secondary schools. The officers also work with out-of-school youth to create awareness and appreciate agriculture as an employment option and a business prospect. In addition it is prudent to add that the negative perception on agriculture as a career option is not confined to the uneducated alone. In one of the forums where this paper was presented, it emerged that the number of university graduates enrolling for agricultural courses is on the decline. Though studies have not been carried out to ascertain the reasons for the same, it is assumed that the low returns from agriculture in addition to the exploitative work many children were exposed to while growing up in the rural areas could contribute to apathy towards agriculture courses. Given the perceptual link between agriculture and low education (that farming is an occupation for the less educated/schooled) as well as widespread distaste for agriculture resulting from the exploitative conditions in the sector outside the school's learning environment, it is yet to be established whether the Ministry's initiative will transform the perceptions among the any unemployed youth.

The MOA used to have an extension programme on Safe and Effective Use of Pesticides, which discouraged and educated the users against children using the pesticides. It is, however, not clear whether this initiative still exists or it ended with the specific project. There have also been efforts to standardize weights, e.g. maize sacks, so that

¹ These are Kiswahili versions with the following meanings: *Kuungana* – uniting, *Kufanya* – doing/acting, and *Kusaidia* – helping. The idea is to arise and work together in agriculture to assist the country.

children are not overburdened with heavy loads. This has however not been adopted in agriculture.

6.2 Complimentary efforts

Within the key UN agency (FAO), working with the Ministry of Agriculture, there has been promotional activities for junior farmers, which stresses on children aged 12-17 being empowered as future farmers in the context of vulnerabilities including HIV and AIDS (FAO/WFP, 2006). Box 1 provides a description of the Junior Farmer Field and Life Schools (JFFLS) programme.

The JFFLS recognizes the rights of children, especially OVCs and is being developed with the “How to” manual and creative techniques such as drama and audio-visual aids are used to disseminate agricultural and life skills including disease prevention, rights of OVCs, etc. OVCs are taught as part of provision with food rations, which are meant to encourage them to go to school. This is a good way of withdrawing or preventing the OVCs from child labour.

FAO has had another programme on Farmer Field Reproductive Health where adults are trained on gender issues. It is expected that this knowledge will trickle down to children. Other FAO programmes have been working with populations of humanitarian concerns such as refugees and pastoralists as well as supporting the formulation of the National Food Security and Nutrition Policy.

Other initiatives in the agricultural sector that have a bearing on policy are included in ethical trade. Ethical trade, ethical sourcing, or ethical supply chain management today refers to **trade in products that are produced in line with best social, economic and environmental practice or in other words the adoption of societal and environmental responsible strategies within the value chain, the monitoring and verification of these strategies, and the reporting of societal and environmental performance to key stakeholders**. In many cases the strategies are determined by the need to comply with predetermined standards, typically consisting of principles, criteria and indicators against which the operations of a company, its sub-contractors and suppliers are audited (Blowfield, 1999). Often this means products from developing countries, but the principles of ethical trade apply worldwide.

The term “ethical trade” (or more accurately “ethical trading”) is used, particularly in the UK, to describe a particular approach to monitoring worker welfare and human rights. The scope of ethical trade is the management of the value chain according to principles of societal, environmental and financial responsibility. It is a generic term applicable to a variety of initiatives, which apply sets of social and/or environmental values to aspects of the production and marketing process. These values can cover:

- a) human rights,
- b) worker welfare,
- c) producer livelihoods,

- d) sustainable production methods,
- e) animal welfare, and
- f) biodiversity.

Some or all of these issues are addressed in fair-trade schemes, the in-house codes of practice of corporations, organic agriculture, environmental codes, forest and fisheries certification, and in the nascent ethical sourcing initiatives of major Western retailers and brand-owners. In some instances, it can result in the labelling of products for consumers or other buyers (e.g. the fair-trade label, the Forest Stewardship Council, the Marine Stewardship Council), but this is not always the case, and there is certainly no guarantee that goods produced under ethical trade standards will attract premium prices.

Box 1: About JFFLS

Junior Farmer Field and Life Schools (JFFLS) are FAO programmes designed specifically to empower orphans and other vulnerable children aged between 12 and 18 years living in communities highly impacted by HIV/AIDS. A JFFLS programme seeks to improve the livelihoods of vulnerable boys and girls and provide them with future opportunities, while minimizing the risk of adopting negative coping behaviour. In order to increase these children's self-esteem and livelihood prospects, a JFFLS imparts agricultural knowledge and life skills to boys and girls orphaned or otherwise vulnerable. Such knowledge and skills should not only bring economic empowerment to the youth, but should also help them become responsible citizens with positive values with respect to gender and human rights.

In a JFFLS, an equal number of boys and girls are trained using a combination of traditional and modern facilitation methods. On the agriculture side, JFFL Schools have a practical agricultural bias (covering both traditional and modern agricultural practices). Children learn about field preparation, sowing and transplanting, weeding, irrigation, pest control, utilization and conservation of available resources, utilization and processing of food crops, harvesting, storage and marketing skills. The school emphasizes the learning of agricultural production skills that were not passed down because of the early deaths of one or both parents.

Vulnerable children

HIV/AIDS is not the only cause of children's vulnerability: other factors include extreme poverty, exploitation, conflict, etc. Programs should therefore not only address AIDS-related problems but also tackle other causes of children's vulnerability. Equally important, AIDS programs targeting children should assist the most vulnerable children in a community.

The field schools can also help to recover or sustain traditional knowledge about such things as indigenous crops, medicinal plants, and biodiversity, and they can be useful in finding innovative solutions to current agricultural labour constraints, such as low-input agricultural production activities and labour saving technologies.

For the life skills component, the JFFL Schools address such issues as HIV/AIDS awareness and prevention, gender sensitivity, child protection, psychosocial support, nutritional education, and business skills. Experience from the junior farmer field schools has shown that the schools provide a safe social space for both sexes, where peer support and community care allow youths to develop their self-esteem and confidence.

Food support plays a central role in the JFFLS, both as attendance incentive for the children and their guardians/parents and to ensure the children have enough energy to actively participate.

A JFFLS is run by a small group of local facilitators, often involving an extension worker, teacher, nurse and/or a community animator. These facilitators are trained prior to the initiation of the schools. The community forms an integral part in monitoring and implementing the schools and contributes to the field schools by providing land as well as volunteers to help with activities of the field school.

Source: FAO/WFP, 2006

Ethical trade is not intended to apply just to countries in the South, but there is an assumption, not least amongst western consumers, that ethical trade will have a positive impact in developing countries. Fair-trade has objectives that would be shared by many international development organizations. Responsible resource management initiatives also

have objectives that are familiar to such organizations. International development agencies are also starting to support the ethical sourcing initiatives involving mainstream importers, brand-owners and retailers, implying that these too could contribute towards development.

For some, the objective of initiatives such as the Ethical Trading Initiative, the Apparel Industry Partnership and the Council on Economic Priorities Accreditation Agency's international social accountability standard, SA8000, to ensure the implementation of core labour standards, is in itself a fundamental requirement for alleviating poverty, not only in developing countries but world-wide because the replacement of high-wage labour with cheap labour erodes the consumer base and poses a threat to global economic stability. Others have different but equally high expectations of ethical trade in its various forms, seeing it as a necessary step on the road towards sustainability (Welford, 1995).

7. Identifiable gaps

This assessment identifies seven major gaps with regard to agricultural laws and policies and the elimination of child labour.

7.1 Limited knowledge on general children legislation

Most agricultural officers and staff are not aware of the Children Act 2001, which is the basic law on children in Kenya that should be applied in all sectors and issues pertaining to children. This is mainly because they have not been sensitized but also due to their pre-occupation with the mainstream technical agricultural aspects. Even those in the policy formulation department lack this knowledge.

7.2 Limited knowledge on child labour

Knowledge on child labour is limited among agricultural extension officers, policy makers and even within FAO. At least FAO and ILO-IPEC should ideally be working together within the United Nations Development Assistance Framework (UNDAF), the framework through which UN agencies within the country are supposed to network and collaborate on matters pertaining to a country's development².

7.3 Lack of child labour mainstreaming

As emerging from the foregoing assessment, policies in agriculture are child-blind and child labour silent. This is due to ignorance of child labour and technical specialization of agricultural officers.

Related to this technical approach is the glaring focus of SRA and the other agricultural laws and policies on commodities and the production and marketing processes as opposed to such salient social and psychological aspects as child labour and child abuse. As mentioned earlier, this is a time bomb as the ignored issues have a strong bearing on present and future productivity of the agricultural sector.

7.4 Practices that may exacerbate child abuse

The quantification of children's contribution to 0.5 is itself an accommodation of child labour and this should not be happening at a time when Kenya has a Children Act. In addition, this valuation is itself exploitation of the working children. The Employment Act provides for an equitable approach to compensation but due to lack of links between agricultural policies and other laws, this does not appear to apply for the sector.

The challenge for the future is how to ensure equity in agricultural wages for those children allowed to work in light tasks, i.e. those aged 16-18. No child is allowed to work under hazardous conditions (worst forms of child labour). Besides, the minimum wages guidelines have since been abolished, thereby leaving no ground for discrimination in remuneration based on gender or age.

² The UNDAF provides a common frame of reference for the strategy and country programme documents (or other similar instruments) of participating UN organizations.

7.5 Ignoring of Ministry of Agriculture in anti-child labour efforts

The Ministry of Agriculture has largely been ignored in efforts aimed at the elimination of child labour. ILO-IPEC works with the Ministry of Labour and Human Resources Development, Ministry of Education and Ministry of Home Affairs (Children's Department) assuming that these ministries will automatically reach sectors greatly affected by child labour. This unfortunately does not seem to be the case.

7.6 Lack of linkages with other laws

As in other sectors where linkages and networking is weak, policy initiatives in agricultural sector appear to lack links with such other laws and policies as Education Act, Employment Act, Children Act and Places of Work (Occupational Health and Safety) Act, among others. This leads to loss of an opportunity for the laws to have synergy and mutual reinforcement. A policy like the Employment Act, for instance, prohibits WFCL/hazardous labour and could ably compliment the work of agricultural officers.

7.7 Project approach to issues

The project approach to agricultural programmes has in the past rendered such initiatives less effective with many lacking continuity following the exit of the major partners. JFFLS is a good initiative and so is Njaa Marufuku Kenya but without proper entrenchment in policy and ownership by the GoK and Kenyans, including the schools and youth, these good programmes will surely lack sustainability. The recent removal of agriculture as an examinable subject could open the debate on the extent to which the Ministry of Education appreciates such school based agriculture projects.

8. Opportunities and the way forward

In order to redress the identified gaps, this assessment highlights twelve key opportunities for the way forward.

- 1) ILO-IPEC is already working with over 25 implementing agencies on efforts to eliminate child labour. Under the National Plan of Action (NPA) of the Ministry of Labour and Human Resources Development, existing initiatives can be used. Since the NPA is under review, deliberate attempts to link the policy to relevant MOA policies such as SRA can be established.
- 2) The Children Act 2001 exists and in many popular versions, which can be disseminated to agricultural officers and extension staff countrywide. Popular versions of this legislation can be accessed from the children's department and partners.
- 3) Using the Children Act 2001, a Legal Notice on Elimination of Child Labour in Agriculture can be developed with the participation of the Children's Department, Ministry of Labour and Human Resources Development and Ministry of Agriculture. This will call for a process entailing:
 - forming a working group for the Legal Notice,
 - sensitization of the working group on child labour, related international and national instruments and efforts that can enable prevention and withdrawal,
 - drafting of the Legal Notice to tie together children's issues as specified in the Children Act, child labour provisions and agricultural policy. The "best interests of the child" should be upheld in the Legal Notice,
 - presentation of the Legal Notice to stakeholders for buy-in,
 - finalization of the Legal Notice,
 - publication of the Legal Notice, and
 - development of implementation guidelines by the Ministry of Agriculture.
- 4) The Ministry of Agriculture has already been working with children and youth within schools including in the Njaa Marufuku Kenya. This is an opportunity to use the Legal Notice for linking these efforts in schools with sensitization on elimination of child labour.
- 5) The agricultural extension policy (National Agricultural Sector Extension Policy 2005) should be rolled out to give parents an opportunity to work with agricultural officers as they are being sensitized on the Legal Notice and Children Act.

- 6) There are numerous agencies working towards the elimination of child labour in agriculture among other sectors. These agencies need to be encouraged to work with district and local level agriculture officers and extension staff.
- 7) Kenya Joint Assistance Strategy in which all Development Partners, especially UN agencies, are supposed to adopt a common framework will inevitably ensure that ILO and FAO work closely including the initiation of joint programmes. This provides an opportunity to mainstream child labour issues in the Junior Farmer Field and Life School programme. JFFLS, Njaa Marufuku and the 4-K clubs should explore ways of integration into the school programmes that schools can run independently. This will also ensure that the initiatives are spearheaded by schools and cover the entire country.
- 8) ILO-IPEC already has a training manual on child labour in the agricultural sector (ILO, 2005: Training resource pack on the elimination of hazardous child labour in agriculture), which will be useful for training agricultural officers and extension staff in tandem with the Legal Notice. This pack contains commodity-specific information relating to child labour.
- 9) It is crucial to sensitize policy makers in other sectors related to agriculture, e.g. Children's Department, Education and Labour, on the critical role of agriculture as a main employer of child labour so that it can be mainstreamed in these "sister" sectors in both policy and implementation.
- 10) Training of agricultural officers is already taking place in universities (University of Nairobi, Egerton, etc.) and colleges. This is an opportunity to mainstream child labour issues in the curricula so that the objective of elimination of child labour starts being achieved early in the career of an agricultural officer. The Kenya Institute of Education is another avenue in mainstreaming. The institute has materials on child labour that can be weaved into the training of extension officers.
- 11) It is critically important to establish and/or strengthen and sustain links between elimination of child labour in agriculture and other sectors including street children, domestic child labour and commercial sexual exploitation of children (CSEC) since agriculture supplies the other sectors. An example is targeting socio-economic empowerment of families in rural areas for street children so as to encourage their "returning home".
- 12) Policies and practices that will make agriculture attractive for young persons are also likely to address child labour in the sector, in addition to boosting productivity and the goal of SRA. These policies could include technology adoption, professionalization of agriculture, support to intensive production and incentives that increase rewards to agriculturalists including animal production and fisheries. This needs to be undertaken beyond the school-based programmes and requires courageous and comprehensive policy formulation and implementation. It also calls for commitment from commodity marketing

agencies especially in releasing payments to farmers on time and with transparency.

9. Specific recommendations

The following are the specific recommendations that need to be taken forward:

- 1) Tackling knowledge, attitude and behaviour on child labour in the agricultural sector and related sectors such as CSEC and domestic child labour. This calls for resources for materials and the sensitization.
- 2) Harmonization/linkages and mainstreaming of laws and policies on issues touching on child labour.
- 3) Coordination and networking of efforts.
- 4) Taking advantage of opportunities in the rural areas so as to make the rural areas more attractive. This will call for improved productivity, technology and incomes.
- 5) Resource allocation to priorities that have a children lens. It will for instance be crucial to lobby the Ministries of Finance and Planning to increase resource allocation to the children sector.
- 6) Programming according to the households/family where the child is found as opposed to targeting one child and leaving the household still vulnerable.
- 7) Addressing sustainability issues in interventions so as to take project initiatives beyond donor funding phases.

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