Building resilience against exploitation in Kenya in the context of Covid-19

Full Report

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Contents

Glossary of terms

CTIP Act: Counter Trafficking In Persons Act (2010) – the primary legislation used to MSHT and outline support for survivors in Kenya

DoS: U.S. Department of State – The DoS compile the Trafficking in Persons (TIP) Report, the U.S. Government's principal diplomatic tool to engage foreign governments on MSHT

GCC: Gulf Cooperation Countries – these are Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates (UAE)

KMLSSS: Kenya Ministry of Labour, Social Security and Services

KNCRC: Kenya National Crime Research Centre

KNCHR: Kenya National Commission on Human Rights

KSDSP: Kenya State Department for Social Protection

MSHT: Modern Slavery and Human Trafficking – an umbrella term that encompasses forced and compulsory labour, human trafficking, forced commercial sexual exploitation, criminal exploitation, servitude and bonded labour, forced marriage, child labour and child soldiers, and organ trafficking

NGO: Non-Governmental Organisation – primarily refers to international organisations but is also applied to include national and local charities and community organisations

NRM: National Referral Mechanism – the support system in Kenya for survivors suspected survivors of MSHT

Nyumba Kumi Initiative: A community policing initiative targeted at the household level. Primarily focussed on combatting crime and insecurity, the Nyumba Kumi Initiative has played a considerable role in raising awareness of MSHT in local communities and in responding to reports of exploitation, assisting referrals, and supporting investigations.

Palermo Protocol: A United Nations (UN) protocol to prevent, suppress and punish trafficking in human beings, supplementing the UN Convention against Transnational Organized Crime and its protocols. It outlines one of the most widely used definitions of human trafficking based on the use of violence, threats or coercion to transport, recruit or harbour people in order to exploit them

Resilience: A framework based on the adaptive capacity of a community. It is a continuous and cyclical process comprising four stages: diagnosing the issue, challenging culture and practice, changing institutional and cultural landscapes, and normalising an improved resilience.

SECTT: Sexual Exploitation of Children in Travel and Tourism

Social Determinants: Factors that underpin resilience to modern slavery. These may be structural; legal and regulatory; related to local institutions, culture, and social norms; or personal and psychological.

1. Introduction

This report details research findings emerging from the study *'Building Local Resilience to Modern Slavery and Human Trafficking after Covid-19: Action Research in Senegal and Kenya'* and focuses on results relating to Kenya. The research was led by the University of Nottingham in collaboration with the US-based NGO Free the Slaves, and funded by the Modern Slavery and Human Rights Policy and Evidence Centre (the Modern Slavery PEC) through the UK Government's Arts and Humanities Research Council (AHRC). The views expressed in the report are those of the authors and not necessarily of the Modern Slavery PEC. This project was funded through an open call for proposals to examine the impacts of the COVID-19 pandemic on modern slavery.

The purpose of this study was to undertake a holistic analysis to highlight how structural factors, legislation, local-level institutions, systems and practices that contribute to resilience against exploitation are being impacted by Covid-19 in urban centres within Senegal and Kenya. Our aim was to provide a theoretically-informed investigation that offers a fresh perspective on understanding and building such resilience, informed and shaped by the expertise and local knowledge of those working in each setting. We focussed on four key questions:

- What factors underpin community resilience against exploitation in each setting?
- How were antislavery projects contributing to building resilience before Covid-19? Which other stakeholders played critical roles?
- How is Covid-19 impacting on the structural issues, legislation, institutions, systems and practices that underpin resilience to exploitation?
- What issues, partnerships and processes need to be prioritised to ensure that resilience is developed and protected?

We hope that this initial report will offer a contribution to dialogue between public, private and voluntary-sector stakeholders working on this issue in Kenya and generate further discussion on how to enhance action against all forms of modern slavery and human trafficking in the wake of Covid-19.

A note on terminology

In the UK the phrase "modern slavery" is widely used as an 'umbrella' term covering slavery, servitude, forced and compulsory labour, as well as human trafficking. The acronym MSHT is therefore commonly used to refer to any forms of Modern Slavery and Human Trafficking. However, participants in our research were clear that this term is not recognised or widely-used in the Kenyan context. When interviewees were consulted for this study, they most often linked the topic to issues of child exploitation and trafficking in persons, as set out in international and national law. As one contributor put it:

> *"Human trafficking is a worldwide term, or actually I would say 'trafficking in persons' is the most precise term that is used by international law, starting with Palermo Protocol, but also other international laws…But I understand modern slavery is a term that is quite promoted by the British Government...and actually there are some debates whether it means the same. Yeah, so I would say also our work is on modern slavery, however, strictly speaking in Kenya we use the terminology 'modern human trafficking'" (KEN 006)*

Conscious that there is no shared conceptualisation of the term 'modern slavery', we have in general substituted 'exploitation' in this report or used specific terms such as slavery, servitude, forced and compulsory labour, human trafficking and early or forced marriage, where appropriate. We also highlight in our findings participant comments that developing a more widely-understood definition and language around this topic would help in facilitating future collaboration, both within Kenya and between Kenyan projects and international partners.

2. Methodology

Theoretical framework: conceptualising resilience against exploitation

Community resilience against exploitation can be defined as the adaptive capacity for a community to prevent, identify and respond to cases, and promote a context conducive to sustaining freedom.

Research suggests that the factors underpinning this resilience can be structural or legislative, but also exist at the local level in the form of local institutions, culture and social norms (Gardner, Northall and Brewster 2020). These 'social determinants' of resilience interact with individual, personal and psychological factors to create a context that can promote or inhibit different forms of exploitation. They are not fixed but continuously changing in response to events and external pressures, which may engender both positive and negative systemic effects (See figure 1.)

Figure 1: Social determinants of community resilience against exploitation

Building community resilience is also a process, which involves a continuous cycle of problem-diagnosis, developing coalitions to drive change, addressing social, cultural and institutional barriers and consolidating changes through adjustments to policy and legislation. This process must be embedded in communities as well as driven by governments, NGOs and the private sector (see figure 2.)

Figure 2: An adaptive cycle to build resilience against exploitation
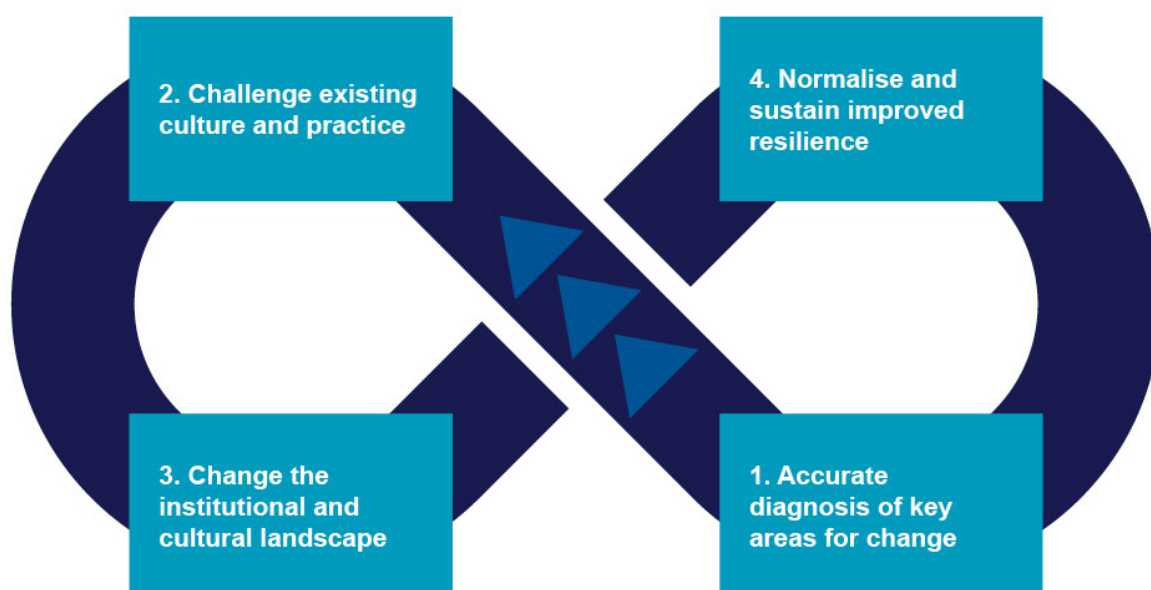
The process of building community resilience against exploitation involves four stages:

1) Diagnose problems and potential solutions, including risk and vulnerability. Local manifestations of exploitation can be rendered more obvious by analysis of risk factors, and highlighting geographic, demographic, or sectoral weaknesses. This process can also recognise assets within the community.

2) Challenge hierarchies and systems. Having identified determinants and assets at the community level, a community development process can involve a wider range of actors. Survivor voices are crucial to informing this process, and challenging existing systemic imbalances and weaknesses.

3) Change cultural and institutional landscapes. This phase aims to start shifting cultural and institutional practices, exploring what assets and innovation can enable change, especially in relation to some of the structural determinants that promote vulnerability to exploitation.

4) Normalise and sustain practice. This phase of the cycle considers what changes to governance, legislation and policy are needed to embed the positive changes identified and achieved. It involves monitoring and evaluation of progress to date, as well sharing learning widely, and initiating further governance change where necessary.

This research project used 'social determinants' of exploitation as a framework to explore what underpins resilience to exploitation in Kenya, where vulnerabilities may exist, and how Covid-19 is changing the situation. The adaptive cycle outlined at figure 2 is also used to review how Kenya might build resilience against exploitation in future plans and actions.

Research methods

The research team from the Rights Lab adopted a collaborative action-research approach to designing and undertaking the research, working closely with field-based partners Free the Slaves.

Research methods included:

- A literature review of both academic and 'grey' literature to review the wider social, economic and policy context, as well as anti-trafficking activity prior to Covid-19. The literature search was enhanced by contributions from the Free the Slaves' in-country staff to capture more recent news and literature not discoverable through academic and online sources.
- Semi-structured interviews with 25 stakeholders using three different questionnaires to explore different aspects of the social determinants of resilience. These were undertaken by a team of Kenyan field-based researchers, directed by Free the Slaves.
- A validation workshop with the stakeholders to review findings and discuss potential recommendations.

Stakeholders comprised of practitioners across five levels of operation:

1. UN entities
2. Government officials
3. Service providers
4. Community members
5. Topical experts

The spread of stakeholders interviewed was roughly even across the latter four levels, but included only two UN entities – this is due to additional sign off being required for interviews with UN staff members, which was not easy to obtain within the timeframe of the study. As per our ethical requirements, quotes and references from stakeholders are anonymised, with indication only to their participant numbers provided.

Limitations of the study

The key limitation of this study was that it needed to be completed over a short timescale, from October 2020 to March 2021, due to restrictions on the grant funding and the speed at which the pandemic is evolving. This has constrained the scope of the project, meaning that its contribution is mainly to review the existing evidence and provide an initial diagnostic on issues relating to resilience against exploitation. In order to develop this project further, it would be necessary to undertake more extensive community-based development work to validate the issues raised in this report and prioritise areas for action.

It should also be noted that this remote approach to conducting action-research was experimental, given that due to Covid-related travel restrictions many interactions were conducted online. Whilst we have developed an excellent partnership and this has - in many ways - proved a fruitful and cost-effective approach to undertaking research, it was not a perfect substitute for the more nuanced understanding that field and in-person visits provide. We therefore continue to welcome the input of Kenyan stakeholders in order to build upon this report and suggest issues we may have missed.

3. Exploitation in Kenya prior to Covid-19

In order to assess the impact of Covid-19 on policies and programmes to address exploitation, the project team undertook a literature review, which focussed on gathering information relating to the situation that existed before the pandemic in relation to the 'social determinants' of resilience. This review looked at the different types of exploitation most commonly encountered in Kenya, as well as pre-existing vulnerabilities, in relation to structural factors; legislation and policy; local, cultural and institutional factors and known issues impacting on individual awareness and behaviours. We have also supplemented observations made in the literature with additional points highlighted by our fieldwork.

In addition to vulnerabilities, Kenya has significant *assets* which provide a sound basis for a society which promotes sustainable freedom. These include the state's foundation as a stable democracy and participation in global markets and networks, which has been shown to be a critical factor in predicting lower prevalence of exploitation (Landman and Silverman 2019). With child labour and trafficking attracting the majority of attention in terms of established support organisations in Kenya, Bergman et al (2016) highlight how support for social protection programmes has further reduced vulnerability to trafficking for orphans and children. They point to the introduction of the 2012 Basic Education Bill, which strengthened compulsory basic education. Kenya also has a range of laws and policies to address trafficking, as well as actors at international, national and local level who are actively working in Kenya to combat different forms of exploitation.

Although the summary of pre-covid antislavery activity included here in **Table 1** cannot do justice to the complexity of the picture on the ground it does highlight some key aspects of the 'theory of change' (the main policy initiatives and accompanying assumptions and expectations) underpinning anti-trafficking activity prior to the pandemic.

Types of exploitation most prevalent in Kenya

In Kenya the principal focus of anti-trafficking activity falls on child exploitation, with an estimated 20,000 children trafficked each year (KNCHR, 2018). This includes child labour and sexual exploitation, as well as specific practices, such as child marriage. Numerous international and national agencies highlight child exploitation as the most prevalent issue in Kenya (DoS, 2020; KNCRC, 2015; KNCHR, 2018). Following this, perceptions on the most prevalent forms of exploitation for adults in Kenya are split almost evenly into issues of labour (31%) and sexual exploitation (25%)[1].

Forced labour amongst children occurs in a range of sectors and settings, including domestic service, agriculture, fishing, cattle herding, street vending, and begging (DoS, 2020). Sexual exploitation primarily targets women and girls and is mostly related to commercial sex tourism in the coastal region (Schulze, 2017). However, it is also prevalent in many other areas, including Nairobi, particularly in informal settlements (DoS, 2020). Cultural practices of child and early marriage, particularly in rural areas, account for a significant proportion of the child trafficking incidents. These practices can be seen as "quick poverty mitigation [but] create a vicious cycle of dependence for women" (Schulze, 2017: 18). Related social norms, such as female genital cutting (FGC), ignorance towards girls' education, and general negative attitudes towards girls, were said to heighten their vulnerability to exploitation in general (Haart, 2015: 14-15).

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[1] Research by the Kenya National Crime Research Centre (2015) based on interviews with 25 key informants drawn from institutions interacting with the problem of human trafficking, and 735 survey respondents from across 20 Counties in Kenya.

Much attention is also paid to the condition of many semi or low-skilled workers who migrate or are trafficked to the Gulf Cooperation Countries (GCC) of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates (UAE). It is estimated that between 57,000 and 100,000 Kenyans live in GCC countries, with most in the UAE (Malit and Al Youha, 2016). There is concern for the human rights and welfare of those workers who may be trafficked by recruitment agencies and end up in situations of labour exploitation and domestic servitude (KEN 009, KEN 030).

Table 1: A theory of change for addressing exploitation in Kenya prior to Covid-19

Intended goals of Anti-Slavery work prior to Covid-19
▪ Implementation of CTIP national action plan and NRM supports at government level ▪ Counter-trafficking advisory committee connects NGO and government response ▪ NGO emphasis on addressing child exploitation and survivor support ▪ NGO action to protect Kenyan workers in GCC countries
Programme inputs
▪ Counter-Trafficking in Persons (CTIP) Act 2010, provides a legal framework to prevent trafficking in persons, alongside national action plan, NRM, and counter-trafficking advisory committee ▪ Limited enforcement activity, due to low levels of training / resources ▪ NGO training for key institutions on child rights / child trafficking ▪ Community-based programmes to raise awareness and to discuss and address vulnerabilities
(Problematic?) Assumptions
▪ Anti-trafficking interventions can be successful without connection to a wider development agenda? ▪ Awareness raising will be effective in the context of strong social norms and economic imperatives?
Programme outputs
▪ Some evidence that awareness campaigns on child sexual exploitation had led to a positive change in social attitudes. However, evidence that problem is also more clandestine (Schulze, 2017: 48). ▪ There are many examples of children being reunited with their families, girls returning to education, and survivors being reintegrated into their community ▪ Mixed evidence about the pursuit and outcome of criminal convictions
Known limitations of existing programmes
▪ The Ministry of Labour is limited in its ability to enforce child labour laws due to a lack of resources. Many children also depend on labour for economic security. ▪ Regulations surrounding unsafe work practices are not adequately enforced and penalties not sufficient to deter violations ▪ Ethnic and political conflict drives terrorism, internal displacement and vulnerability
Key critiques arising from literature
▪ Government has prioritized economic interests over those of migrant workers, lack of labour laws contributes to 'exploitative space'. Unsafe and hazardous work also common within Kenya. ▪ Poor levels of enforcement and prosecution ▪ Culture of silencing around Sexual Exploitation of Children in Travel and Tourism (SECTT) and a reluctance within communities to intervene

4. Key themes emerging from the literature review and interviews

Structural factors impacting on exploitation

Migration, internally displaced people, and border controls

The complexity of the problem facing Kenya is multiplied by the fact that it is an origin, destination, and transition route for trafficking (STTK, 2020):

> "Kenya is a source, you know Kenya is a hub, so we are a source, we are a destination, we are a transitional point … so when you are based in Nairobi then you are working on and supporting victims from everywhere, locally and across the borders" (KEN 005)

As Kenya is part of the East African Community travel area, migration is also linked to immigration controls used in neighbouring countries, raising concerns that people may be trafficked into Kenya without passports (KEN 011).

Many factors are driving migration patterns, both internally and across borders:

- Political unrest in countries such as Burundi, Tanzania and Uganda (KEN 014).
- Conflict in Somalia has forced around 300,000 refugees to cross into Kenya (Verite, 2020).
- Another 300,000 people are estimated to have been internally displaced in Kenya (IDMC, 2015). Most of these are due to Post Election Violence (PEV) but are also created following ethnic conflict, natural disaster, and environmental displacement related to large-scale infrastructure projects (Malinowski et al, 2016).

Poverty, economy, education and the environment

A considerable factor that increases vulnerability to exploitation is poverty and the poor economic opportunities for many people. 38.7% of the population live in multidimensional poverty (UNDP, 2020) and large parts of the population lack even the most basic education (Schulze, 2017: 18). Lack of education was referred to as "the greatest enemy" (KEN 015) that results in exploitative journeys for young people in Kenya.

Over a third of Kenya's GDP (34%) comes from the agricultural sector (CIA, 2020) in which there have been many cases of child labour and forced labour identified (DoS, 2018; KEN 003; KEN 021). This includes an estimated 15% of the labour used in tea cultivation being provided by children (Bergman et al, 2016). Increasing environmental pressures due to climate change are only expected to exacerbate the issue as costs have to be cut further to compensate (Schulze, 2017). The main environmental risk factors in Kenya are water quality and availability, flooding, soil erosion, and desertification (Verite, 2020).

Crime, law enforcement and access to justice

Praise was given by participants to the community policing programme, Nyumba Kumi Initiative, along with the influence of barazas (community meetings), in terms of promoting anti-exploitation awareness into communities and assisting in reporting issues (KEN 003, KEN 014) – see also Box 1 (page 19. However, there were contradicting statements made about the awareness of trafficking within the police and their competency to deal with this issue (KEN 024, KEN 027), with concerns raised about their ability to properly support female victims (KEN 015). A lack of women police officers was suggested as a major barrier to overcoming this (KEN 015).

The slow speed and lack of resources of the judiciary is highlighted as a particular issue, putting greater pressure on survivors and on the support services that are helping them (KEN 004, KEN 006), and reducing the likelihood of survivors pursuing cases (KEN 014). Investigations need to be improved (KEN 004, KEN 015, KEN 017) along with technical skills required to deal with sensitive

cases, organised crime, and cross border activity (KEN 020). This was linked to a lack of skill and knowledge on how to prosecute and investigate trafficking cases, possible corruption and bias within the courts, as well as a lack of legal support for victims of MSHT (KEN 019, KEN 020). Concern was raised that many victims are still treated as criminals and can be threatened with deportation or prosecution (KEN 006).

Child rights and child safety

Nairobi is often both a transit and destination for trafficked children, with risk factors including poverty, ignorance and porous borders, and children from poor backgrounds, orphans, refugees and homeless youth being the most vulnerable (KMLSSS, 2015). A lack of reporting of trafficked children in Kenya also hinders an effective response (ibid). Labour exploitation, sexual exploitation, and early marriage are the most common forms of child trafficking in Kenya (Haart, 2015), though begging and selling items on streets, organ removal, and illicit adoption and orphan trafficking also occur (KEN 001, KEN 005. This latter issue raised concerns around the role of Charitable Children's Institutes (CCIs) in this process (KEN 005), along with the complexity of registering children at birth creating opportunities for future exploitation and their (re)registering by traffickers (KEN 019).

Gender equality and commercial sex work

Whilst legislation takes precedence over local customary laws, there are examples of practices by communities elevating customs, norms or practices putting them in conflict with the written law. This has been found to occur in relation to the equal rights provided in the constitution (DoS, 2018). These customary laws often prevent married women from inheriting their father's land, or prevent widows from accessing their deceased husband's land upon remarriage (Verite, 2020). Other inequalities relate to harassment and rape in the workplace (BSR, 2017); inadequate response to, or prosecution of, violence against women – including the use of community arbitration mechanisms known as *maslaha* – which resulted in only 22% of cases being brought to the authorities by victims (Verite, 2020); and practices of early marriage (Schulze, 2017). Other cultural practices, such as FGC, ignorance towards girls' education, and general negative attitudes towards girls, were said to heighten their vulnerability to exploitation in general (Haart, 2015; KEN 001, KEN 015, KEN 020).

The issue of commercial sex work in Kenya is largely focussed on sex tourism in the coastal region, and in particular the issue of child sexual exploitation (KEN 019, KEN 020) and the continued growth in the practice (KEN 015). Of major concern is a culture of silencing and a reluctance by communities to intervene when the issue pertains to children from other families, whilst many children do not themselves hold a negative attitude towards this exploitation, perceiving it as their occupation and relying on it for financial security (Schulze, 2017).

Linked to law enforcement is the treatment of commercial sex workers, many of whom are considered solely as criminals and not victims of exploitation:

> *"We arrest a lot of people who are involved in commercial sex work and a big chunk of them are victims of trafficking, but we don't see them as such… our laws are sort of double edge in that sense, and they're not really supporting victims of trafficking… our laws are not very clear in terms of that victims of trafficking must be protected from being criminally held"* (KEN 021)

This also extended to the primarily female victims of domestic servitude. It was suggested that an increasing number of domestic workers are being charged for stealing from their employers, but that nobody is stopping to ask why they are stealing or if they are in fact victims of exploitation.

Legislative factors impacting on exploitation

Anti-MSHT Law

The main legislation in Kenya is the Counter-Trafficking in Persons (CTIP) Act 2010. This outlines which acts constitute trafficking, as well as how to prosecute perpetrators, identify who victims are, and provide support and legal protection for survivors. To assist in the implementation of this

legislation, Kenya also has the National Plan of Action for Combating Human Trafficking (KMLSSS, 2015) and a National Referral Mechanism for assisting victims of human trafficking (KSDSP, 2019). In line with the CTIP Act, Kenya has also established a Counter Trafficking in Persons Advisory Committee (KSDSP, 2019). The CTIP Act sets out legal protections for both children and migrant workers, and along with the Victim Protection Act (VPA) 2014 includes provisions for survivor support and compensation to victims. Specifically in relation to forced and child labour, Kenya also has in force the majority of the International Labour Organisation (ILO) conventions. However, it has not ratified the convention on the freedom of association and protection of the right to organise (ILO87), nor the convention covering private employment agencies (ILO181). Forced labour in prison is also still legal (Verite, 2020).

There were thirteen interview participants who discussed the CTIP with varied opinions. Most felt that the law was appropriate, stating that "the legislation is very expansive and provides for the protection for victims, the specific roles of agencies, and also criminalises the offences of human trafficking" (KEN 020) and that, "the law is very comprehensive" (KEN 017). However, the main issue was a lack of implementation of the law, "The law has not been fully implemented at all… we don't see the effect of the law" (KEN 020). Some felt that there was a lack of commitment from the Counter Trafficking Secretary (KEN 026), or that the government as a whole was not taking the matter of MSHT seriously enough (KEN 019, KEN 029).

Legal protections for children

Both the NRM (KSDSP, 2019) and the CTIP Act 2010 outline that children are special cases in relation to MHST and require special consideration and support. However, they do not outline what this specialised support should be. The Victim Protection Act (VPA) 2014 states that a victim is considered vulnerable if they are a child, and their safety is paramount with all the rights in the Children's Act 2001 observed. Under this act trafficking of children is explicitly outlawed, along with the labour of any individual under 16 and the use of anyone under 18 in hazardous conditions. However, the act does not prescribe any penalty for these offences, and there appears to be a loophole in the act whereby foreigners may traffick children out of the country as long as they are acting as their "guardian" (KMLSSS, 2015).

Eight of the participants discussed a range of legislation including the CTIP, VPA, and the Children's Act, but also the Employment Act, the Sexual Offences Act and the Marriage Act. It was felt that there was sufficient legislation to protect children (KEN 006, KEN 021) including legislation against child labour, child sexual exploitation, child marriage, and child trafficking. However, issues were again raised about the effectiveness of the legal protections for children (KEN 004). One participant pointed to a lack of definition of who a missing child is within the Children's Act and national legislation as a whole (KEN 001), and suggested that policy informs budgets, allocation of resources and partnership development. An agreed definition of such terms helps service providers to more easily identify those who are vulnerable and ensure that the children receive the support that they need. It also reduces the number of children who may not be perceived as vulnerable and who are completely overlooked. The focus on children also prompted concern that there is now a "lack of focus on adults" (KEN 006).

The complexity and challenges of birth registration in Kenya were also highlighted (KEN 019, KEN 021) meaning that "not all children are able to access birth registration…[and] if children are not registered, then they are susceptible to child trafficking" (KEN 019).This susceptibility stems from an inability to enter education and schooling, an inability to become an official Kenyan, and subsequently a lack of ID and inability to access services, all of which will make individuals increasingly vulnerable to MSHT from childhood and throughout their adult lives.

Legal protections for migrant workers and regulation to protect workers in supply chains

The CTIP Act outlines a victim-centred approach recommending that victims of trafficking are not criminalised or penalised, such that any organisation or authority should always check if a migrant is a victim of trafficking. Migrant workers who are survivors of MSHT are permitted to remain in Kenya until legal proceedings are concluded and any legal proceedings will be discussed in a language that the

survivor understands. In cases where survivors do not have proper documentation, the government will issue the necessary travel documents for repatriation, moreover if the repatriation process puts the survivor in any danger, the Minister may permit the survivor to stay in Kenya for a period of time.

In addition, the Labor Institutions Act 2007 regulates cross-border recruitment by private employment agencies, including the registration requirements, agents' obligations, and penalties for violations. Other legislation includes the 2009 migration policy, 2010 labour migration policy, and a 2015 diaspora policy focused on harnessing the potential of its nationals abroad to contribute to the country's economic development (Malit and Al Youha, 2016). These additional regulations include further rights and protections for Kenyan people working abroad, without which their vulnerability to exploitation increases, however, the current status of these policies was unclear (ibid).

Much of the discussion surrounding both legal protections for migrant workers and the regulation of workers in supply chains, centred around the National Employment Authority Act and its implementation by the National Employment Authority (NEA). The issues facing the NEA and effective protection related to collaboration and coordination – whereby migrant workers and the unique issues they face may straddle both the NEA, Ministry of Foreign Affairs, National Security, and civil society organisations. Interview participants stated that in the case of migrant workers there is a lack of collaboration and coordination between these different organisations and government bodies on both a policy level and service provision level. This leads to uncoordinated bi-lateral agreements and immigration laws (KEN 009) and calls for "the East African communities to harmonise their migration laws so that the countries are at equal power when it comes to allowing the movement of persons across the borders" (KEN 017). This was extended beyond East Africa with a need for treaties and financial support within embassies to support victims of trafficking, particularly in the Gulf Cooperation Countries (GCC) (KEN 030).

The NEA have been working to create and raise awareness of their two websites for both Kenyan workers and migrant workers, whereby workers can find information and check the legitimacy of the employment agencies, file complaints and find job opportunities. However, the NEA are conscious that not all workers are aware of these websites, and with only 23% of Kenyan individuals using the internet (World Bank, 2018) digital exclusion creates further vulnerability. This was later stated as a 'communication gap', both due to workers having a lack of information on support services, as well as a lack of collaboration between the NEA and employment agencies – which is making workers increasingly vulnerable to MSHT. And again the gap between legislation and implementation was highlighted, "our issue is not policy gaps, it's the implementation of different policies" (KEN 009), along with a failure to span the informal economy and job market.

Local, cultural, and institutional factors impacting on exploitation

At a local institutional level, much of the discussion is focussed around city and community level projects and provision for survivors, while another focus is on local enforcement, or a lack thereof.

Local projects and provision for survivors

Many of the local projects are targeting and supporting children, including work by the African Network for the Prevention and Protection against Child Abuse and Neglect (ANPPCAN), Movement Against Child Trafficking (MACT), Missing Child Kenya, Childline Kenya, and MaChild. Other examples of local projects and support include the Center for Domestic Training and Development (CDTD), and work by Haart, Trace Kenya, Salvation Army, and Stop the Traffick Kenya.

Provision of shelters was a regularly discussed issue, with many concerns regarding capacity – particularly for adults (KEN 015); the ability to provide specialised support to specific groups within shelters i.e. a need for women-specific or trafficking-specific shelters, or those able to support people with disabilities (KEN 006, KEN 012, KEN 014); and calls for shelters to be better regulated (KEN 004, KEN 012). Going some way to address this is the recent creation of the National Shelters Network. This provides help in coordination of victim assistance and referrals into the shelters, as well as advocacy work to implement a registration system (KEN 004).

Many participants felt that shelters alone were not enough, and that a broader range of psycho social support and rehabilitation was required to address the trauma associated with MSHT (KEN 006, KEN 007, KEN 026):

"We offer services that rehabilitates, psycho-social support in terms of therapy for counselling, post-traumatic stress disorders and again we also enable victims to recover and start engaging with productive life, we can do this through taking them to vocational training, if they're young people who are willing to do that, but again we also offer a hand to start in collaborating projects which can help them sustain their lives" (KEN 007)

Similarly, success was not measured simply by the number of people admitted to shelters but by greater levels of rehabilitation and reintegration back into the local community:

"We have number of cases or stories that we can call them success stories or the best practices with individuals excelling, for example, our survivors excelling either in school or excelling in business...they are music producers, they produce clips that are trending on YouTube. We have another case where we have children who again were very abused, and they manage to excel in school - like one of them was the best in the county" (KEN 006)

The activities of local projects were highly dependent on the direction of donor organisations, and concern was highlighted about their understanding of the local context:

"We see a lot of times CSOs will change their focus because a donor has told them they will fund a specific project and says we worked together in the past and I think you guys will do a great job, so the CSOs can kind of chance and switch up their focus to the new programme that the donor wants. So if donors better understand what different stakeholders are doing, what different organisations are doing, they also will contribute to closing the gap - in ensuring that they are not being the problem" (KEN 002)

Similarly, a lack of consistency and coordination in the manner in which international and national agencies address MSHT in Kenya was questioned, with attention found to be focussed on issues already being addressed and not considering long term prevention: "often the people work on trafficking according to like waves. You know, like when there is some kind of wave of trafficking that people got interested, and then when the wave goes the interest drops down. Like in South Africa it was during the World Cup when everybody started talking about human trafficking" (KEN 006).

Linked to this was an underlying question over the focus of antislavery activity in Kenya, and a sense that international donors are pushing attention towards child trafficking and addressing exploitation of women. It was suggested that donors need to be better informed on local needs and priorities and that more research was needed to understand exactly what forms of exploitation are taking place:

"In terms of Nairobi as a region, we need to probably do more research to see how the men are exploited in Nairobi. But for the boys, at least, we have lists of documented evidence that they are actually exploited. Yes. So, more research on the men" (KEN 012)

Local antislavery enforcement

As highlighted earlier in relation to the legislation, there is widespread satisfaction with the anti-exploitation laws in Kenya but there is considerable doubt over how well these laws are implemented locally (KEN 003, KEN 005, KEN 006, KEN 009, KEN 012, KEN 020, KEN 026, KEN 027):

"I mean on paper, of course the national referral mechanism is supposed to be operational for people. On paper when it comes to children's issues - the child helpline is supposed to be working perfectly and supposed to have a referral mechanism. On paper, the line works perfectly and everyone is taken care of. That's all based on paper" (KEN 026)

A lack of knowledge and awareness of what measures are available to local enforcement was suggested as a reason for poor local implementation of the existing legislation, with some suggestion there was a tendency among law enforcement to pursue lesser offences that they are more comfortable prosecuting, such as being in the country illegally (KEN 014).

The complexity of organised crime related to exploitation requires extensive technical skills for both investigation and prosecution, and it was felt that these skills were lacking within the relevant law enforcement agencies and the judiciary (KEN 020). This poor knowledge extends to the rights of survivors of exploitation, and participants raised the issue of survivors being treated as perpetrators and processed as criminals when the CTIP Act sets out protections against this (KEN 019). Interviewees also identified a failure to properly coordinate local activity and actors (KEN009) and to provide assistance and support to victims (KEN 012).

Local leadership or politics

In terms of local leadership, the Nyumba Kumi Initiative (see BOX 1) was commended for its ability to increase anti-trafficking awareness in communities, to report concerns through local leaders to respond appropriately, and to engage influential local Chiefs on the issue (KEN 003, KEN 014):

> "Within the communities we have…Nyumba Kumi Initiative. In all the areas they are working in we have noticed that their presence and their influence… strengthen their understanding of how human trafficking happens in their context. And how they can prevent their communities from being trafficked. And so that's one very strong area actually that I would say within the community setting, almost to a household level setting, that has been very useful in preaching the prevention message" (KEN 003)

However, questions were raised about the commitment of local political leaders to address exploitation (KEN 004, KEN 026) and how some communities find themselves politically marginalised – particularly in the informal settlements – thus increasing their vulnerability to exploitation.

BOX 1

The Nyumba Kumi Initiative – 'Ten Households' Community Policing

Following security concerns related to interethnic and terrorist incidents, the Nyumba Kumi Initiative was introduced in Kenya in 2013. It is a community policing initiative targeted at the household level. Primarily focussed on combatting crime and insecurity, the Nyumba Kumi Initiative has played a considerable role in raising awareness of MSHT in local communities and in responding to reports of exploitation, assisting referrals, and supporting investigations.

> "We meet every Wednesday. Most of us are working so the meetings happen in the evening after work. We review the security situation in our estate, discuss if there are any suspicious activities or persons and then prepare a report that we then share with the local police. It has been effective so far because we have managed to stop possible robberies and break-ins in our apartments" Joel Kirui, a banker in Kenya's capital Nairobi and Chairman of his group (quoted in Koigi, 2016)

Its name is Swahili for 'ten households', and is based on the principle that residents know the details of each other and their neighbourhood best. It was hoped that the initiative could increase community cohesion and build rapport between citizens and law enforcers:

> "A strategy designed for citizens to know their neighbors. It is anchored on the premise that citizens know their areas very well and are indeed able to spot and call out any suspicious or unusual activities in their surroundings" (Njagi, 2020)

Personal resilience factors impacting on exploitation

Local perceptions or awareness of MSHT and risk of MSHT

Awareness of MSHT and the different forms of exploitation is low or misunderstood across Kenya (KEN 013) making it hard to engage communities. It was suggested that this "communications gap" (KEN 009) and lack of information on MSHT created additional risks for exploitation.

There is also a lack of trust amongst many local communities when it comes to working with the police (KEN 003, KEN 004), as well as social norms around not intervening on matters relating to other families. Schulze (2017) found that there is a culture of silencing around Sexual Exploitation of Children in Travel and Tourism (SECTT) and a reluctance to intervene when the issue pertains to children from other families. This is less of an issue when it comes to supporting victims, as community members are still supportive when a child is perceived to be in danger, but it makes investigation and prosecution very difficult:

> "We have a problem with the investigations in this country … Because … communities are not well educated on the whole business of cooperating with law enforcement, evidence is not collected throughout the process of rescue, reporting. So it becomes very difficult sometimes to conduct investigations and also to help these convictions" (KEN 003)

Going beyond awareness raising and linking to broader social determinants, there was an emphasis placed on empowering people through wider support structures and policies:

> "Poverty forces people into situations and scenarios. So awareness raising is one but it cannot work within a silo … When it comes to populations, apart from awareness raising, we need to empower citizens better. You can't speak about this without speaking about how it falls under labour and social policy. If you have stronger social policy, you are giving people more options and better security, and it allows them to negotiate better" (KEN 009)

Perceptions of risk to MSHT

A range of risk factors for MSHT were cited, many of which relate to the broader structural factors:

- Poverty and an inability for a family to look after their children (KEN 005, KEN 006, KEN 007, KEN 009, KEN 013, KEN 014, KEN 022, KEN 024, KEN 026)
- Unemployment and informality of the labour market (KEN 004, KEN 007, KEN 009, KEN 013, KEN 022)
- Poor education (KEN 001, KEN 013, KEN 022, KEN 024,
- Rural to urban migration (KEN 006)
- Poor social welfare (KEN 020)

Women and girls were widely cited as at high risk to exploitation, with the other notable group being refugees, asylum seekers, and, in particular, Kenya's large population of Internally Displaced People (IDPs) (KEN 004, KEN 006, KEN 017):

> "So refugees and asylum seekers, that is one group, and then we find IDPs. Yeah, IDPs are also very vulnerable because they don't have a place to sleep to live and they're seeking for support and are normally really desperate because they have nothing really" (KEN 004)

Vulnerability of IDPs could be considered as a microcosm underlining the value of a stable community, particularly communities that are free from conflict, which was highlighted as vital in reducing risk and re-exploitation:

> "If the community and the societies are not stable enough, they will end up being victims of trafficking. We need to end calamities; we need to end the conflicts because all these are key drivers for human trafficking" (KEN 007)

Social norms, attitudes, and practices

Despite Kenyan labour laws setting out the minimum age for work, the large number of people working in the informal sector makes monitoring of these laws difficult, and enforcement is reportedly

insufficient (DoS, 2018; Verite, 2020). The DoS (2018) cite a 2016 study by UNICEF that found 26% of children under the age of 14 participated in child labour (approximately five million children), notably in agriculture, mining, and fishing in rural areas, and informal vending in urban areas. Children were also reportedly exploited at high rates in domestic labour, and migrant children were frequently trafficked between rural and urban settings (Verite, 2020). With a focus on child trafficking in Kenya, there were examples of how social norms around child labour and children providing an income for their family assisted in the exploitation of children (KEN 003, KEN 005, KEN 017, KEN 019):

> *"Traditions … especially with the pastoralist communities where we worked … And then seeing those cultural practices being, or aiding human trafficking. Or basically having human trafficking being hidden behind some of those cultural practices" (KEN 003)*

Other attitudes that facilitate exploitation included abuse of children being considered "normal discipline" (KEN 001), and the taboo around sexual abuse. These factors lead to an under reporting of MSHT issues along with difficulties in identifying exploitation and prosecuting perpetrators. There continues to be a cultural acceptance in some, mainly rural, communities of child and early marriage, and the associated practice of FGC (KEN 004). Linked to these forms of exploitation is a tendency for local community justice to take precedence over any formal legal system – "someone impregnates someone's child, they give them an STI, they sit down as elders, they tell him bring six goats" (KEN 001). The role of religion in these matters was seen as coercive and condoning (KEN 028).

5. Impact of the pandemic

The Covid-19 pandemic has had both direct impact on the activities of antislavery organisations in Kenya, as well as increasing vulnerability to exploitation by impacting many of the related social determinants.

Reduced staff and engagement

The biggest impact on anti-trafficking activity relates to the reduced number of staff available to engage with potential victims, support survivors, and to raise awareness in communities. This reduction is not just on project staff and frontline support services but also covers a loss of government and international agency officials (KEN 006). There are also fewer police on duty and other awareness raising mechanisms, such as the Nyumba Kumi Initiative and barazas, are severely reduced or their focus has been shifted to pandemic mitigation activities (KEN 003).

Impact on survivor support

Guidance on how to continue support in a Covid-safe way has been lacking (KEN 003), whilst the closure of shelters has meant that people have had to return to families and communities in which their chances of being exploited are increased (KEN 004). There are some positives based on an increased need for support organisations to collaborate during the pandemic (KEN 002), whilst the creation of, and engagement with, a National Shelters Network has accelerated as a result of the pandemic (KEN 004).

Economic pressure

The increased economic pressure created by lost employment and a subsequent reduction in household income during, and after, the pandemic was a widely cited concern for participants. Existing issues of poverty will only be exacerbated with more people drawn into situations of exploitation due to increasing vulnerability:

> "I believe that, unfortunately, there will be more human trafficking after Covid-19 than before, because of the impact of the poverty, the increase of the poverty, which is the main driver of people being trafficked" (KEN 006)

This has resulted in increases in all major forms of trafficking whether you are an adult or a child (KEN 003). Increased desperation has increased vulnerability to labour exploitation, sexual exploitation, and child trafficking, whilst previously reintegrated survivors are returning to support services (KEN 006).

Decrease in child safety and support

Closure of support systems, including schools and religious institutions, has raised concern for child safety. This is not a new phenomenon as it was suggested that school holidays already saw a rise in cases prior to Covid-19 (KEN 001):

> "Children are suffering abuse both physical, sexual, and psychological in their own homes and so we find these children will run away from the abuse at home" (KEN 001)

Schools provide meals and structure away from higher risk settings at home (KEN 003), whilst reporting mechanisms for missing children have also been lost (KEN 006). The extended closure of schools during the pandemic has likely increased vulnerability to exploitation.

Impact on social determinants of exploitation

Many aspects of the antislavery activity in Kenya, along with the multi-level factors explored, have been impacted by the Covid-19 pandemic. Our research highlighted the connections between these two elements and is detailed in **Table 2**. This table shows that Covid-19 is impacting on multiple 'social determinants' of resilience against exploitation. Although there are also assets in Kenyan society that help to mitigate these impacts (such as, for instance, the effective public health measures

which helped to contain the pandemic during 2020) the table illustrates how diverse and wide-spread the effects of the pandemic have been.

Table 2: Impacts of the pandemic on social determinants of exploitation

Structural Challenges	Covid Complications
38.7% of population live in multi-dimensional poverty, and a large proportion of Kenyans are dependent on the agricultural sector	▪ Job losses ▪ Income reductions and loss of housing ▪ Increased tension at home resulting in violence and increased vulnerability to trafficking ▪ More child labour to compensate for pressures, particularly in the agricultural sector ▪ Vulnerability of this sector is also exacerbated by changing environmental conditions due to climate change
Inequalities in access to education are widespread	▪ Closure of schools resulting in decrease in child safety, reporting of missing children, and support services ▪ Children forced to return to families that may be high risk for trafficking ▪ Exacerbation of inequality in access to education ▪ Digital exclusion adds a further cost-barrier ▪ Potential long-term impacts on qualifications and earnings
Complex migration patterns due to position as an origin, destination, and transition country for trafficking	▪ Closure of borders and restriction of movement can inhibit some forms of trafficking as people are unable to conduct their exploitative practices ▪ Concern that closure of these routes will push traffickers into more desperate, and more hidden, alternatives ▪ Difficulty in repatriating victims from abroad e.g. the Gulf Cooperation Countries
Significant populations of refugees and Internally Displaced People (IDPs)	▪ Already highly vulnerable to trafficking, increased economic pressure worsens their situation ▪ Contagious diseases already widespread in informal settlements
Customary law taking precedence over equal rights, and concern over the safety of women and girls	▪ Increase in domestic violence, sexual violence, theft and violent crime in general ▪ Some girls forced to marry to relieve economic pressure of Covid-19

Governance Challenges	
Concern at speed of courts and judicial process	▪ Already low level of prosecutions being further reduced by delays in courts ▪ Creating additional pressure on support services for survivors ▪ Length, and cost, of cases are deterring survivors from pursuing cases
Ability to undertake criminal investigations	▪ Police officers are currently having to work in shifts and have become less proactive ▪ Reduced reporting and ability to gather evidence

Social / Institutional Challenges	
Role of Charitable Children's Institutes (CCIs)	▪ Concern over CCIs link to child and orphan trafficking, with economic pressure increasing vulnerability
Issue of exploitation in Export Processing Zones (EPZs) and role of unions in spreading awareness	▪ Activities of unions limited, reducing engagement with potential victims to raise awareness ▪ Membership of unions down 60% in some cases, due to people having lost their jobs

Challenges for the anti-trafficking sector	
Shift in focus of partner agencies	▪ During Covid-19 many agencies assisting in anti-trafficking activities have had to shift focus to pandemic mitigation and support ▪ Includes Nyumbi Kumi Initiative and Barazas
Suspension of projects and support services	▪ Closure of shelters, reduction in services, increased difficulty physically accessing services (due to restrictions) ▪ Impact on physical and mental health of survivors ▪ Lack of guidance on how to deliver covid secure services
Loss of frontline staff and partners to engage and extract victims	▪ Fewer people now visible and available in communities to assist in reporting and referring concerns ▪ Many international agencies have pulled staff out of the country entirely
New ways of working	▪ Fast pivoting of ways of working is placing additional stress on staff ▪ However, some new methods, particularly the use of virtual technologies, have been successful and can be used longer term

Discussing these impacts, participants in the workshop advocated for greater flexibility in how antislavery activity is managed and delivered, acknowledging the dynamic nature of Covid-19 and that the impacts are far from over. Ongoing research and data is required to keep up with the evolving picture, whilst a plan and policies need to be put in place that account for the long term impacts of the pandemic. Linked to this was the need for increased collaboration. Policies can only go so far if they are not coordinated appropriately across sub-sectors of delivery, whilst their needed to be an awareness of the organisations that are no longer operating since the launch of the National Referral Mechanism in 2018.

6. Cross cutting thematic issues

In addition to the impact that the pandemic is having on the social determinants of modern slavery, outlined above, the literature review and interviews revealed a number of cross-cutting thematic issues.

Terminology: the need to develop a shared understanding of concepts

A number of respondents (for instance KEN 006, KEN 026, KEN 027, KEN 028) made the point that the term modern slavery and trafficking did not resonate in all Kenyan contexts. Modern slavery was seen to be derived from UK or US law (KEN 006), whilst the term trafficking was often considered only in the context of foreign people, and arms and drug dealing (KEN 027), or that it did not encompass issues such as forced marriage (KEN 026):

> *'I think because now that you're using the word modern slavery, but if you think about Kenya and the reason why people use the term modern slavery, it is because some jurisdictions don't include forced marriage as forms of trafficking in Kenya. All those things are part of trafficking. So when I say and I use the term trafficking within this jurisdiction - I feel like for me the term trafficking encompasses all those things that I understood what other people would call modern slavery, but maybe other people would disagree. (KEN 026)*

Similarly, it was suggested that the terms early marriage, child marriage, and forced marriage were used interchangeably and were not clearly defined and understood (KEN 028). This problem increases the barriers that government and NGOs face when trying to develop shared objectives, instil a broader conception of exploitation beyond narrow interpretations, and engage communities.

Addressing the gap between legislation and implementation

There was a general recognition that although Kenya had strong legislation to prevent different forms of exploitation, these were often not implemented (KEN 003, KEN 006, KEN 026). This gap is driven by a lack of awareness of the law within both law enforcement and within local communities themselves (KEN 012, KEN 014, KEN 020, KEN 029). A lack of resources at the local level are also an issue:

> *"we're still very far from appreciating the fact that as much as the simple rescuing and working to support victims we are not quite sure whether the security, the judiciary, the prosecution has the ability to respond to their core duties" (KEN 007)*

This lack of awareness and resources was also highlighted in relation to the use of inappropriate laws to deal with MSHT. A familiarity with other legislation at the local level meant that prosecutions were targeted at less serious crimes. During the stakeholder workshop the impact of terrorism on MSHT was highlighted, in particular the tendency to process victims of MSHT as perpetrators of terrorism offences, in direct contradiction of the CTIP Act to protect victims of exploitation. The gap between legislation and implementation is therefore not simply an issue of proper procedure, but fundamentally impacts on survivor support and rehabilitation.

Cultural practices were seen to inhibit local implementation by contributing to a culture of silence and not wanting to intervene in the affairs of another family or go against the values of that community (KEN 003, KEN 004). There can also be a mistrust or misunderstanding of working with police that hinders investigations (KEN 003, KEN 004).

There were a number of promising examples of more embedded community development action at the local level. Notably the role of the community policing approach, Nyumba Kumi Initiative, and the

Baraza community meetings. Both were seen as vital in getting messages into the community and providing a reporting function for concerns (KEN 003, KEN 014).

Collaboration and co-ordination of efforts

The way that both laws and stakeholders are set up has been in organisational silos (KEN 001, KEN 003) and more needs to be done to join up activities and stimulate collaboration between government and civil society organisations (KEN 007, KEN 009), recognising the strengths and challenges of each organisation involved (KEN 002, KEN 017).

> *"what has happened is a lot of our laws have been set up, how do I put it, in a silo manner, so agency expert and counter-trafficking is agency wise and … you find communication across this level is lacking … and look at the legal instruments that we have. A lot of them are very valid as they cut across a lot of the issues that need to be addressed. But our purpose is, we have maybe not perfected inter-agency cooperation, but we'll have this instrument talking to one another" (KEN 001)*

Lack of coordination and clear inter-agency policies can lead to duplication of activity, difficulty budgeting and allocating resources, and an inability to map and validate activity that is taking place. To improve inter agency collaboration and awareness it was suggested that there should be coordinated training on the law and provisions available. This should bring together all the stakeholders working in that aspect of the law, helping them to see who else is working in that area, and ensuring that the training is given to the right people, who can actually implement the law and address the issue (KEN 002). Systems should be put in place to assist with data sharing (KEN 017) and there also needs to be clear and persistent coordination of implementation efforts (KEN 028), which must be led by the government:

> *"First of all we need to implement the system and coordinate it. So there must be someone in charge. Somebody you can always call as a coordinator who says I'm in charge. Of course, that must be the government, it can't be us ... And here we are, as an NGO...we are happy to assist because our role is a subsidiary role, any NGOs we're subsidiary. We are supposed to help the government, and we are happy to step in. We are happy to provide the shelter. We are happy to provide the services. We are happy to pay for them. But we can't be the one who is coordinating the things" (KEN 006)*

7. Implications for the process of building resilience after Covid-19

Some assumptions that have previously underpinned anti-trafficking work in Kenya are questioned by the findings of this research. In particular the wide-ranging impacts of Covid-19 suggest a need to reassess the 'theory of change' underpinning approaches to addressing exploitation. This research suggests that there is a need to:

- reframe the language and focus of anti-trafficking work;
- adopt a whole-systems perspective on funding and policy implementation;
- build more effectively on local knowledge and expertise.

There are benefits to be gained from adopting a broader and more holistic perspective, including a focus on prevention activities. The current focus (and terminology) which associates much of this work with child trafficking, could be broadened to more explicitly include topics including sexual exploitation, labour exploitation, trafficking and early marriage. The current focus on children could be widened to include adults, families and communities. And the focus of anti-trafficking organisations needs to move upstream from enforcement and service delivery to include more conversations about education, gender equality, business regulation, welfare and health. These findings resonate with recently-published research that recommends improving the linkages between anti-exploitation policy and practice, and mainstream development programming - promoting economic agency and freedom for individuals, and linking to ongoing work to improve resilience, empowerment and a reform of institutions (Cockayne 2021).

Working towards a revised 'theory of change'

The adaptive cycle (page 7) offers some suggestions on how stakeholders in Kenya might build a revised theory of change for work after Covid-19. These could include:

- Diagnosis: working with all key stakeholders towards a refreshed vision, shared language and understanding of the key challenges moving forward in the context of Covid-19. Re-instating and improving existing data and monitoring to inform programming.
- Challenge: Involving a wider range of stakeholders in plans to address exploitation. Engaging intensively at local and community level, building on – for example – examples of awareness raising through the Nyumba Kumi Initiative and Barazas. Encouraging wide-ranging participation, including the voices of victims, children, parents, and local political and community leaders.
- Change: Looking beyond awareness campaigns to longer-term sustained programmes aimed at shifting social norms and delivering institutional change. Connecting anti-exploitation programming to other core areas of development, and promoting collaborative activity between different types of NGO.
- Normalising and maintaining change: continuing to work on clarifying and improving key areas of legislation and policy, and acting on legislative gaps. Continuing training and sensitisation for key actors in the field.

Following stakeholder feedback on how different strategic actors, including international organisations, the state, local governments and NGOs and communities might take these issues forward, a number of recommendations were identified for each group.

Recommendations

Donors should:

- Review and better understand local priorities and gaps e.g. link with terrorism, before funding work
- Ensure that work they fund addresses a need within communities and doesn't just saturate a single area or aspect of MSHT
- Engage and connect more closely with local, grass roots organisations
- Prioritise local and national organisations over international agencies
- Apply a broad definition of modern slavery and human trafficking (MSHT)
- Use their influence to better align government, NGOs, and all stakeholders

Government should:

- Provide a stronger coordination role ensuring that activities are joined up, services are registered where appropriate, and that the necessary local agencies are properly trained and aware of relevant legislation
- Ensure MSHT is included in a post-Covid recovery policy – across prevention, protection, and prosecution – plan should also acknowledge the long-term impacts and evolving crisis
- Adopt a survivor centred and human rights approach, including strengthening protection of victims so they are not treated as criminals
- Engage communities and local leaders in policy development and also recognise donors and NGOs as stakeholders
- Provide necessary shelters and the policies needed to register and regulate shelters
- Fund appropriately and review key issues related to survivor assistance and the NRM
- Review emerging issues in counter-trafficking and assign accountability to relevant teams
- Integrate policy and professional responses

NGOs should:

- Leverage close relationships with donors to provide sector and country briefings to better educate donors
- Develop more research partnerships with local institutions
- Increase cooperation and develop common objectives and a shared vision
- Stand firm on the impact they want to have in a community and not drift from mission to satisfy donor priorities
- Ensure that survivors are fully aware of their options and rights

Communities should:

- Strengthen institutions like the Nyumba Kumi Initiative by keeping them informed and aware of MSHT, helping to build stronger links between police, support, and communities
- Improve community awareness of the local government structures that are available and how to contact the relevant organisations and agencies
- Recognise the role that local religious leaders can play in combatting MSHT

All stakeholders working on MSHT in Kenya should:

- Recognise Kenya's position in the region and regional governance role – use strength to set the tone of discussions and action
- Be more explicitly inclusive and collaborative – extend invitations for others to attend meetings and activities
- Hold each other accountable and be more open in communication and data sharing
- Engage survivors in policy making, donor decisions, NGO practices and community level awareness raising – ensure a survivor centred and informed approach across all levels
- Validate activities with communities
- Improve understanding of the role of terrorism and the support available for people exploited within terrorist groups

8. Appendix 1: Questionnaires used to explore different aspects of resilience

Questionnaires used to explore the factors impacting upon anti-slavery resilience

Three separate tools were used to explore antislavery resilience in semi-structured interviews. The research team selected the most appropriate tool for each stakeholder, according to that stakeholder's particular expertise. In some cases stakeholders responded to more than one questionnaire.

A) Legislation and regulation audit

We spoke to local experts in law and policy to examine the existence of provisions in domestic law, the extent of local implementation and COVID-related impacts in relation to the following issues:

1. Universal birth registration
2. Universal provision of citizenship ID
3. Universal access to working documentation / passports
4. Mandated education for all primary school age children (0-10)
5. Mandated education for all secondary school age children (11-18)
6. Universal access to healthcare
7. Availability of income support assistance for living / housing costs
8. Prohibition of child marriage
9. Prohibition of child labour
10. Equalities / Anti-Discrimination legislation: Sex, race /ethnicity, Religion, Age, Sexuality, Disability
11. Prohibition of forced commercial sexual exploitation
12. Anti-corruption legislation
13. Regulation of employment agencies and intermediaries
14. Minimum wage legislation
15. Rights to labour organisation / unions
16. Health and safety at work legislation
17. Environmental protection legislation
18. Anti-trafficking or modern slavery legislation (including trafficking, slavery, servitude, forced and compulsory labour)
19. Transparency in supply chains legislation
20. Rights to shelters and support for victims of modern slavery and human trafficking
21. Anti-criminalisation legislation for victims of human trafficking
22. Access to compensation for victims of modern slavery and human trafficking
23. Any differences in any of the above provisions in relation to migrant labour?
24. Any other issues that you would like to highlight that have not been covered above?

B) Policy and Practice Context Questionnaire

We spoke to local experts in anti-trafficking policy and practice to explore the following questions:

1) Perceptions of local vulnerabilities
1.1) What types of exploitation are you aware of in this locality?
1.2) How would you describe this exploitation? (E.g. forced labour, sexual exploitation, MSHT, CSE(C))
1.3) Which groups do you perceive as being most vulnerable to exploitation in this locality? (E.g. women, youth, street children, homeless people, workers)
1.4) Has Covid-19 made a difference to the numbers or groups of people who are affected?

2) Prevention Context
2.1) What organisations, policies, government, NGO, community or faith provision usually helps to keep vulnerable individuals safe from exploitation in this locality?
2.2) What impact has Covid-19 had on these vulnerable individuals (if any) and why?
2.3) What impact has Covid-19 had on the organisations, policies, and service provision that usually helps to keep people safe?
2.4) Where are the main gaps?

3) Local Discovery / Enforcement Context
3.1) How (if at all) are local people encouraged to report examples of exploitation (e.g. awareness campaigns, hotline etc.)?
3.2) Who are the principle government, community, faith actors or NGOs working on enforcement issues in this locality?
3.3) What types of exploitation are investigated most frequently?
3.4) What (if any) are the key issues preventing or restricting local enforcement action?
3.5) Has Covid-19 made a difference to enforcement or access to justice for victims?

4) Local Respite and Recovery Context
4.1) What local services are available to support victims / survivors of exploitation (government, community, faith or NGOs)
4.2) Has access to any of these services been restricted as a result of Covid-19?
4.3) What kinds of problems have victims / survivors experienced as a result of the pandemic?
4.4) What are the key gaps in local service provision for victims and survivors at present?

5) Local Sustainable Resilience Context
5.1) What aspects of the local economy prevent or increase risks of exploitation? (e.g. availability of loans, types of industry, unsustainable business practices)
5.2) What political issues impact upon exploitation in this locality? (e.g. anti-regulation / anti-migration policies.)
5.3) Do traditions or religious issues impact upon exploitation in this locality? If so how?
5.4) How has Covid-19 affected any of these contextual factors, and if so, how?
5.5) What services, policies or practices would help?

6) Further Questions
6.1) Is there any issue on this topic we should mention that has not yet been discussed?
6.2) Can you suggest any news, reports or literature that would help us to explore these issues further?
6.3) Do you have any questions for us?

C) Project discussion

We spoke to local project leads for anti-trafficking projects and interventions to explore the following issues:

1. (If possible ask interviewee to draw and share a local anti-trafficking system / stakeholder map)
   - Can you name the organisations or actors you work with most frequently?
   - How does your project fit with other anti-trafficking / slavery initiatives in the area?
2. What's unique about your project? Why was it established?
3. Which other organisations do you have particularly strong links with. Why is that?
4. How do you measure or judge the impact of your work? What does success look like? (Tell us a story…)
5. Thinking about your project, what factors affect success?
   - Which ones are fully in your control?
   - Which can you influence?
   - Which are you concerned about but cannot control?
6. What are the biggest challenges for your work at present?
7. What extra pressures has Covid-19 brought?
8. Where do you see the biggest remaining gaps in the system?
9. How do you manage those gaps at present?
10. What would help to close those gaps?
11. Who can make that happen?
12. Who else should we speak to about these issues?
13. Are there any reports or literature on these issues you would recommend?
14. Do you have any follow-up questions for us?

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