



**UNIVERSITY of the
WESTERN CAPE**

**Child Protection Responses and Transformative Social Protection in Kenya
and South Africa: Can social grants improve the wellbeing of children
affected by violence and neglect?**

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Doctor of Philosophy (PhD) degree in Development Studies at the Institute
for Social Development, University of the Western Cape**

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DECLARATION

I, Irene K. Nyamu, hereby declare that the work contained in this dissertation entitled *Child Protection Responses and Transformative Social Protection in Kenya and South Africa: Can social grants improve the wellbeing of children affected by violence and neglect?* is my own work, and has not been previously submitted in part, or in its entirety at any other university for a degree or examination. I further declare that all the sources I used or quoted are indicated and duly acknowledged by means of references.



Signed: -----

Irene K. Nyamu



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ABSTRACT

This research critically explores how children from low income neighbourhoods in Kenya and South Africa experience formal child protection interventions couched within a child rights framework in response to violence and neglect. The study also considered the role that social assistance grants play in mediating children's wellbeing outcomes as a means for addressing child maltreatment and vulnerabilities. The main thesis of the research is that despite a close link having been established between violence against children and poverty in the causation of complex vulnerabilities and ill-being for children in Africa, solutions addressing the twin challenges appear to be mutually exclusive. While social assistance grants in the form of cash transfers remain a popular strategy for alleviating short to medium-term poverty, their potential for addressing neglect and violence against children which is linked to poverty has remained fairly unexplored. To examine this question critically, the *Wellbeing in Development* framework by Gough, McGregor and Camfield (2007) was used. The framework dynamically conceptualises poverty as multi-dimensional, and wellbeing as both a process and an outcome through which individuals can self-evaluate what constitutes happiness and a good life in a given social and cultural context. This understanding fitted well with the study's understanding of childhood as socially-constructed and impacted by historical, local, and global processes and allowed for an effective exploration of the processes and effects of deprivation, violence and state interventions on the lives of children involved with child welfare.

Methodologically a comparative ethnographic case study design was used along with multiple data collection techniques which included in-depth interviews, participant observations and ethnographic fieldnotes, document analysis and case histories to critically explore and gain insights into the lived experiences of children and their parents. These were contrasted with the perceptions and attitudes of judicial officers as well as frontline workers in child welfare and protection systems who respond to substantiated abuse and maltreatment cases. A total of 78 participants took part in the study. They included judicial officials, social workers, children and probation officers as well as 20 children and 26 caregivers living in low income neighbourhoods of Khayelitsha in Cape Town (South Africa) and four slum settlements in Nairobi City (Kenya). A total 20 child case histories were then constructed and analysed. Data was analysed using a reflexive thematic analysis approach which is iterative and employs both inductive and deductive coding for identification of themes, patterns and relationships.

The study found that Kenyan frontline workers read child protection laws very narrowly and adhered to the law and protocols very closely. They were also more likely to apply punitive measures to discipline parents who appeared to violate children's rights. Kenya's social protection policies also restricted access to social grants to children orphans and did not entertain the use of grants to address poverty and violence. On the other hand, frontline workers in South Africa took a less punitive approach and advocated for family support strategies such as access to social grants and therapeutic jurisprudence. However, that did not mean they invested more effort into preventive measures. Instead they prioritised access to child support and foster care grants and spent a large proportion of their time on bureaucratic processes of facilitating access to the grants.

The study also revealed mixed perceptions of how social grants might impact on children's wellbeing trajectories both within and across each country. In Kenya where limited grants for orphans and vulnerable children (OVCs) exist and citizens expect less from the state, most parents felt that a grant would have made their situation better, but most state officers disagreed. On the other hand, in South Africa where child and foster grants are pervasive, the view was that child vulnerability is more complex and systemic, given the country's history of apartheid and exclusion of people of colour. Consequently, social grants were not only a necessary tool for correcting injustices but also addressing pervasive poverty and vulnerability. The study concluded that while social grants could positively reduce child vulnerability in instances of child neglect and familial violence, on their own, they are insufficient. Careful attention is needed to understand the country's social and historical context in determining the overall objective of social grants. Furthermore, special attention should also be paid to long-term care and support for vulnerable families beyond their material needs. There is a strong case for cash-plus programs to address child protection and other child welfare concerns. The findings support calls for transformation of the child welfare and protection systems in both Kenya and South Africa in order to effectively address multi-dimensional vulnerabilities that go beyond material needs.

Key words

Child Wellbeing; child protection; child neglect; violence against children (VAC); Social protection; transformative social protection; poverty.

DEDICATION

This thesis is dedicated to the memory of my father Mr. Jeremiah Nyamu Mwamisi who passed away on the 2nd of December 2017 during my first year of study. This, together with the loss of my dearest niece Esther Neema Onyari who died in a tragic school dormitory fire on the 2nd of September, 2017 nearly made me quit the PhD program altogether - on so many occasions. Dad, it is your dedication to hard work, your consistent encouragement throughout my career, and your unquestioned belief in the power of education to transform the lives of people, that gave me the motivation and resolve to soldier on with this project. Thankfully, it is now completed. Glory be to God the Almighty and may you both rest in eternal peace.



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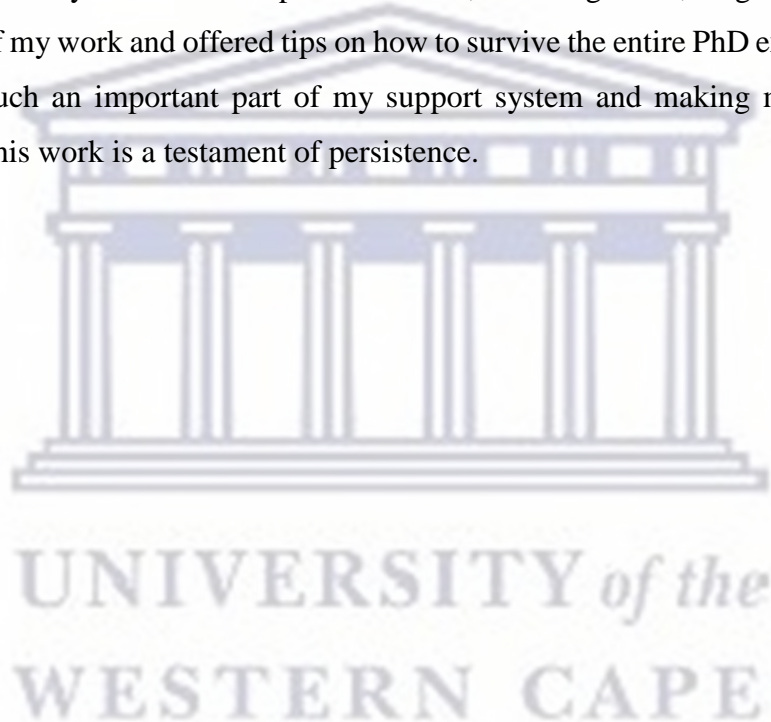


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List of abbreviations and acronyms

AU	African Union
ACRWC	African Charter on the Rights and Welfare of the Child
CBO	Community-Based Organisation
DCS	Department of Children Services (Kenya)
DSD	Department of Social Development (South Africa)
GoK	Government of Kenya
NCAJ	National Council on the Administration of Justice
NGO	Non-governmental Organisation
NPO	Not-for Profit Organisation
OECD	Organisation for Economic Cooperation and Development
OPHI	Oxford Poverty and Human Development Initiative
OVC	Orphans and Vulnerable Children
OVC-CT	Orphans and Vulnerable Children Cash Transfer
RoK	Republic of Kenya
SAPs	Structural Adjustment Programs
SASSA	South Africa Social Security Agency
SSA	Sub-Saharan Africa
STATSSA	Statistics South Africa
UNCRC	United Nations Convention on the Rights of the Child
UNDP	United Nations Development Program
UNICEF	United Nations International Children's Emergency Fund
UNRISD	United Nations Research Institute for Social Development
UNVAC	United Nations Global Study on Violence against Children
VAC	Violence Against Children
WHO	World Health Organisation

CHAPTER ONE: INTRODUCTION

1.0 Motivation for the study

In 2012, while working at the National Child Helpline (116) in Kenya I handled what conventional development practice would term as a 'child labour' case. A distressed caller from an informal settlement (slums) in Nairobi-the capital city of Kenya, alleged that a neighbour was exploiting a minor. Anna¹ the eight-year-old girl in question was brought to Nairobi and employed as a domestic worker by a relative who claimed to be helping Anna's family to survive through Anna's earnings. The caller strongly objected to this arrangement which she argued was exploitative and violated Anna's rights as a child, whereas Anna should instead have been in school like other 'normal' children her age. Anna's status as a domestic worker was an affront to the caller's sensibilities and notional understanding of acceptable child-rearing practices in the era of children's rights. Thus, Anna's involvement in domestic work damaged contemporary expectations of childhood as an innocent and carefree phase in life.

The helpline deployed a "rescue team" for a surprise home visit to the alleged employer's house for a situation assessment. The team found Anna busy tending to several household chores with an infant strapped to her back and "rescued" her. They then summoned the employer for interrogation and further legal action and placed Anna in a 'safe house' where she underwent counselling. A children's officer (the equivalent of social workers in charge of child welfare services in Kenya) traced her parents in rural Eastern Kenya and soon after Anna was repatriated and re-integrated back into her family. The team that accompanied Anna home had another explicit mandate- to ensure first Anna was immediately re-enrolled back in school because the free primary education policy makes education in public schools free, hence, there was no reason for Anna not be in school. Secondly, to liaise with the local administration (Children's officer, area chief/village elder, and local police station) to arrest Anna's father and jointly charge him with Anna's employer for abetting child labour and exploitation. The Children Act of 2001, Article 20 of the Laws of Kenya criminalised the employment of underage children. The criminal offence carries a prison sentence not

¹ The name was changed to protect the child's identity

exceeding twelve months, or a fine of Kenya Shillings fifty thousand (approximately US \$ 500), or both.

But the reality on the ground severely tested the team's resolve to fulfil these mandates. The family lived in a dilapidated tin-shack that could hardly accommodate the family of nine. In addition, like Anna, two of her older sisters were also domestic workers and in fact, both had dropped out of school after only grade three. Of the remaining four younger siblings, only one was in school at the time. Anna's father suffered a mental health condition that rendered him incapable of full employment even as a manual labourer. Thus, the family largely subsisted on their farming proceeds derived from a 0.5-acre farm that barely met their food needs, let alone any surplus for income. A troubled arresting police officer who accompanied the helpline team to Anna's home lamented "*huyu tukimshika ataenda kukufia huko*" (if we arrest him, he will certainly die in prison). It was clear that remittances by Anna and her sisters kept the family afloat. Devastated by the grim living conditions of Anna's family, the team had to re-assess the initial case plan that included arresting the father. Any huge changes to the family's living arrangement would only cause greater devastation, but some intervention was needed especially concerning the family's material conditions.

Upon careful reflection, the team recognized the need for long-term solutions which was a monumental task. Ideally, circumstances like those of Anna's family demand sustainable solutions that create a stable and nurturing environment in which children not only grow but thrive in, and realise their full potential. Unfortunately, such goals become too lofty if there are barriers to accessing state support to families like Anna's. For instance, it was impossible to enrol Anna or her siblings into the state-funded orphans and vulnerable children's cash transfer program (OVC-CT). This social grant program is tightly targeted and inaccessible because Anna was neither an orphan nor directly affected by HIV/AIDS. Moreover, most charitable organisations who supplement state welfare programs in most developing countries only offer support on a short-term projects basis. A few Non-governmental organisations were willing to support Anna's family through one-time donations or specific aspects of their needs as long as those needs matched the NGOs' checklist of donor-defined project activities and beneficiary profiles. Understandably, such conditionalities frustrate efforts towards lasting solutions to complex family problems. Anna's case was just one among the numerous cases of children living in complex situations that most frontline staff

like myself encounter at one point in their careers as community development practitioners, activists, and policy advocates.

I began to have moments of self-reflection. I wondered if my own-and indeed the efforts of many development practitioners committed to improving children's welfare made much of a difference. I wondered if development practitioners grasped the reality of the circumstances and concerns of families in whose name development interventions are undertaken. Did our strategies for 'doing meaningful development' ultimately address the main concerns of the families and communities targeted, and did they result in a genuine transformation that most practitioners so desperately hope for? The drive to find answers and to understand how social welfare policies frame and address the needs of the most vulnerable in society shaped this study.

1.1 Background and purpose of the study

Twum-Danso (2016) warns against the risk of presenting a 'singular narrative' of deficit-filled African childhoods. With this caution in mind, it is useful to point out that child welfare system failures are not unique to Africa. Notable criticism has been levelled against mature child welfare jurisdictions with superior resources and decades of cumulative experience, but equally failing children living on the margins of their society. Of particular note are families living in low-income neighbourhoods, migrant communities, and ethnic minorities. In England, the negligent deaths of Victoria Climbié, a young West African girl sent to live with a relative in the hope of a better life in 2000, and Baby Peter Connelly in 2007 respectively ignited public fury and intense parliamentary debates on the shortcoming of United Kingdom's child welfare services, with calls for reforms (Ainsworth and Hansen, 2011; Dickens and Masson, 2016; Featherstone and Gupta, 2017). In both cases, poverty, poor parental care, familial violence and also in Peter's case, drugs and alcohol abuse were all implicated in the children's neglect and abuse. The authorities had been aware of problems long before the deaths but failed to prevent them (Featherstone and Gupta, 2017). Similarly, prior to recent legislative reforms, Aboriginal and Maori children faced the same challenges in the Australian and New Zealand child protection systems respectively (Croucher, 2014; Keddell, 2018).

A key underlying assumption in child protection is that parents and primary caregivers have the primary responsibility to safeguard children's rights, but the experiences of Anna, Victoria, and Peter raise fundamental questions about what happens to poor families who

cannot adequately meet their children's needs because of their economic adversities. Where poverty is an important factor in the violation of rights, how does the state respond and how do these families experience state responses to child maltreatment risks? Another equally central question is the appropriateness of strategies designed to address child abuse and neglect and how useful these are for children growing up in poverty. Similarly, there are questions about what shapes response options available to frontline workers. These questions are at the heart of national social policy and social welfare systems, and focus attention on the embeddedness of child welfare in the political, social, and economic processes in any given society. Otto *et al.* (2017) argue that policies rarely ever develop on a blank slate but rather, are the result of the layering of successive policies and systems over time- whether this is done deliberately or inadvertently.

Political ideologies have a particularly strong influence on social welfare regimes and social policies in general (Gilbert, 1997; Gilbert *et al.*, 2011; Mkandawire, 2016; Featherstone and Gupta, 2017). For countries in the Global South, the role of colonial imperialism had a far-reaching influence on emergent social welfare regimes in most developing countries (Schmitt and Martens, 2019; Künzler, 2019; Twum-Danso, 2016; Mkandawire, 2016). Its consequences were permanently imprinted in these countries' subsequent cultural heritage, post-colonial ideologies and political systems (Chinyoka, 2017; Mkandawire, 2016; Twum-Danso, 2016). Elements of racialised colonial-era social policies and programs were maintained in many post-colonial states and have been sustained by class and spatially-based (rural/urban divide) policies which continue to treat the poor as second class citizens (Mkandawire, 2016; Turok, 2014; Seekings, 2014). Child welfare policies are part and parcel of the broader social welfare regime that emerged, and should not be viewed as distinctly separate since it is informed by the same context and part of the same history. Consequently, Twum-Danso (2016) argues that "any analysis of childhoods in former colonial territories is difficult to fully comprehend unless they are considered within a broader historical view" (p.459). With regard to social welfare regimes in developing countries, Mkandawire (2016) also notes that historical and critical perspective foreground some of the important structural challenges that affect people's opportunities, and equally offer a platform for re-imagining solutions with long term impacts.

Similarly, effects on social policy by other systemic factors such as asymmetrical power relations inherent in hegemonic global governance, international development practice, laws and policies cannot be underestimated (Ouma and Adésínà, 2019; Schmitt and Martens,

2019; Bonvin *et al.*, 2018). In particular, the United Nations Convention on the Rights of the Child (UNCRC) is criticised for its failure to acknowledge the multiplicity of childhood experiences (Hanson *et al.*, 2018; Abebe and Ofusu-Kusi, 2016; Twum-Danso, 2016; Okwany *et al.* 2011; Cheney, 2010; Twum-Danso, 2009). Concerning the best interest or paramountcy principle in the UNCRC, Odongo (2012) argues that international law entrenches children's individuality over that of collectives like the family which are critical for the social good in collectivist societies of the Global South. Other contestations centre on conceptualization, contextual and cultural interpretations of what constitutes child maltreatment in non-western societies. Most contested is the meaning of child labour with opposing sides for beneficial child work against those arguing about hazardous forms of child labour (Taye and Huijsmans, 2019; Abebe, 2019; Bourdillon, 2015; Spittler and Bourdillon, 2011; Twum-Danso, 2009; Abebe and Aase, 2007). There are equally strong sentiments regarding the harmful effects of child trafficking versus decisions by children who exercise their agency to migrate for better personal and family prospects despite the perils associated with such journeys (Huijsmans, 2016, 2017; Sayibu, 2016; Boyden and Howard, 2013). The point here is not to assert cultural relativism but rather to point out the need for a contextualised application of the normative standards that the UNCRC advances.

Migration, urbanisation, globalisation, high levels of poverty and inequality, the increased precarity of livelihoods, the threat of climate change, a high prevalence of HIV/AIDS, and more recently the spread of coronavirus disease (Covid-19) have additional consequences on children, families, and community wellbeing in developing countries (OECD, 2017; UNRISD, 2020). Moreover, efforts to contain Covid-19 infections globally such as restricted international travel, enforced lockdowns and restrictions on non-essential economic activities adversely affected economies and social life in general, even though the full impact of the COVID-19 pandemic is not yet clear. It was estimated that in 2020 the pandemic cost the world over US \$ 10 trillion (Ahmed *et al.*, 2020), reversing at least five years of global social and economic progress and driving a further 40 to 60 million people into extreme poverty (World Bank, 2020). More recent estimates based on simulation of data from 111 countries indicate that Covid- effects will setback gains made in the fight to end poverty by 3-10 years (UNDP and OPHI, 2022). The poorest social groups had higher rates of infections, unemployment, lacked medical insurance, and had limited or no social protection (Ahmed *et al.*, 2020; UNRISD, 2020; World Bank, 2020). Similarly, social distancing measures to reduce the spread of the disease via person-to-person contact proved

challenging to enforce among the poorest social groups whose living spaces were already crowded. The existence of comorbidities among low-income groups also increased their vulnerability to infections and raised mortality rates among this social grouping (UNRISD, 2020). The impact, ability to cope and recovery was likely to be better where governments implemented economic stimulus packages and scaled up social protection programs like income transfers, free health care, food aid or employment benefits while the opposite was true for countries without such programs (UNRISD), 2020). UNDP and OPHI (2022:1) have further noted that coupled with the war in Ukraine, climate shocks, global recession, rising food and fuel prices, poverty levels are not only likely to increase but poverty is also likely to be experienced more intensely among the multidimensionally poor.

An incomplete accounting of all the above factors risks presenting partial perspectives of the living conditions of underprivileged groups, and the likelihood of maintaining disadvantages across generations of children and their families. The changing social, economic, cultural and political context underscores the dynamic and complex ways in which the family institution is being disrupted-especially the extended family which for centuries was central to important kinship care networks in Africa (Suda, 1997; Budlender and Lund, 2011; Ferguson, 2015; Pillay, 2020). Despite the disruptions, the kinship care system is still expected to provide care for families in the backdrop of limited and largely informal social welfare arrangements (ibid). Given these complexities, how should child welfare service systems respond to child maltreatment in a changing family and socioeconomic context?

Increasingly there are calls for transformative approaches to working with children and families that are multi-dimensionally deprived (Gupta, 2018) because multiple deprivations exacerbate the risk of child maltreatment and its impact. Otto, Walker, and Ziegler (2017:4) argue that social policy plays an instrumental role in shaping new visions for human development that are transformative, sustainable, and driven by the need for a more egalitarian society. Transformative social programs would address inequalities, ensure social justice, and a better quality of life for children and their families. The purpose of this thesis is, therefore, to analyse how current child welfare regimes in two African countries are positioned to respond to the challenges faced by poor families and children, and the extent to which responses are cognizant and responsive to important structural factors that often mediate maltreatment. The possibility of transformative child protection mechanisms

mediated by social assistance grants are explored to understand if there might be a more specific role in improving the wellbeing of children growing up in extreme poverty.

1.2 Poverty, violence and child protection

Globally, the wellbeing of millions of children is compromised by high levels of extreme poverty and deprivation, especially for those living in Sub-Saharan Africa (UNICEF and World Bank, 2016). This is despite concerted global efforts to end all forms of poverty by 2030 (OPHI and World Bank 2020; OECD, 2020). In 2015 it was estimated that nearly half of the 736 million extremely poor people living below the international poverty line of US \$1.90 per person per day in 2011 purchasing power parity (PPP) were children (World Bank, 2018). Despite a decline in global poverty where one billion people have escaped poverty since 1990, this sharp drop contrasts with persistent inequality and a marginal poverty reduction in Sub-Saharan Africa where the number of poor people grew from 278 million in 1990 to 413 million in 2015 (World Bank 2020; UNRISD, 2020; OPHI and UNDP, 2020). Equally, non-monetary measures like the multidimensional poverty index (MPI) which measures the "nature and extent of overlapping deprivations" (OPHI and World Bank, 2020:4) show higher rates of deprivation in Sub-Saharan Africa. The World Bank concedes that "extreme poverty is increasingly becoming a Sub-Saharan African problem" (World Bank 2081:3), and the situation is compounded by political conflicts, civil unrest and extreme climatic conditions among hard to reach groups (OPHI and UNDP, 2020). By 2022, a total of 1.2 billion people from 111 developing countries were estimated to experience acute multidimensional poverty, with 579 million being in Sub-Saharan Africa, while 593 million were children below the age of 18 years (UNDP and OPHI, 2022). This figure is a slight decline from an estimate of 1.3 billion multidimensionally poor people in 107 countries in 2020, of whom 558 million were living in Sub-Saharan (OPHI and UNDP, 2020). Of the total 1.3 billion, 803 million lived in households where at least one person is undernourished; 476 million have at least one child who is not attending school; 1.2 billion had no access to clean cooking fuel; 687 million lacked electricity; and 1.03 billion lived in houses built with substandard materials (OPHI and WB, 2020:3).

It is manifestly clear that children are disproportionately affected by poverty and that poverty among children is more intense. Using data from 89 developing countries and taking household composition and size into account, the World Bank found higher levels of poverty among children in general, but also that more children were extremely poor (19.5%)

compared to just 9.2% adults (Newhouse, Becerra, and Evans, 2017). Other sources indicate that one out of every three children are multidimensionally poor compared to one in every seven adults (UNDP and OPHI, 2022). Furthermore, it is said that rather than a reduction, child poverty is likely to double in the next decade in this region (Roelen, Morgan and Tafere, 2019:11). UNICEF and World Bank (2016) predicted that child poverty will increase, with nine out of every 10 African children suffering from extreme monetary poverty by 2030.

Childhood poverty is further complicated by the presence of violence in children's lives. The first United Nations Secretary General's Global Study on Violence against Children (UNVAC) in 2006 established that the problem was widespread in all settings (UNVAC, 2006). Violence against children (VAC) is most prevalent in families, children's institutions including schools, foster care homes, out of home care centres, and in the community in both rich and poor countries (UNVAC, 2006). Other periodic reports have continued to reiterate the endemic nature of violence and maltreatment of children (WHO, 2014; Know Violence in Childhood, 2017; Better Care Network, 2017; World Health Organization *et al.*, 2020). In most cases especially in Sub-Saharan Africa VAC often co-occurs with high levels of poverty, which has devastating consequences for child wellbeing (Roelen *et al.*, 2017; Barrientos *et al.*, 2014; UNICEF 2014; Myers and Bourdillon, 2012).

Inevitably, children's welfare is inextricably tied closely with that of their primary caregivers. Mental health and stress, alcohol abuse and violence due to deprived living conditions of parents greatly undermine the quality of care provided to children and their overall development (Roelen, 2014; Better Care Network, 2017). With increasingly more evidence showing poverty is an important risk factor for child abuse, it is unsurprising that disproportionately more poor children are involved with child welfare services than other social groups (Trocm *et al.*, 2013; Winter and Cree, 2016; Fong, 2017; Rostad, Rogers and Chaffin, 2017). Hence, meeting the material needs of families living in deprivation has potential to significantly reduce child abuse incidences (WHO, 2020; Bywaters *et al.*, 2017; Rostad, Rogers and Chaffin, 2017; Pelton, 2015; WHO, 2014; Trcome *et al.*, 2013; Cyr *et al.*, 2013; Myers and Bourdillon, 2012).

So far, this emerging knowledge has not been widely applied to transform child welfare policies and programs in general. As a result, the lived experiences of children affected by overlapping deprivations in developing countries remains less understood compared to

social-democratic and conservative/corporatist countries with strong welfare states (mainly Western European: Sweden, Denmark, Netherlands, Germany, Finland, and Belgium). In these latter states social welfare is family-oriented and takes account of family economic conditions. As a result, the objective of child welfare services is primarily preventive rather than for management of abuse ex-post (Gilbert, 1997; Featherstone and Gupta, 2017). A difference between the two is that conservative jurisdictions apply the subsidiarity principle—meaning that state interventions only kick in when families demonstrate inability to cope rather than being pre-emptive (Gilbert, 1997). In recent times Australia and New Zealand have undertaken child welfare reforms to address poverty and child maltreatment among indigenous communities (aborigines and Maoris) that have often been severely punished for child neglect (see Bromfield, Arney and Higgins, 2014 on Australia; and Keddell, 2018 on New Zealand). However, poverty-focused child welfare policies and programs are still the exception in a lot of child welfare jurisdictions.

Many Anglo-American jurisdictions including the United States of America, Australia (before recent reforms), the United Kingdom and most of its former colonies favour rights-based and child protectionist models which align with their restrictive social welfare policies. Historically, these approaches were strongly influenced by 18th century English poor laws and related industrial-era policies in Europe (Gilbert, 1997). Protectionist approaches are anchored on liberal and neo-liberal ideals, which combination gives the models their distinct residual character. Hence, they mostly address abuse extreme cases, only invoking state interventions as the last resort. They also tend to be legalistic, favouring forensic and statutory responses, and tend to blame poor parents for failing in their parental duties (Gilbert, 1997; Kelly 2005; Bywaters *et al.*, 2016; Gupta, 2018). This approach means that only a small proportions of extreme child maltreatment cases are handled (Keddell, 2018; Featherstone and Gupta, 2017; Bromfield *et al.* 2014). It is precisely these kinds of issues that Cornwall and Nyamu-Musembi (2004) sound a warning regarding adoption of a rights-based approach. They argue that in the adoption of a rights-based approach there may be a trade-off between addressing the most extreme violations of rights that might only affect a minority group, versus addressing less serious violations that affect a large proportion of children (*ibid*).

A hegemonic privileging of judicial procedures and extreme protective measures such as child removals ostensibly to prevent further harm undermines family-centred preventive measures (Kelly, 2005; Bromfield *et al.*, 2014) which might positively impact more

children. The practice also contradicts evidence showing that family ties are essential for promoting children's wellbeing (Pelton, 2015; Rostad, Rogers and Chaffin, 2017; Featherstone and Gupta 2017). Moreover, Social workers in these jurisdictions tend to overlook the contribution of poverty in neglect, abandonment, or domestic violence cases despite these conditions being strongly indicative of material deficits (Fong, 2017; Trocm *et al.*, 2013). This practice partly explains the over-representation of poor children in child welfare cases, and the fact that poor children are more likely to be subjected to removal and placement in alternative care arrangements, while their parents are more likely to be closely monitored for conformity to normative childcare standards (Pelton, 2015; Rostad, Rogers and Chaffin, 2017; Featherstone and Gupta 2017).

Many Global South countries fall into the protection-oriented category. This is partly a consequence of their welfare systems being forcefully shaped by historical forces like colonialism and the processes by which they were integrated into the global capitalist economy (see Mkandawire, 2016). As a critical determinant of welfare policies, colonial systems of welfare tended to be exclusionary, favouring certain racial groups, an elitist middle and political classes. Additional complexities were introduced through 1990s the neo-liberal policies of IMF and World Bank which severely limited state-funded social programs (Mkandawire, 2016; Seekings, 2019). More recently international human rights laws such as the United Nations Convention on the Rights of the Child have also added to the complexity (Hanson *et al.*, 2018; Keddell, 2018; Tatak. Abebe and Ofosu-Kusi, 2016). Given all these fundamentals, there is a notable ambivalence in approaches to childhood and child protection practices in the Global South. Whereas the protective model requires urgent action against child abuse through judicial procedures, the cultural orientation seems to lean towards preservation of the family as a central pillar in collective societies. A social welfare regime which achieves the latter while upholding universal and normative standards seems to be lacking in many developing countries, yet poverty remains a big factor in neglect and child abuse.

Higher proportions of poor children involved with child welfare services in most countries suggest the need for more effective child protection strategies that take into account the material conditions of families. So far, social assistance in the form of cash transfers has been one of the most popular anti-poverty policies in developing countries and in fact, are considered to be the 'magic bullet' against poverty (Sebates-Wheeler *et al.*, 2009; Adesina, 2012; Wanyama and McCord, 2017). Although the social grant amounts tend to be small

(OECD, 2020; Adesina, 2014) and their benefits mostly short to medium term, they still make important contributions in the lives of the poorest segments of society (Roelen, Delap, *et al.*, 2017; Roelen, Devereux, *et al.*, 2017; Ouma, 2019). Cash transfers have shown remarkable success in addressing a wide range of childhood vulnerabilities such as malnutrition, food insecurity, increasing school enrolment, attendance, completion and transition; improved health outcomes, reducing incidences of child marriage for example (McLeigh, 2014; Roelen, 2014; Jones and Marque, 2014; Zavier and Santhya, 2013; Ranganathan and Largarde, 2012; Ellis *et al.* 2009). The influence of social grants can go beyond the family's economic aspect and thus, are likely to positively influence other structural barriers that make it hard for the poor to overcome poverty and exclusion.

Despite this significant success, attempts to utilise cash transfers to mitigate child protection concerns where some forms of child abuse have already been explicitly linked to material deprivation remain limited (Roelen, 2014). Paradoxically, except for child labour, most cash transfer programs primarily tackle poverty and human capital development demands without linking it to concerns of child protection (Roelen, 2014). Similarly, Barrientos *et al.* (2014:111) also notes a lack of “explicit child protection objectives” in most social transfer programs. However, a growing number of studies are re-merging which show significant links between cash transfers and greater protection of children from abuse and neglect (see Roelen *et al.*, 2017; Patel *et al.*, 2015; Barrientos *et al.*, 2014). Evidence suggests that specific forms of child abuse such as neglect, corporal punishment (physical abuse), and inadequate parental care are more amenable to economic interventions, which holds promise for better wellbeing outcomes for poor children (Roelen *et al.*, 2017; Fong, 2017).

Evidence suggests that extending the goals of cash transfer to include child protection as an objective could greatly enhance child wellbeing outcomes (Roelen *et al.*, 2017). Peterman *et al.* (2017), Roelen *et al.* (2016), and Roelen (2014) found that the potential for grants to address more structural challenges of child vulnerabilities increased significantly when they were linked to other social services. However, it is argued that to have long-term benefits, grants would need to be scaled up and incorporate several other services which combine child welfare services with grants and non-material support to families (Roelen *et al.*, 2017). The additional repertoire of services suggested include psychosocial care, and community sensitization campaigns that addressed harmful social-cultural practices and attitudes (Ibid). Such an expansion to cash transfers would also challenge assumptions about the centrality of income poverty by focusing on multi-dimensional deprivation, and thus address structural

issues such as the exclusion of the poor from accessing important services. The child protection arena offers an important platform for exploring the potential to expand social assistance based on considerations for families experiencing multi-layered vulnerabilities.

A child wellbeing lens provides a useful multi-dimensional approach to understanding poverty and vulnerability that might help enhance understanding and hence, inform policies on how to tackle the dual-problem of poverty and child maltreatment. Wellbeing is about the pursuit of a good quality of life, enabling people to flourish in three dimensions of wellbeing-material, subjective and relational (Camfield *et al.*, 2009; Gough *et al.*, 2007; Sumner, Haddad and Climent, 2009). Further, wellbeing embodies “plurality” (Gough *et al.*, 2007:4), hence it is adaptable to exploring multi-dimensional poverty. At the same time, it is also a normative concept (Gasper, 2007). Finally, it is socially and culturally contextual (Crivello *et al.* 2009). Where extreme poverty and child abuse overlap, rather than truncate poverty reduction and child protection programs, interventions ought to be complementary and must address structural challenges that give rise to chronic poverty and violence. This requires a transformative approach to child welfare and social protection, one that pays attention to a wide range of potential harms to children and offers a broad base for guaranteeing long-term wellbeing of all children. Examining ways in which cash transfers can enhance child protection in the context of poverty therefore provides an opportunity to explore effective responses.

1.3 The research problem

Combined, poverty and violence against children have deleterious effects on children’s survival, growth, and development. However, emerging evidence suggests that some forms of child abuse which are closely associated with poverty can be mitigated by interventions that are family-centred and whose aim is to prevent harmful effects of poverty on children at an early stage (Fong, 2017; Roelen *et al.*, 2017). While such interventions could potentially reverse most of the negative effects of harm to children, a lot depends on the state social welfare policies particularly those targeting poverty alleviation (Fong, 2017). The effect is far-reaching where policies address multiple socioeconomic concerns. Unfortunately, in most developing countries social welfare programs tend to address each issue separately, the result being that the programs end-up having limited benefits and scope. For instance, social grants as an anti-poverty tool has realised short and medium-term success yet they remain popular and pervasive in the Global South (Roelen *et al.*, 2017). To have long term

effects social grants must be combined with other social services (Roelen *et al*, 2017), one of which could be child protection. So far, social grants have had limited application to child protection *per se* even though poverty has been implicated in the causation of child maltreatment and neglect situations. Their potential to significantly reduce incidences of child abuse are higher where child maltreatment risks are more directly linked to material-deprivation, but this potential remains insufficiently explored.

With growing levels of child vulnerability in Africa, the challenge is to find response strategies that have a long-term focus and address the root causes rather than merely treating the symptoms. In tandem with this imperative are commitments by several African governments who have ratified the UNCRC. The influence of the UNCRC on child protection policies and practices cannot be overlooked as it establishes normative standards of child care, protection, development and wellbeing guarantees. Not only does it vest certain obligations on the state with regard to children's welfare, but it also expects parents to adhere to certain normative standards., which if not met could result in punitive measures for not being a 'good parent'. Realising this lofty goal has been hampered by neoliberal policies which rolled back state welfare capacity (Otto, Wohlfarth, and Ziegler, 2018), yet populations continue to be pushed deeper into poverty with limited or no social security to cushion them against the vagaries of poverty.

The result is a tension between maintaining global normative standards of child care like the best interest of the child principle which is core to UNCRC, and limiting social welfare spending in countries where a large part of the population is in need of social welfare and livelihood guarantees. These background circumstances cast a light on fundamental concerns regarding how child rights-driven laws implemented in the context of chronic poverty and changing family dynamics impact on children's wellbeing. Consequently, one is also forced to ponder over how poor children and their families experience child protection interventions in the face of extreme poverty and violence, as well as how caregivers and children in such complexities understand and explain their circumstances. Concomitantly, and inevitably so, such ponderings foreground further concerns regarding the actions and attitudes of frontline child protection workers. Explorations in this direction would involve subjects such as the possible extent to which these workers make efforts to connect poverty and violence at the family level, and whether or not the use of social grants could address these challenges.

In light of the above critical questioning, this study situates itself within the intersection of social anthropology and development studies to offer new insight into child protection practices in an African context where violence, material, and multi-dimensional vulnerability are a common occurrence. The study does this through two ethnographic case studies of Kenya and South Africa. A nuanced understanding of current child protection interventions in Kenya and South Africa has potential to offer insights that could harness new knowledge on child poverty and child abuse and thus, inform the designing of better programs. Furthermore, this dissertation makes a case for transformative child protection approaches. It argues for an expanded role for social assistance grants in child welfare services to address a broader child protection agenda-an agenda that is not limited to either poverty or violence alone, but one that seeks to positively impact child wellbeing in all its dimensions.

1.4 Research Objectives and Questions

Arising from the problem statement, objectives of this study were;

1. *To critically examine how child protection interventions framed within the discourse of “the best interest of the child” influence poor families’ experiences of child protection services along with their intended and unintended consequences on wellbeing. The following three questions guided this objective;*
 - a. In pursuing the best interest of the child, how does the child protection system respond to child abuse (with exception of sexual abuse) when it involves parents or other primary caregivers as ‘perpetrators’?
 - b. In carrying out child protection work, how do social workers and child protection officers frame child abuse in both Kenya and South Africa?
 - c. How do children and families with a history of child abuse experience the child protection system in Kenya and South Africa?
2. *To explore the relevance of social assistance grants in influencing protection outcomes (and consequently wellbeing) for children and families with a history of child abuse.*

The following two questions guided this objective;

- a) How do the available social assistance schemes address child abuse?
- b) What changes might be required to make social grants more responsive to children and families affected by child abuse?

Jointly the two objectives and five questions above informed methodological and theoretical choices that undergird the entire research. Details of these aspects are covered extensively in the methodological and conceptual chapters.

1.5 Defining key concepts

Child abuse: This study adopted the World Health Organisation's (WHO) definition of child abuse. WHO defines child abuse as "all forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power" (WHO, 2002:59). Abuse can take the form of physical (non-accidental injuries), emotional/mental and sexual abuse, or neglect, negligent treatment, and exploitation (Ibid). More recently child abuse has come to include children witnessing intimate partner domestic violence which is likely to affect their psychological and emotional wellbeing. The WHO definition encompasses all settings in which children spend their time. In this study the setting will be limited to abuse occurring within the family, where the presumed perpetrators are parents or other primary caregivers responsible for the care of a child. The terms of child abuse and child maltreatment are used interchangeably.

Child neglect: According to the National Society for the Prevention of Cruelty to Children (NSPCC)², neglect is the most common form of abuse against children. It refers to the ongoing failure to meet a child's needs which manifest through unmet needs for housing and safety, food, failure to attend to their medical needs, the lack of or inadequate supervision, nurturance and stimulation, as well as treating children in humiliating and degrading ways devoid of affection. According to WHO (2002:61) additional evidence of neglect includes the exposure of children to drugs, inadequate protection from environmental dangers, abandonment, poor hygiene, depriving them of an education.

Violence: This is "the intentional use of physical force or power, threatened or actual, against oneself, another person or against a group or community that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment or deprivation" (WHO, 2002:5).

² See <https://www.nspcc.org.uk/what-is-child-abuse/types-of-abuse/neglect/#what>

Violence Against Children (VAC): The use or threat of violence against persons below the age of 18. VAC takes the form of physical, sexual and emotional abuse, as well as neglect or negligent treatment of children.

Child/Children: Persons below the age of 18 years

Child protection: This refers to all efforts and necessary actions undertaken to prevent harm to children, respond to violence and abuse where it has occurred, as well as to ensure children's rights to survival, development, and wellbeing are safeguarded (Barrientos *et al.*, 2014). In well organised child welfare systems state agencies and their designated appointees such as state-funded private partners undertake child protection work. This is the case in most developed countries. Non-state actors often augment limited state efforts in many developing countries. The latter also involves volunteers, community health workers, and other para-professionals who take on responsibilities of social workers and are considered part of the informal community-based child protection network- which is the case in Kenya.

Social protection: This encompasses “all public and private initiatives that provide income or consumption transfers to the poor to protect the vulnerable against livelihood risks and enhance the social status and rights of marginalised groups with the overall aim of reducing the economic and social vulnerability” (Ellis, Devereux and White, 2009:8).

Wellbeing: The study adopts the Gough *et al.* (2007) understanding of wellbeing as the interplay between three issues; the resources that a person commands and what the person can achieve with those resources, what needs and goals they can meet with the resources, and the meaning they give to the goals they achieve and the processes in which they engage (Gough *et al.*, 2007:317). These three aspects give rise to the three dimensions of wellbeing as *objective, subjective and relational*. Furthermore, Gough *et al.* (2007) argue that any wellbeing evaluations must take into account these three dimensions as well as the context in which the assessment occurs.

Social grants: Social assistance refers to a non-contributory income transfer given in the form of state welfare to individuals and households deemed eligible for assistance by society due to their vulnerability or poverty, in order to prevent them from falling below a certain level poverty level. To qualify, individual must meet a means-tested criterion. Some of the most common social assistance programs include cash transfers for orphans,

grants include public works schemes, child care and disability grants, as well as old people's pension schemes.

1.6 Delimitations

The study excludes cases of child sexual abuse for several reasons. First, because in general, there are serious practical challenges of recruiting respondents who are affected by abuse and violence. Abuse within the family is an extremely sensitive matter and families are reluctant to discuss abuse openly-and more so when this involves sexual abuse within the family. Second, there are stringent ethical considerations that have to be adhered to when studying child abuse overall, but it is harder to study sexual abuse- even though it is not altogether impossible especially from a clinical psychology perspective, which was not my focus. Moreover, the explicit criminal nature of sexual abuse requires a different approach, and hence sexual abuse is not among the forms of child maltreatment that are likely to respond to non-judicial and family-centred interventions.

1.7 Contributions of the study

This study contributes to the existing body of knowledge on child protection and poverty in African countries both from a methodological as well as a social policy perspective. There is a paucity of child protection studies with a multi-disciplinary or ethnomethodological approach to critically examine and document how children and families experience child protection services in a context of deprivation. The vast majority of studies that examine child wellbeing are quantitative in nature with a small proportion that utilises qualitative methods (Camfield, Crivello, and Woodhead, 2009). As global poverty grows, there are calls not just for more robust data collection techniques in the quantitative paradigm but equally, a challenge towards a deeper understanding of what the data means in real life situations. A combination of both offers policy-makers better prospects for the design of more effective policies and programs that address the challenges faced by the most vulnerable groups in society. It calls for alternative ways of understanding vulnerability and ensuring perspectives of the poor are taken into consideration and more so those of children. The importance of children as valuable social actors in their society is still underexplored within childhood studies in general (Cheney, 2007; Abebe, 2007) but most especially in social policy research which also seeks a decolonial and transformative turn. The growing importance of social assistance grants for development in general and for specifically supporting families in their social reproductive role needs to be explored because of the co-

occurrence of poverty and child maltreatment and the relatively high proportion of families who are unable to provide adequate care to their children. Furthermore, within the realm of social policy, the study contributes towards advancing policy debates on child welfare in both countries, taking into account the unique contexts within which African children are growing up.

1.8 Chapter conclusion and thesis outline

This chapter serves the purpose of introducing the study. It explores the research problem and its relationship to the broader challenges of realising development in a context of growing vulnerability to poverty, violence, and limited state support, which contradicts global aspirations espoused in children's rights. This paradox formed the main motivation to undertake the study whose interest was to explore how childhood experiences of child protection interventions affect child wellbeing in Kenya and South Africa.

The thesis is organised into 10 chapters including the foregoing introduction. The remaining chapters are organised as follows. Chapter two provides the study context by focusing on life and experiences of poverty in informal settlements in both Kenya and South Africa. Chapter three gives a detailed review of the relevant literature. It analyses critical debates on the meaning of childhood, the different conceptualisations of poverty and its manifestations, the link between poverty and violence, as well as social welfare responses to both poverty and violence in the global and developing countries' context. The chapter concludes by showing how the literature informs the study's research problem and influenced the conceptual and theoretical choices. Chapter four discusses the wellbeing framework which underpins and informed the theoretical and empirical aspects of this study. Chapter five covers the research design including epistemological and ontological choices made; data collection techniques, and data analysis procedures. Chapters six, seven and eight present empirical findings of the study. The three focus on the technologies of child protection in Kenya and South Africa respectively. Chapter nine is a synthesis of the key findings of the study on child protection practices and their effects on children's lives. The synthesis applied the wellbeing in development framework for analytical purposes in order to interpret the findings. Chapter 10 concludes the thesis by summarising the key findings and exploring the extent to which the five research questions have been answered, along with offering some important implications for future research and recommendations.

CHAPTER TWO: THE POLITICAL ECONOMY OF URBAN POVERTY IN KENYA AND SOUTH AFRICA

Currently, a child's chances of spending their childhood with their birth parents and/or being subject to a child protection plan are linked to where they live and how deprived their neighbourhood is [...]. To protect children and promote their welfare we need to re-focus attention on the environments and contexts in which they live with their families (Gupta, 2018:5).

2.0 Introduction

Global adoption of austerity measures linked to both neoliberal policies and global financial crises rolled back state social welfare investments and in turn increased inequalities and vulnerability among the poorest social groups (UNRISD, 2016; OECD Development Centre, 2017). The poorest pay the greatest price for this shift (UNRISD, 2016) as states dislocate their social reproduction responsibilities to citizens but still maintain surveillance over families who fail to conform to the normative parenting standards despite the worsening living conditions and only intervene when necessary (Gupta, 2018). Under these circumstances, the extent to which state interventions address the root causes of deprivation in families experiencing economic difficulties is doubtful, and sometimes those interventions are thought to increase the risk (ibid). The situation could worsen with multiple systemic factors which might be underestimated where poverty is understood in a limited money-metric sense (OPHI and UNDP, 2020; Otto, Walker, and Ziegler, 2017; Featherstone and Gupta, 2018; Gupta, 2018). Inadequate analysis of interactions between poverty and child abuse and neglect leads to ineffective policy and programmatic responses (Gupta, 2018:4). Human development scholars like Sen (1979), Fukuda-Parr (2003), Robeyns (2005), Roelen, Morgan, and Tafere (2019) all decry the hegemonic use of quantitative approaches as it misses out nuanced understanding of how poverty and deprivation impact on people's lives. Similarly, Roelen, Morgan and Tafere (2019:17) call for subjective and "open-minded" approaches to identification and mitigation of the negative effects of structural factors on children's wellbeing.

An important contributor to wellbeing is how and where people live. This influences the extent of their access to important social services and hence, a core constitutive part of their living standards which ultimately determines their wellbeing. Child protection scholars argue that children living in multidimensionally deprived circumstances are more likely to be involved with protection services than other social groups (Gupta, 2018; Fong, 2017; Raissian and Bullinger, 2017; Doidge *et al.*, 2017). Gupta, (2018:3) noted that "increased

neighbourhood deprivation correlated with an increase in intervention rates”. Children living in socially deprived neighbourhoods in England which denote levels of children's socio-economic deprivation were 11 times more likely to be placed in out-of-home care arrangements (Bywaters, 2015; Bywaters *et al.*, 2017). Besides the type of neighbourhood, notable inequalities in service quality and the level of resourcing to local authority responsible for child care services in a given area were also closely associated with ethnicity (Bywaters *et al.*, 2017). This evidence suggests that a child's neighbourhood can be a key determinant of their life trajectory and how they experience welfare services.

A situated understanding of the context enables the construction of accurate ontologies about the experiences of those under observation (Clarke, Braun, and Hayfield, 2015). This chapter responds to that need. It foregrounds the politics of urban spaces and their relevance for child protection work among low-income families living in those spaces. In Africa, deprivation in urban areas manifests through the existence of slums, shacks, and decrepit neighbourhoods- including poorly maintained council housing. Notably, these are spaces of informality whose defining character “is the absence of or poor-quality services, housing, and infrastructure” (OECD, 2017:29-30). But this pattern is not accidental by any measure. It is intricately tied to the history of urbanisation and the development of cities in Africa. Inescapable in this narrative is the reality of colonial histories that inscribed practices of ‘othering’ and the social exclusion of certain racial groups from urban spaces, along with a denial of the social and economic opportunities that urbanisation represents. This history continues to impact housing and other lived realities of slum and shack dwellers in many cities like Nairobi and Cape Town where this study was carried out.

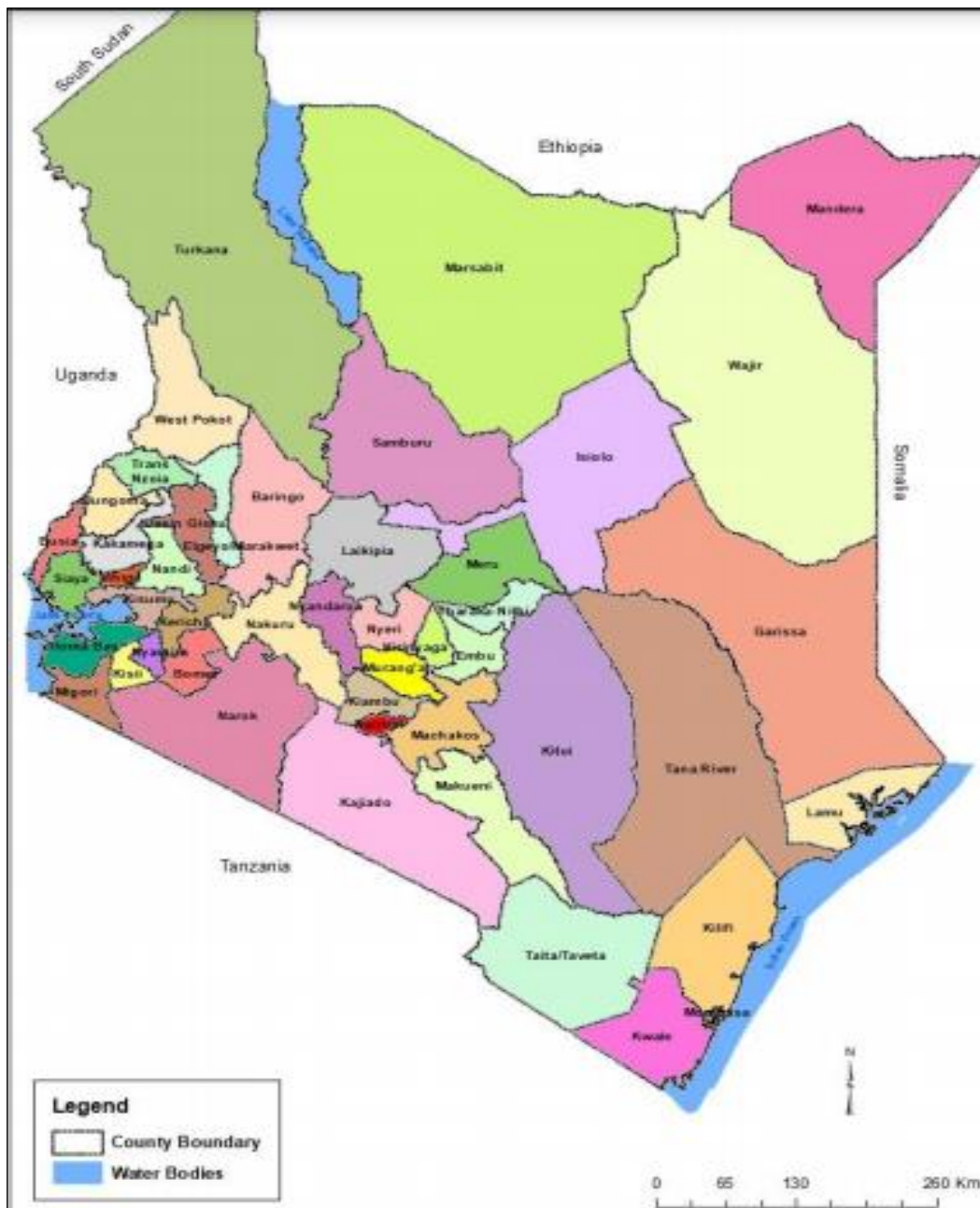
The chapter takes a political economy lens where analysis is “concerned with the interaction of political and economic processes in a society; the distribution of power and wealth between different groups and individuals, and the processes that create, sustain and transform these relationships over time” (DFID 2009:4). Political economy engages with power relations, formal and informal institutions, interests and incentives that drive behaviours of key actors, structural factors that influence economic setup, political ideologies, a country's history, resources endowment, and cultural values (Hudson and Leftwich, 2014). These factors give the political economy its constitutive capability to firstly demonstrate the role of history in social change over time and space; secondly, to recognize embeddedness of the economy in people's lives; thirdly, to confront social injustices arising from modes of production that exalt political power and profit over humanity; and finally,

its potential to influence change (Mosco, 2009; Wasko et al., 2011). Such a lens enables a critical understanding of the structural factors that impinge on the lives of study participants, and consequently, how it helps to interpret data. The chapter covers demographic, social, economic, and political developments in Kenya and South Africa; urban poverty, historical and enduring forms of exclusion in Nairobi and Cape Town as well as the political economy of social welfare and the poor. These aspects offer a framework for understanding the overlapping and complex context that shapes life in low-income urban neighbourhoods, and consequently, how families in these spaces interact with social welfare policies and services.

2.1 Kenya's Demographic, Socio-economic and political context

Located in East Africa, Kenya borders Ethiopia, South Sudan, Somalia, Uganda and Tanzania (See the map in Figure 1). The country is home to 42 tribal groups spread across 47 counties which represent ethnic territories established during the colonial era. This ethnic diversity makes population numbers a hotly contested issue in Kenya. It is inextricably tied to political power balances, the distribution of national resources and overall development opportunities. The most recent government estimates show a total of 47, 564,296 million people, 49.51 per cent of whom are men and 50.49 per cent women (KNBS, 2019). Alternative sources estimate Kenya's population at a higher figure of 53,771,296 million people with a predominantly rural population of 38,796,237 million (72%) and only 28% living in urban areas (Worldometer, 2020a). The country's population is youthful, with children constituting 43% per cent and life expectancy that has risen steadily over the last 50 years (ibid). The average is 67.5 years, with women living longer (69.5 years) compared to men at 65 years (Worldometer, 2020a).

Figure 1: Map of Kenya showing the devolved counties



Source: Kenya National Bureau of Statistics (KNBS, 2019).

2.1.1 Governance and politics in Kenya (1963-2022)

Until its independence in 1963, Kenya was a British colony that was principally administered indirectly since 1895 (Elkins, 2005; Kanyinga, 2009). The colonial administration enacted oppressive land and tax policies that orchestrated exploitation, dispossession and the discrimination of indigenous Africans in favour of a minority white settler class (Elkins, 2005). Along with a reign of terror during the *mau mau* war for independence, the colonial rule laid the foundation for the entrenchment of exclusionary

policies, patrimonialism and consequently, structural poverty and inequality that Kenya struggles with to date.

At independence, Kenya adopted a multiparty parliamentary system of government with a bicameral governance structure constituting the senate as the upper house and the house of representatives as the lower house (Kirui and Murkomen, 2011). The independence constitutional provisions ensure the separation of powers between the legislature, the executive and the judiciary but this changed soon after. Between 1964 and 1968 the Kenya African National Union (KANU) regime under Prime Minister Jomo Kenyatta made a raft of constitutional amendments which profoundly reconfigured governance in Kenya, and whose effects “continue to reverberate to date” (Kirui and Murkomen, 2011:7). First, KANU and the other major political party-Kenya African Democratic Union (KADU) merged into one, and soon after the Senate, which KANU considered wasteful and unnecessary was dissolved (Kirui and Murkomen, 2011; Kivuva, 2011). Soon, the multiparty system was eliminated as further constitutional changes resulted in *de facto* single-party rule (ibid).

Gradually, parliamentary and judicial independence along with their ability to check the executive was severely limited as power strategically shifted to an imperial president who tightly controlled the central government (Opalo, 2017; Kirui and Murkomen, 2011; Kivuva, 2011). The legislature’s ability to influence public policy in any meaningful way was seriously eroded (Kirui and Murkomen, 2011). Political patronage based on ethnicity, party loyalty and nepotism became the overriding basis for service delivery and access to resources and development (Opala, 2017; Nyanjom, 2011). In 1982 following an attempted military coup President Moi who succeeded Kenyatta made Kenya a *de jure state* through the introduction of the infamous Section 2(a) to the constitution then, effectively outlawing opposition parties (Opala 2017; Nyanjom, 2011; Kirui and Murkomen, 2011). With a tight grip on power, presidential decrees became the main means of policy-making and controlling national resources whilst also violently quashing dissent (Nyanjom, 2011; Opala, 2017). Leaders and communities deemed oppositional to the regime were excluded from development opportunities and political representation. Though this strategy helped Moi to stay in power for 24 years, it also fomented bitter ethno-political conflicts that had started in Kenyatta’s era and simmered throughout subsequent regimes even after re-introduction of multi-party democracy in Kenya in 1991 (Nyanjom, 2011).

Extensive electoral, legislative, and constitutional reforms that followed between 1992 up to 2002 as well as leadership changes occurring when KANU catastrophically lost the elections were not as far-reaching as citizens had expected (Nyanjom, 2011; Kirui and Murkomen, 2011). The in-coming President Mwai Kibaki ignored historical injustices and political exclusion of certain communities until the long-simmering ethnopolitical tensions finally erupted in early 2008 following a bitterly contested presidential election in December 2007. Kenya witnessed the worst tribal clashes ever in its history (Kirui and Murkomen, 2011; Kivuva, 2011). The 2007 post-election violence left no illusions on the urgency of reforms to restore the rule of law and redress unfair land distribution, regional development imbalances, unequal representation in the legislature, and inequitable access to national resources and opportunities (Kivuva, 2011). Reforms were also needed to check the excess powers that numerous constitutional amendments had vested in the presidency and restore the integrity of other governance institutions (Kiru and Murkomen, 2011).

Promulgated in 2010, the new constitution provided a second chance to realise "the promise of nationhood assumed at the time of its independence but never fully realised" (Akoth, 2011:1). Though the 2010 constitution retained a presidential system of government it created several administrative and legislative governance structures that ensure separation of power, accountability, and citizen participation (Kivuva, 2011). It re-established a national bicameral parliamentary with a two-tier administrative government. Like the upper house, the Senate's primary role is to legislate, safeguard the independence of the devolved government and ensure representation of special interest issues (Articles 95 and 96 of the constitution). Similarly, the National Assembly legislates and ensures representation of regional interests based on constituencies (ibid).

The president heads the central government while counties (the devolved units) are headed by elected governors who work with elected members of county assemblies (RoK, 2010). The central government takes responsibility for all functions that have a national scope and aim such as national security and defence, international trade, education policies, national planning, monetary and banking (see the Constitution of Kenya, 2010). On the other hand, the primary function of counties is the delivery of basic services to citizens depending on county-specific priorities in areas such as early childhood, education and care, and health care (ibis). Because counties are semi-autonomous, there is a perception that communities can participate, and control their development while the rights and interests of minority groups have been secured to some degree (CPAN, 2017: 8). Overall, the 2010 constitutional

reforms invigorated social and economic development, including the expansion of social protection programs which were the result of a negotiated political settlement after the 2007 post-election violence (Wanyama and McCord, 2017; Ouma, 2019).

2.1.2 Socio Economic development in Kenya

Colonialism, poor governance in post-colonial Kenya, as well as the imposition of neoliberal policies, are responsible for the high levels of poverty and inequality which have curtailed social and economic development. Together, these three factors have strongly influenced the subsequent social policies and social protection programs that emerged to address social-economic challenges of the country in the twenty-first century (Ouma and Adésínà, 2019; Ouma, 2019). The *Sessional paper number 10 of 1965 on African Socialism and Its Application to Planning in Kenya* (GoK, 1965) was Kenya's first development blueprint at independence. The strategy prioritised economic growth through investments in the country's high agricultural zones (RoK, 1965; Nyanjom, 2011). These areas are predominantly in the former white settlers' regions in Central and Rift Valley which constitute just 20% of the landmass while neglecting 80% of the country which is classified as either arid or semi-arid (ibid). The latter were considered unproductive, but it was assumed that benefits accruing from massive investments in the 20% would support later development of the remaining 80%.

As political tensions between certain ethnic groups escalated and the uncertainty of global markets prices for coffee, tea and cotton reduced revenue, there was a greater concentration of available resources in the hands of the ruling class who were predominantly Kikuyus from Central Kenya (Nyanjom, 2011; Akoth, 2011). As long as party politics were linked to service delivery within a centralised government, "those in power could use the budget to reward support and punish opposition" (Nyanjom, 2011:6). A weak parliament and almost non-existent constitutional institutions compromised any meaningful oversight that could ensure equitable development or scrutiny of public finances. It "bred extensive corruption and the arbitrary disbursement of development resources, resulting in a widely unequal society" (Nyanjom, 2011:28).

Access to public and social services became highly dependent on the political class which had access to state largesse and could dispense them at will, perpetuating neopatrimonialism. Unfortunately, citizens in the arid and semi-arid zones which are prone to climate fluctuations and limited political representation became even more neglected, compromising

the livelihoods of millions of Kenya, and further disenfranchising them. By the mid-1980s, it was apparent that Moi's regime failed to deliver social and economic development for all its citizens (ibid). As citizen dissatisfaction grew, so also poverty and inequality became widespread and endemic. The country became highly indebted and with time pressure to democratise began to grow. The introduction of SAPs by the IMF and World Bank under these circumstances in the late 1980s only exacerbated an already bad situation. Rising unemployment along with massive retrenchment of civil servants, the introduction of user-charges for services such as education and health, and removal of government subsidies on fuel and agricultural inputs increased the cost of living at a time when the HIV/AIDS pandemic was also spreading fast in the country. A combination of all the above factors led to negative economic growth and an increase in levels of poverty which successive governments have since tried to address (RoK, 2008).

Vision 2030, the long-term development agenda (2008 to 2030) aims to “transform Kenya into an industrialised middle-income country offering a high quality of life to all our citizens” (Republic of Kenya–RoK, 2018: iii). The strategy identifies three core pillars of social, economic, and political development, and prioritises eight sectors that should drive economic growth including (1) Agriculture and livestock; 2) Manufacturing; 3) Tourism; 4) Trade; 5) Business process outsourcing 6). Financial Services; 7) Oil, Gas, and Mineral resources; and 8) The Blue Economy (RoK, 2018). The visions' third successive five-year medium-term implementation plan (MTP III 2018-2022) coincided with President Uhuru Kenyatta's second term. The plan aims to further accelerate growth through implementation of the “big four” initiatives in which government's focus has been; 1) Industrialization, manufacturing, and agro-processing; 2) Affordable housing; 3) Food and nutrition security; and 4) Universal health coverage (RoK, 2018: iv). On average, Kenya recorded an average GDP growth rate of 5.8% between 2010 and 2017 (Chronic Poverty Advisory Network (Poverty Advisory Network- CPAN, 2018). The current economic growth is driven by the services sector and more specifically communication, information, and technology (ICT) as a result of greater penetration of mobile phones (CPAN, 2018). So far, the highest growth rate recorded was 9.2% in 2017.

The country transitioned from being one of the poorest in Sub-Saharan Africa to a lower-middle-income country in 2014. However, compared to the size of its economy, the country's rate of growth remains rather sluggish. According to a recent World Bank press release, the country's GDP stands at 5.5 percent in 2022 and is expected to dip slightly to

5.2 percent in 2023-24³. A slump in growth is attributed to overreliance on a stagnating agricultural sector which is also susceptible to unstable global economic conditions; low human development and the deprivation of other capabilities especially among women and people with disability; historical ethno-political marginalisation of certain groups and regions; intensification of resource-based and political conflicts; and vulnerability to climate change (CPAN, 2018). High population growth is also implicated in the slow rate of poverty reduction, but with falling fertility rates the country expects to soon reap a demographic dividend (OECD, 2017). In addition, the discovery of oil in northern Kenya along with iron ore and other mineral deposits in the eastern part of the country are expected to spur renewed economic growth, assuming these additional resources are well managed and the proceeds equitably shared among citizens.

Finally, though Uhuru Kenyatta's government hoped to push growth to 15 per cent by the end of MTP III (RoK, 2018), its efforts were frustrated by the effects of Covid-19 and the high cost of living resulting from the sudden rise in global crude oil prices⁴. The on-going Russia-Ukraine war will further constrain growth in Kenya and many countries. The new government which took over in September 2022 headed by President William Ruto will thus have the hard task of rebuilding a weak economy which is also saddled with the highest public debt the country has ever seen, at nearly Shillings 9 trillion which was incurred by Kenyatta's government over the last nine years⁵.

2.1.3 Poverty and inequality in Kenya

Between 2006- and 2015-income poverty levels in Kenya significantly reduced from 46 per cent to 36.1 per cent based on the international poverty line of US \$ 1.90 (RoK, 2018; Kenya National Bureau of Statistics [KNBS], 2018). Kenya, a lower-medium income human development country has a human development index (HDI) of 0.579, up from 0.457 between 1990 and 2018, and was ranked 147 out of 189 countries and territories (UNDP, 2019). Unfortunately, the monetary measure grossly underestimates the poor. Using the international poverty line of US\$ 1.90 per day, only 30% of Kenyans are income poor, but

³ <https://www.worldbank.org/en/news/press-release/2022/06/07/kenya-s-growth-expected-to-slow-in-2022-due-to-ongoing-drought-ukraine-crisis>

⁴ <https://www.oecd.org/coronavirus/policy-responses/the-impact-of-coronavirus-covid-19-and-the-global-oil-price-shock-on-the-fiscal-position-of-oil-exporting-developing-countries-8bafbd95/>

⁵ <https://www.businessdailyafrica.com/bd/economy/uhuru-defends-jubilee-s-sh6-7-trillion-debt-spree-3835802>

when the US \$3.20 per person per day poverty line for lower-middle-income countries' is applied, the poverty rate doubles to 60% (CPAN, 2018). Furthermore, MPI estimates indicate that between 40 per cent (CPAN, 2018 using 2015/2016 data) and 38.9 per cent (UNDP, 2019 using 2014 data) of the population is multidimensionally poor. Furthermore, at least 34.9 (17,335,000) are vulnerable to multidimensional poverty meaning that they are on the borderline and there is a high risk of becoming poor in the event of a sudden shock. Among the multidimensionally poor, 13.3 per cent are in severe multidimensional poverty (UNDP, 2019: 6). When multiple deprivation and vulnerability are combined, a total of 74.9% of Kenyans are either poor or at risk of suddenly becoming poor. It should be concerning that while categorised as non-poor in terms of income poverty, a large proportion of citizens are living precariously and may not afford quality health care, education or quality housing (UNDP, 2019a). Most citizens are deprived of clean cooking fuel, sanitation and access to clean water, housing materials especially flooring, and connection to electricity (CPAN, 2018). As such, they constantly teeter on the brink of falling into poverty anytime in the event of sudden shocks. The Covid-19 pandemic is one such event that threatens to plunge many into destitution with a lacklustre response from the Kenyan state. Poverty, malnutrition, food insecurity and the risk of children dropping out of school are some of the threats that citizens have to contend with.

Though social and economic trends indicate income improvements, this progress is dampened by living standards that have remained less than desirable as most citizens are still deprived in other ways while high levels of inequality have been sustained. Inequalities between social groups are problematic because they hurt societies and weaken social cohesion and people's trust in government, institutions and each other. They hurt economies, wastefully preventing people from reaching their full potential at work and in life. They make it harder for political decisions to reflect the aspirations of the whole" (UNDP, 2019:1). There are gross inequalities between social groups and between regions. When Kenya's inequality-adjusted HDI (which estimates the lost opportunity for human development due to inequality) is considered, its HDI falls from 0.579 to 0.426 with a human inequality coefficient of 26.3 (UNDP, 2019:4). The average loss on human development in medium-income countries is 25.9 percent and 30.5 percent in Sub-Saharan Africa, so at 26.3, inequality is robbing Kenyans of higher opportunities for progress compared to her middle-income contemporaries, and is not much better than low income SSA countries (UNDP, 2019).

There are also huge regional variations in income poverty rates between rural (40%) and urban (28.29%) populations and between the 47 counties (CPAN, 2018). This inter-county difference by extension means variances between ethnic groups due to historical marginalisation pointed out earlier. For example, in Turkana County, over 80% of the population live below the US \$ 1.90 per person per day poverty line, whereas the rate is less than 20% in Nyeri County (CPAN, 2018). Similarly, extreme intra-neighbourhood variations in cities and urban centres are notable. Poverty rates in Nairobi's informal settlements like Laini Saba in Kibera slum and Korogocho are 60 and 76 per cent respectively, while the rich west-end suburbs of Kileleshwa and Kilimani have a rate of only 5 per cent (KNBS, 2018; CPAN, 2018; Shifa and Leibbrandt, 2017). The steady rise in urban poverty especially in informal settlements (OECD, 2017, Shifa and Leibbrandt, 2017) in Kenya is forcing a re-examination of social policies, particularly those targeted at children. Evidence is showing that slum-dwellers make up 54.7% of the urban population, and at least 50% of these live below the international extreme poverty line of US \$1.90 per person per day (OECD, 2017). The CPAN study concluded that "the intersection of income poverty with other markers such as gender and area of residence compounded inequalities and rendered households even more resource-poor, often with lower access to services, less agency, and often with limited ability to cope in the face of shocks and security threats" (CPAN, 2018;47).

2.1.4 Nairobi City and informal settlements

Nairobi, Kenya's capital is among the fastest-growing cities in Africa hosting a population of between 3 million (UN-Habitat, 2016) and 4.3 million people (Worldometer, 2020). There are even higher estimates of 5.11 million people by 2022⁶. As the largest city in Kenya, Nairobi is home to the largest proportion of the urban poor who live and raise their families in undesirable conditions in a city marked by such great contrasts. Imposing edifices of concrete skyscrapers in the central business district eclipse the city's congested residential neighbourhoods. The city was established in 1902 during the British colonial era and was designated for white and Asian racial groups only (Mutisya and Yarime, 2011). Africans could only access the city if they provided manual or semi-skilled labour to the elite city-dwellers and the surrounding industrial and agricultural areas. These labourers needed a permit in the form of the much-hated "*Kipande*"-an identification document for Africans

⁶ See: <https://worldpopulationreview.com/world-cities/nairobi-population>

that proved legitimate claim and existence in city spaces. The Africans occupied the worst of eastern quarters of the city where housing (especially the size of units) and other social amenities were deliberately kept inadequate to discourage mass migration as workers brought their families to the city. There was hardly any public housing plan for the growing population of Africans even after independence. Today the city remains divided along social class and racial lines. The wealthy Kenyans, a minority of mostly white expatriates and Asians occupy the better, high end western and southern suburbs with gated communities in neighbourhoods like of Kileleshwa, Muthaiga and Runda. The houses are large, built on bigger plots of land and hence have large green open spaces, well-maintained access roads, daily garbage collection services, a stable water connection, street lighting, and private security to keep away unwanted visitors. There are a few city estates for a sizable working middle class, while the rest of the city dwellers live in informal settlements.

There are between 130 and 200 informal settlements spread across the city of Nairobi which house between 55-60% of the urban population even though they occupy only 5% of the total city landmass (Omenya and Huchzermeyer, 2006; Amnesty International, 2009). In total, only about 25.2% of the population lives in urban areas (UN-Habitat, 2016), while the actual number of those living in slums remains unclear and politically controversial. The cited figures vary depending on who is counting and for what purposes (Farrell, 2015). As a result, there are huge variations between estimates given by civil society organisations (CSOs) which tend to magnify the problem to attract donor funding, and those by the government which are more conservative and aimed at diminishing the problem (Farrell, 2015). Nevertheless, what is certain is that the large number of slum residents confined in small areas results in high density and overcrowding in slums (Davis, 2006). For example, Kibera which is one of Nairobi's major slums has a density of 250 dwelling units per hectare with rows and rows of single-roomed housing units made of poor-quality materials such as recycled plastic sheets, crude bricks, mud, and wattle, or corrugated iron sheets that line the narrow and unpaved roads and alleys (Omenya, 2005).

A risk associated with overcrowding is that “a small fire can spread to destroy 1000 units of housing in 15-20 minutes” (Davis, 2006:6). Fire hazards are made worse by illegal electricity connections notable from the numerous unprotected electric cables that crisscross the tin rooftops of many informal settlements. Other basic amenities are also in short supply including link roads, public schools, clean water and sanitation particularly sewerage connections which forces most households to share toilets. Omenya, (2005: 292) notes that

between rows of houses are narrow passageways and underneath them are trenches that drain wastewater from the houses and communal bathrooms. Unsanitary conditions together with overcrowding increase the risk of communicable diseases and mortality rates in slums, and consequently, life expectancy remains considerably lower among slum-dwellers compared to inhabitants of more affluent city zones (Amnesty International, 2009). At the same time, slum-dwellers have poor access to health care and cannot afford health insurance or better health care in private health hospitals.

The current state of affairs in Kenya's slums is due to decades of gross neglect by the state and ineffective governance (Omenya, 2005; Amnesty International, 2009). Slum-dwellers are paying a high price for this neglect. Unscrupulous business cartels have stepped in to offer grossly commodified basic services such as water, shelter, refuse collection and even commercial toilets (Huchzermeyer 2008). For this reason, slum-dwellers end up paying more for services compared to other city residents with access to municipal services (Amnesty International, 2009). Several non-profit civil society organisations (CSOs) and grassroots self-help groups offer more affordable alternatives besides lobbying for improved services for slum residents (Farrel, 2005). Unfortunately, CSO efforts are limited by donor funding and therefore have limited reach and sustainability. Coupled with the poor services, unemployment, and low levels of education attainment, most slum-dwellers are confined to the informal, unskilled, and low-paying jobs which make their livelihoods tenuous at best (Huchzermeyer and Karam, 2006). To survive, they have learnt to negotiate clientelist relationships for essential services, economic opportunities and daily survival. Under these circumstances, child abuse and family stresses only add to the complexity of families living in slums in Nairobi.

2.2 South Africa's Demographic, Socio-economic and political context

Located in the southern tip of the African continent, nearly all of the lower half of South Africa's landmass is surrounded by the Atlantic Ocean to the west and the Indian Ocean to the East. It borders Namibia in the north-west, and Botswana, Zimbabwe, and Mozambique to the north-east, while the Kingdom of Eswatini and Lesotho are within its borders (See the map of South Africa in figure 2 below). According to STATSSA, the country's population has been growing steadily. In 2020 it stood at 59.62 million people and by June 2022 it stood at nearly 61 million (STATSSA, 2022). It is composed of four racial groups, with Black South Africans being the dominant group at 49 million (81%), followed by coloureds who

number 5.5 million (8.8%); White South Africans at 4.6 million (7.7%); while Indian/Asians form the smallest racial group of 1.55 million people at 2.6% (STATSSA, 2022). The population is also youthful. By 2022 the median age was 27 years, 17.01 million (28.07%) are people below 15 years and only 5.59 million (9.2%) are 60 years and above (ibid).

Figure 2:A Map of the Republic of South Africa



Source: https://southafrica-info.com/wp-content/uploads/2016/12/Map_South_Africa_nine_provinces.png

More than half of the population (57%) is concentrated in only three provinces of Gauteng with nearly 16 million people (26.6%), KwaZulu-Natal with 11.54 million (19%); and Western Cape with 7.01 million (11.8%) million (STATSSA, 2022). Most of the population is predominantly urban with nearly 70% living in cities (ibid). Although South Africa suffered extremely high mortality rates due to HIV/AIDS between the late 1990s and 2008 which reduced life expectancy to just 43 years, tremendous improvements have occurred due to improved access to antiretroviral treatment to the 7.8 million people who are HIV positive (STATSSA, 2020). In 2020 life expectancy at birth was an average of 65.6 years,

with a notable six-year gap between men and women's life expectancy at 62.8 and 68.5 years respectively (STATSSA, 2020). However, Covid-19 may have reversed these gains as expectancy in 2022 dropped to an average of 62.8 years, 60 years for males and 65.6 for females (STATSSA, 2022).

2.2.1 An overview of politics and governance in South Africa (1652-2020)

South Africa's history spans over 300 years that profoundly define the country's political, social and economic landscape to date. Until 1652, present-day South Africa was home to indigenous Khoisan and Bantu people. On arrival, the Dutch soon established a Settlement in the Cape Peninsula to service Dutch East African Company fleets plying the famous Far East trade route for spices and slaves⁷. At the start of the 19th century, the British seized the Cape Colony pushing the Dutch further into the hinterland, but with time, the growing conflicts over power and control of resources (recently discovered gold and diamonds) between the British and Dutch erupted into the two Anglo-Boer wars (1880-81 and 1899-1902). At the same time, there were also conflicts with and between African populations and kingdoms such as Lesotho, Bamangwato, and the Zulu which decimated and also dislocated thousands of the indigenous communities (Noyoo, 2018b).

By 1910 when the British and Boers established the Union of South Africa the minority white settler population had subjugated and dominated the majority black population, forming a government which excluded non-whites. In 1948 the National Party overwhelmingly won elections and initiated the segregation policy of apartheid-a hierarchy of humanity which placed whites at the top and blacks at the bottom. By enacting oppressive laws, the regime kept racial groups separate under the guise of allowing each group to pursue their cultural interests, but in effect apartheid racially defined every aspect of life- political, cultural, social and economic (Noyoo, 2018a). The injustices initiated through colonialism only got worse under apartheid as Black Africans were exploited, excluded and their rights violated through such practices as the denial of quality education, decent housing in urban areas, medical care, social security, restricted movements and livelihood opportunities, confinement in native reserves (Bantustans), and imposition of taxes to force them into the labour market economy (Noyoo, 2018a). Furthermore, apartheid laws dispossessed,

⁷ For details see: <https://www.sahistory.org.za/article/first-anglo-boer-war> ; and <https://www.economy.com/south-africa/indicators>

exploited and impoverished blacks whilst also creating “ownership and entitlements relations” in which wealth was the monopoly of a small white minority as the privileged racial group (Taylor, 2018:134). For nearly 50 years, the South African Republic under the National Party violently enforced apartheid policies before a protracted armed struggle finally dismantled apartheid and the country attained universal suffrage in 1994. Despite the end of apartheid after a protracted liberation struggle and progressive constitutional changes, many of the former inequalities continue to define the South African society today.

A vibrant democratic space is vital for independent exercise of parliamentary oversight on the executive. It also enables the legislature to play a significant role in policy formulation and demand accountability for policy outcomes in line with constitutional obligations (Taylor, 2018). South Africa follows a parliamentary system of government where the president is elected by the national assembly and has a bicameral parliamentary system (ibid). The National Assembly with about 400 members forms the lower house while the National Provincial Council with 10 representatives from each of the nine provinces (90 in total) constitutes the upper house (Moody’s Analytics, 2020). As expected in a multi-party democracy there are several political parties but the African National Congress ANC has dominated the country’s politics since overwhelmingly winning the 1994 elections under the leadership of Nelson Mandela, and has maintained power since then. Following the 2019 elections, ANC has the majority seats (249) followed by the Democratic Alliance (89 seats), Economic Freedom Party (25), while Inkatha Freedom Party, Christian Democratic Party, the United Democratic Movement, African People's Convention, and several others smaller parties share the remaining seats (Moody’s Analytics, 2020). However, ANC’s popularity is waning due to a perceived failure to deliver on the aspirations of the liberation struggle and numerous allegations of corruption which forced former president Jacob Zuma to resign in 2018, paving the way for the incumbent, Cyril Ramaphosa.

2.2.2 Socio Economic development in South Africa

South Africa is the second-largest economy in Africa after Nigeria, but its economic growth has declined over time. ANC inherited huge debts as a result of economic sanctions imposed on the apartheid regime in the late 1980s. The growing pressure to liberalise the economy affected subsequent economic growth in the late 1990s. Despite relatively more resource investments going to the poorest segments of the population, poverty remained high and the anticipated changes would require more time, enormous financial investments, and innovative growth-stimulating fiscal policies. More importantly, it required equitable

redistribution and redressing historical injustices among other structural challenges which impact on the government’s social and economic policy options. Economic growth is driven by manufacturing, agriculture, tourism, financial, communication and personal services sectors (Moody’s Analytics, 2020). In 2017 the main contributions to the GDP came from industry (29.7%), agriculture (2.8%), and 67.5% from the services sector (ibid). During the same period, GDP per capita was US \$13,400, while the gross national income (GNI) per capita expressed in terms of PPP for 2011 was US \$11,756 (UNDP, 2019b). Although South Africa remains prosperous, compared to three decades ago the overall economic and social progress has declined due to earnings from mining and manufacturing sectors gradually shrinking (STATSSA, 2020). GDP growth rate has been fluctuating with the significant gains made in 2021 being eroded by the impact of Covid-19 as the table below shows.

Table 1: South Africa's GDP Growth rate (2015-2023)

Year	GDP growth rate
2015	1.3
2016	0.3
2017	0.7
2019	0.6
2020	0.64
2021	4.9
2022	1.8
2023 (projection)	1.3

Compiled from OECD (2020 and 2022) and Moody’s Analytics (2020).

Economic decline has been blamed on policy uncertainties; a high government debt which stood at 80% in 2020; chronic electricity shortages which increase production costs; a growing public wage bill; and closure of the tourism sector in response COVID-19 infections containment (OECD, 2020). Although the government implemented several emergency social and economic relief programs to buttress the economy against total collapse due to COVID-19⁸, the economy has stayed in recession which was estimated at

⁸ See: <https://www.whitecase.com/publications/alert/covid-19-south-african-government-financial-assistance-measures>

8.2% in 2020 and remains high (OECD, 2020). With hard lockdowns and high rates of infection which nearly crippled the health system, the Covid-19 crisis dealt a serious blow to an already weak economy such that the country's economic growth is expected to remain depressed for many years to come (STATS SA, 2020; OECD, 2022). The so-called State Capture process also led to massive economic losses and eroded growth prospects for the country.

Historically, mining was the main economic mainstay. It heavily relied on migrant labour which was tightly regulated and grossly undervalued despite generating huge profits for white monopoly capital (Seekings, 2016). For decades social insurance for migrant workers was limited and at the same time, they were excluded from social welfare programs that would have redressed poverty occasioned by the collapse of the African peasantry economy during the apartheid era (Seekings, 2019). Africans were expected to rely on their families and social care networks to meet their welfare needs in times of difficulties, while indigent whites enjoyed state-funded social assistance (ibid). But in tandem with economic decline, unemployment rates have gradually increased, reaching an average of 35%, but youth unemployment now exceeds 50% (OECD, 2022; STATSSA *et al.*, 2019). Without land, limited education, and a rapidly changing labour market demand for knowledge and technology-based skills, unskilled workers who are predominantly Black South African have become redundant, and have been pushed into poverty in rural areas or informal urban settlements (Seekings, 2007 & 2016; Turok, 2014; Turok and Borel-Saladin, 2018).

The resulting risk factors of unemployment, food and nutrition insecurity, inadequate housing and homelessness, high crime rates, substance abuse, divorce and family disintegration, family and community violence, school failures, inadequate healthcare, exposure to and risk of contracting HIV/AIDs (Noyoo, 2018:14) have now become significant development concerns. Since 1994, government development efforts have focused on correcting the "stark social, political, economic, and spatial inequalities that defined post-apartheid South Africa" (STATSSA *et al.*, 2019:10). These aspirations were formulated in the Reconstruction and Development Programme (RDP) document under the Growth, Employment and Redistribution (GEAR) strategy of 1996. Under GEAR the government unequivocally committed to become a developmental welfare state in the post-apartheid era. The state had a central role in provisioning of the basic needs of the population such as housing, water and sanitation, education, energy, health care and education, food

and social security among others (ibid). The government projected that with a GDP growth target of 5% social programs could be financed, hence growing the economy and expanding the labour market through employment creation became important macroeconomic aims. Other development strategies articulating these policies included frameworks such as the Accelerated and Shared Growth Initiative for South Africa of 2006 which replaced GEAR, the New Growth Path implemented in 2010, and more recently, the National Development Plan (NDP), all of which focus on sustainable and inclusive development (STASSA et al., 2019).

For the next two decades (2012-2030) the country's social and economic development will be guided by NDP which is a long-term vision of firstly eradicating poverty and secondly, reducing inequality in Gini coefficient terms by 2030 (Republic of South Africa National Development Plan, 2013). The planning commission identified the country's nine most important social-economic concerns which include: unemployment; poor quality of education among black South Africans; poor and inequitable infrastructure development; uneven spatial development; overreliance on extractive industries which makes economic development unsustainable; poor public health system; social cohesion and inequality; high levels of corruption; and an ineffective public service unable to deliver quality services to citizens (ibid; STATSA *et al.*, 2019). The NDP is founded on six pillars around which specific policies and programs are to be implemented. Three among these are unity and cohesion among South Africans of all races and classes in order to eliminate poverty and reduce inequality; the development of people's capabilities and those of the country; and building a strong and capable developmental state (Republic of South Africa National Development Plan, 2013).

2.2.3 Poverty and inequality in South Africa

Because of discriminatory practices promoted by apartheid policies, wealth and opportunities were concentrated in the hands of a small white minority and resulted in high levels of inequality. Consequently, the country remains one of the world's most unequal societies (Seekings, 2014; Turok and Borel-Saladin, 2018; (STATSSA *et al.*, 2019). The Gini coefficient has remained persistently above 0.6 for decades despite the best efforts by the government since transitioning to a democracy (STATSSA *et al.*, 2019:2). In 2015 it was as high as 0.77 without taking social grants into account (ILO, 2016). Inequality is racialized, gendered and spatially determined, but most important is the legacy of colonialism and apartheid which manifests most clearly in current levels of racial disparity.

Land ownership remains the biggest source of inequality (OECD, 2020) which is concerning given that in Africa land plays a central role in people's livelihoods and poverty mitigation efforts. About 80% of the land is agricultural, of which 9.9% is arable, 69.2% is pasture land and 7.6% is forest cover (Moody's Analytics, 2020). Unfortunately for South Africa land redistribution and social justice demands are intricately tied to public perceptions of ANC's failure to reduce poverty. Most land still remains largely in the hands of a few citizens—mainly White South Africans who own over 26 million hectares of land, while coloureds have slightly over five million, Indians have 2.5 million, while Black South Africans who are the majority have less than 2 million hectares (OECD, 2020).

As a consequence of apartheid in combination with the other challenges identified earlier, poverty rates remain stubbornly high. The 2021 food poverty line was set at R624, the lower-bound poverty line (LBPV) at R890 and the upper bound line (UBPL) at R1335 (STATSSA, 2021). Regardless of which line was used in 2020, headcount poverty was higher among women (52%) compared to men (46.1%), and Black South Africans constituted the largest proportion of the poorest social group (STATSSA, 2020b). At the same time, 49.2% of the adults were living below the UBPL in 2020. This translates to 30 million South Africans who could not adequately meet both their basic food and non-food needs (STATSSA, 2020b). On the other hand, non-monetary measures suggest that the many years of social investments have improved living standards, education and health compared to other developing countries. With an HDI of 0.705 in 2018 up from 0.625 nearly two decades ago, South Africa was ranked 113 out of 189 countries (UNDP, 2019b). At least 6.3% of South Africans were estimated to be multidimensionally poor, while 12.2 percent were vulnerable to multidimensional poverty, and 0.9 percent were affected by severe multidimensional poverty (UNDP, 2019b). Deprivation was mainly associated with poor standards of living, inadequate health care and limited access to education (UNDP, 2019b). The estimated MPI headcount in 2018 was 12.6 percent points lower than income poverty (UNDP, 2019b). This suggests that income poverty might be a bigger concern for South Africans, making state-funded social grants central to the survival of many households.

Children are disproportionately affected by widespread poverty. Estimates show that up to 30% of South African children live in a household where none of the adult carers is employed (Seekings, 2016). Similarly, Turok, (2014) noted that for many decades remittances by migrant labourers provided most of the rural household income but with the

economic decline since 2010 “grants supplied to pensioners and children became the main source of income for entire families” (p.15). Equally, Conradie (2013) notes that grants meet most needs of entire families despite being intended for an individual family member. Citing work by Strijdom, Diop and Westphal (2016), the OECD (2020) reported that one grant reaches up to six people in a recipient pensioner’s household. The exact nature of child poverty becomes clear when multidimensional child poverty is considered. In South Africa, approximately 62.1% of children between 0-17 years are multidimensionally poor (STATSSA, UNICEF and SPRI, 2020). The most affected were children between 5-12 years who make up 63.4% of the poor, followed by those aged 13-17 years, while the least multidimensional poor children are those aged between 0-4 years at a rate of 59.9% (ibid). Predictably, children living in rural areas are disproportionately poorer (88.8%) compared to children living in urban areas (ibid).

A historically limited and unequal access to quality education among racial groups ensured commensurate employment opportunities also impact significantly on inequality (STATSSA, 2019). Blacks are more likely to be unemployed and even when they are, they earn relatively less than their white counterparts for the same job, while those in rural areas are most likely to be in formal employment than urban dwellers (ibid). A continuing challenge from the asymmetrical labour market is that to date unemployment and lack of education and training still renders many black Africans unemployable. Unemployment rates are highest among those aged 15-34 (STATSSA, 2019). In 2020, of the 20.4 million young people between 15-34 years, 41.7% were neither employed nor engaged in education or training. The vast majority of unemployed youth were female black Africans, most of whom do not have tertiary qualifications (ibid). Inequality is also spatially distributed along with social class and the proverbial rural-urban divide (Seekings, 2016, 2007). Provinces with the highest populations also have higher poverty rates as well as higher numbers of old age pension and child support grant recipients.

Despite being the largest and most generous in the entire African continent, South Africa’s social assistance program has been criticised for failing to lift millions of children from the poorest families out of poverty and many still exist below the poverty line (OECD, 2020). In a bid to address the high levels of poverty and previous exclusion, the country has instituted one of the most far-reaching social welfare policies within the African region. The country has made progressive social policy reforms (Seekings, 2016; Silo 2014), with

increased investments in education, health, public transport infrastructure, and social protection. Among the current social assistance grants are old age; child support grant; disability grant; foster care, care dependency; war veterans; and more recently the social relief of distress. By 2020, 17.5 million South Africans were benefiting from these schemes, which take up 3.3% of the GDP (OECD,2020). Of these, 12 million are child recipients of the child support grant, which extended benefits to all children below 18 years. This grant has steadily grown in both coverage and size of payment as previously excluded racial groups took it up (Seekings, 2016). In 2021 the amount was R445 and rose to R.480 in 2022 to account for rising inflation in the country⁹. During the Covid-19 crisis, the government was lauded for augmenting both the child support grant with R300 per month and other grants at R250 per month (OECD, 2020). But even with wide coverage, the grant is criticised for being grossly inadequate to meet all the family's basic needs because it is set below the food poverty line which is over R500 (OECD, 2020; Zembe-Mkabile et al., 2015). But given the high poverty and unemployment rates, this modest monthly payment remains an important source of income for many families.

2.2.4 *Khayelitsha in Cape Town*

The City of Cape Town has one of the highest concentrations of an urban population in South Africa (Worldometer, 2020). A proportion of this number lives in informal settlements in the form of temporary backyard shacks built in the open spaces within or peripheral to several social housing areas in former townships (now popularly known as locations). During the apartheid era, townships provided housing for black Africans separate from white, Asian, and coloured populations. Apartheid-era legislation such as the 1950 Group Areas Act and the 1951 Bantu Authorities Act were used to justify the removal or expulsion of certain racial groups from certain areas and their forceful resettlement on less desirable lands (Turok, 2014:8-9). It is estimated that between one to three million people were forcefully resettled into "their designated urban 'group area' or rural homelands between the 1960s and early 1980s" (Ibid). The formal laws controlling urbanisation for non-whites were abolished in 1986, which led to exponential urban migration and pressure for urban housing (Huchzermeyer, 2006). After 28 years of the post-apartheid era, majority of those living in locations are still black South Africans with other racial groups occupying the well-planned neighbourhoods. In many ways, the locations share a similar history and physical features as slums in Kenya, but unlike Kenya where 90% of slum dwellers are

⁹ See: <https://www.sassa.gov.za/newsroom/articles/Pages/sassa-social-grants-increase-for-2022.aspx>

renters, South Africa has a social housing program and an owner-occupier system which enables most informal settlement dwellers in “locations” like Khayelitsha to own their shacks (Omenya and Huchzermeyer, 2006). It is estimated that about 7 million South Africans- most of whom are black- live in informal settlements. (STAT SA, 2017; Sobantu et al. 2019).

Khayelitsha, which derives its name from the IsiXhosa word meaning new home was established in the 1980s to resettle Xhosa people who had moved from Eastern Cape to seek better lives in the city and had initially settled in Crossroads before they were forcefully removed (Conradie (2013). Today over 400,000 people call Khayelitsha home, 98.6% of whom are isiXhosa speakers though the exact population of Khayelitsha is contentious (Seekings, 2013). This sprawling settlement forms part of the northern suburbs of Cape Town in Western Cape Province, is located 35 kilometres away from the central business district, and covers an area of approximately 44 square kilometres (Seekings, 2013). Khayelitsha is densely populated with an estimated 10,120 persons per square kilometre and the average household size is 3.2 (STATS SA, 2011). An estimated 42% of the households are female-headed, at least 44.6% of the population with formal housing and the rest are shack-dwellers (ibid). Most of the shacks are made of low-quality building materials such as zinc or iron sheets and wood and have one or two rooms.

A few shacks may be larger and consist of a kitchen and a family dwelling space-but most have only sleeping space. At least 34.6% of the homes have water supply connections; at least 71.7% have access to flush toilets; 80.8% have a connection to the electricity supply; and only 4.9% of the residents have higher education attainment (STATSA, 2011). Overall, racialized housing policies ensured that the quality of housing in Khayelitsha does not compare favourably to any of the non-black neighbourhoods. Successive post-apartheid governments have endeavoured to mitigate urban housing exclusion for the poor but progress has been slow, and in some cases, they have been accused of not faring any better than the colonial and apartheid regimes since racialized spatial segregation has been largely sustained (Turok, 2014; Sobantu, Zulu and Maphosa, 2019). Even though the state has provided over 4.7 million housing units to the poor, it is estimated that there is still an outstanding demand for 2.1 million houses (STAT SA, 2017; Sobantu *et al.* 2019). Affordable housing remains a challenge for low-income groups and the growing demand for public social housing is a chronic problem for provincial governments.

The population distribution is youthful, with 28.2% of the inhabitants below 14 years, only 1.6% are elderly, while the rest are between 15-64 years of age (STATSSA, 2011). This population profile makes Khayelitsha a labour reserve par excellence, whilst also pointing to the serious effects that rampant unemployment has on households. In Khayelitsha, income levels are low, commensurate with the generally low-income levels of most Black South Africans. Similar to most poor households in the country where close to 50% have no other source of income besides social grants, a significant proportion of Khayelitsha inhabitants do not have a source of income. Besides, a high disease burden in informal settlements compounds the poverty experience. Khayelitsha has a high rate of HIV/AIDS which some researchers estimate at 30% among young women and 8% for men, compared to a much lower average for the rest of Cape Town (Seekings, 2013). In the post-apartheid era, Khayelitsha reflects the realities of exclusion and inequality characteristic of the country (Seekings 2007). However, in South Africa, social justice and state welfare debates remain central to political contests between parties as citizens continue to agitate for better access to services because unlike Kenya, there are hardly any private service provider alternatives. Seekings (2013) notes that there is a higher penetration and influence of the state in informal settlements like Khayelitsha, hence residents have better access to important social services such as electricity and water.

2.3 Urban poverty, violence and the family

There is a triangular relationship between urbanisation, economic development, and social inequality which are apparent in the rural to urban migration patterns (Turok (2014). The collapse of rural agriculture in Africa in the advent of neo-liberalism led to a rapid economic decline of rural areas, forcing the young and able-bodied to migrate to cities and urban centres for better opportunities (ibid, 2014). For those escaping rural poverty, cities offer the promise of opportunities and other trappings of modernity which many are willing to take the risk to attain. With limited resources at the start on, many of the young migrants end up in the fringes of the city where housing and life are generally more affordable, but life is risky. Land scarcity in urban areas and failure to plan for affordable housing means that cheaper houses and informal settlements are built on fragile and environmentally hazardous locations. Examples include steep hillsides, landfills in former mines and quarries which are fragile and prone to environmental disasters like flooding, soil instability, landslides and pollution (Turok, 2014; UN 2003:69-70). The precariously hanging favelas of Brazil and

Nairobi's dumpsites in Dandora and Korogocho are illustrative examples of the kind of urban spaces available to the poor.

Slums and informal settlements are a powerful proxy indicator of multidimensional poverty in urban areas. They are indicative of the intersectionality of economic, political, social, and cultural issues. The daily lives of slum-dwellers represent how macro and micro level factors interact to shape society and the lives of children for several reasons. They are highly contested spaces where political ideologies play out and shape the development of state policies and anti-poverty programs. On one hand, the inhabitants (the so-called slum-dwellers) and left-leaning housing/human rights organisations and social movements like the Shack/Slum Dwellers International, India's National Slum Dweller Federation, and Kenya's *Muungano wa Wanavijiji* present slums in a positive light, arguing that they meet a pressing demand for housing, making them a home to millions of poor city dwellers (Lines and Makau, 2018; Weru, 2005). For these movements the term 'slums' is not derogatory but rather, it humanises the spaces that millions of poor people call home, raise their children, and eke out a living for survival despite all odds (Ibid). This alternative definition calls for recognition of the right of slum dwellers to live dignified lives. It draws attention to a human development crisis in which the rights of the poor are violated (Huchzermeyer and Karam, 2006), and calls for improvements. On the other hand, among neoliberals 'slums' illustrate the illegality and dangerous consequences of unplanned human settlements in cities and argue for their elimination (Huchzermeyer and Karam, 2006). Instead, they advocate the use of markets to solve housing demands in cities. The World Bank and to some degree the UN-Habitat, define slums as "*neglected parts of cities where housing and living conditions are appallingly poor [...] from high-density, squalid central-city tenements to spontaneous squatter settlements without legal recognition or rights, [...] at the edge of cities (UN-Habitat, 2005, cited in Huchzermeyer and Karam, 2006:2).*

Scholars contend that slums have emerged as a result of "explicit government policy and decades of official indifference" (Mutisya and Yarime, 2011:201). States are blamed for complacency and a failure to act in what is termed as "policy ambivalence toward informal settlements and rising social unrest within poor communities" (Turok and Borel-Saladin, 2018:769). Today about one billion urban dwellers live in slums, and unsurprisingly, the majority of these are found in developing countries (UN-Habitat, 2016). In the 2003 UN-Habitat report, Kofi Annan, the former United Nations Secretary-General conceded that "the locus of global poverty is moving to the cities [...]. Slums represent the worst of urban

poverty and inequality” (UN-Habitat, 2005: v). Poor planning and limited state investments in urban slums mean that the housing is inadequate, the settlements lack important social amenities such as clean water and sanitation, schools and health care services, and inhabitants have insecure tenure (UN-Habitat, 2016). In the place of state-supplied services, illegal or parallel service systems evolve to meet the demand. One UN report noted that “slum residents are adept at producing the services and commercial activities that the formal sector fails to provide” (UN, 2003:70). As noted earlier, Nairobi slums are a classic example of this entrepreneurial spirit.

In reality, tucked away in the hidden spaces and fringes of cities, slum-dwellers are at the mercy of exploitative business owners and unscrupulous slumlords (Turok, 2014:18). Moreover, their living standards sharply contrast with those of other city residents in ways that compromises their overall quality of life. Generally, most governments view informal settlements as illegal and therefore provide very limited investments. Consequently, important family-centred facilities like affordable public schools, playgrounds, community centres, libraries, and other recreational amenities found in more prosperous neighbourhoods are not available in slums (UN-Habitat, 2016). This absence of facilities can be counterproductive to children’s growth and development as it potentially diminishes opportunities for children to engage in creative play and free interactions crucial in the formative years of life, not to mention long and exhausting commutes to public schools peripheral to the slums. The lack of public schools has led to mushrooming of low-cost private schools whose quality of education is criticised for being poor and compromising prospects for poor children (Nyamu, 2021; Education International and Kenya National Union of Teachers, 2016;). As well, overcrowding, unemployment, with low levels of education, dysfunctional families and precarious living conditions breed higher rates of crime and violence (UN-HABITATt, 2003). Monday, Ilesanmi and Ali (2013) argue that the perception that slums have higher crime and violence incidents compared to middle and high-income neighbourhoods is contested, but there are several commonly held assumptions about criminality in slums. Mainly-that criminal gangs thrive in slums and hence “crimes are hatched much more in slums of urban centres; slum dweller are themselves more prone to commit crimes than non-slum dwellers; and that crimes emanating from urban slums keep the entire urban area at serious security risks” (Monday, Ilesanmi and Ali, 2013:134). Whereas a lack of opportunities indeed drives slums dwelling youth into criminality, the higher crime rates in slums are also attributed to the state’s general practice of criminalising

slum-dwellers, and more so young black males (Meth, 2017, Super 2016; Monday, Ilesanmi and Ali, 2013). As a result, more young people living in informal settlements are targets of excessive policing, surveillance and profiling. By association, slum dwellers are criminalised along with their “often criminalised spaces” (Meth, 2017:407).

State failure to invest more in the safety and security of poor challenges maintenance of law and order in these locales. In Khayelitsha for instance, the ratio of police officers to citizens is far below the average for the rest of Cape Town at about 283 officers per 100,000 citizens, and is even lower in some parts of the greater Khayelitsha like Harare where it stands at 111.32 officers (Super, 2016). This ratio is eight to nine times lower when compared to that of predominantly white and coloured neighbourhoods like Wynberg (Super, 2016). Absence of visible law and order agencies results in more incidences of armed robbery, murder, mugging, house-break-ins, rape, GBV, and attempted rape. Nearly all the 30 national GBV hotspots mapped by South Africa Police Services (SAPS) are in low-income neighbourhoods, at least eight are in Cape Town and include Khayelitsha, Mfuleni, Nyanga, Gugulethu, Bellville, Kraaifontein and Mitchells Plains¹⁰. It is argued that in poor neighbourhoods the state might even implicitly "encourage citizens to take responsibility for their crime prevention" (Super, 2016:453). Such blurring of official and non-official crime prevention mechanisms is said to be ubiquitous and quite "visible" in informal settlements (Super 2016: 457). ‘Community policing’ by vigilantes and similar crime prevention groups are more acceptable in slums where state security apparatus is absent, or have been deliberately reconfigured and community volunteerism is encouraged. (Super, 2016). Often, these groups enforce order by instilling fear and engaging in acts of violence (Ibid). Acceptance of violence as a means for enforcing order and justice in the community risks reinforcing its acceptance within the family as well. A study on community-based crime prevention found that vigilantes in Khayelitsha did not interfere in family matters because “domestic violence was not considered to be worthy of intervention (Super, 2016:471). A woman shouting for help during a domestic quarrel was unlikely to attract any attention compared to shouting “it’s a robbery” (Ibid). Such practices risk sanctioning familial and gender-based violence as acceptable norms.

¹⁰ See <https://www.capetownetc.com/news/cape-town-home-to-eight-gbv-hotspots/>

Slum-dwellers have to also contend with high rates of HIV/AIDS prevalence and other infectious diseases, in addition to the constant threat of demolitions (Omenya and Huchzermeyer, 2006). Since most are built in central locations or close to central business districts, they are susceptible to land grabbing attempts and threats of demolition in the guise of preserving the beauty of the city. For instance, many shacks in cities around South Africa were demolished when the country hosted the 2010 World Cup (Turok, 2014). Poorly planned interior and exterior spaces in slums also threaten other aspects of personal safety associated with physicalities such as the quality of housing materials and the physical organisation and use of space. Hyper-permeable, unsafe or non-durable construction materials make slum houses easier to break into (Meth, 2017). Equally, such dwellings are unlikely to protect families from the vagaries of poor ventilation, harsh weather conditions like winter and flooding, and increased vulnerability to sudden shocks. Further evidence suggests that the risk of exposure and vulnerability to violence are mediated by age and gender (Okwany, 2013; Meth, 2017). Narrow, dark or poorly lit alleys expose women and girls to a higher risk of sexual violence (Meth, 2017; Monday et al., 2013) as well as victims of other types of crimes and robbery. The lack of simple yet critical amenities like toilets inside houses make informal settlements “fearscapes” for young girls especially at night (Okwany, 2013). Inhabitants relieving themselves in dark alleys or using communal pit latrines at night run the risk of sexual assault which is a constant threat in these locales (Meth, 2017). The threat of crime is also a reality for non-residents. Researchers working in slums are constantly reminded of these threats and asked to take precautions (see Mark, 2019; du Plessis, 2019). This was also my personal experience in Khayelitsha and Kibera where I could not openly carry valuables like a laptop, smartphone or camera. To stay safe, outsiders have to be accompanied by local field assistants or local administrators. Nearly all the eight social workers and auxiliary social workers at the NPO in Khayelitsha had been robbed at some point.

The absence of economic opportunities in slums is equally apparent. In a study on criminality in Khayelitsha Super (2016) noted that youth unemployment averages 50% and most of the urban slum dwellers did not matriculate from high school (grade 12). Young males are at a higher risk of being recruited into gangs (UN 2003; Super 2016; Meth, 2017) which guarantees the fastest route into criminal activities, recognition and quick money. On the other hand, young females without other economic means are likely to form transactional and dependency relationships with men for personal and economic security. Some end up

in forced marriages, abusive relations, have an increased risk of HIV infections and unplanned pregnancies. Becoming a young mother with limited economic means and without the necessary social support that one would otherwise enjoy were they still living with their extended families makes parenting quite a challenge.

As some respondents in this study indicated, young single mothers are forced to relocate to their rural homes to care for their children for at least a year or so. Alternatively, others relinquish the care of their children to grandparents if they have to continue working in the city, but some also opt to care for their children in the informal settlements despite the accompanying challenges. There are increasingly more single mothers and female-headed households in informal settlements (Meda, 2013). At the same time, in both rural areas and many informal settlements in cities like Cape Town and Nairobi significant proportions of old people caring for their grandchildren, which has reconfigured the structure of families. An ILO report notes that “Family structures in South Africa are fluid and often multi-generational rather than nuclear, which is largely due to segregation policies of the apartheid era and high HIV/AIDS prevalence” (ILO, 2016: 104). Hence, being a young mother, unemployed, or in abusive or unstable relationships could increase the risk of becoming involved with child welfare services. At the same time, a high concentration of single parents in urban neighbourhoods is anecdotally associated with higher number of delinquents due to the reduced adult care networks that can exercise control on groups of children growing up in the same neighbourhood. The situation is particularly problematic for young boys with limited supervision since they are likely to be drawn into a crime if they are growing up with limited support (Meth, 2017). The threat of teenage boys in Kibera or Khayelitsha encountering conflicts with law enforcement agencies is real for parents raising young boys in slums. Where limited state support is provided for troubled youth, such relational dynamics can create complexities that seriously challenge parenting.

All the cited challenges above point to a need for robust social welfare policies that take into account the realities of urban life in informal settlements. Where the state has a limited presence CSOs become an essential part of the social support system that has been relied upon for material and non-material support in times of adversity. For example, self-Help groups and individual entrepreneurs have also established formal early childhood education centres (ECD) which are registered and approved by the relevant ministries and departments of education. There are also more traditional child care centres that take the form of neighbourhood crèches where a group of toddlers is left under the care of an elderly female

neighbour as the minder during the day. These facilities provide important services to families that cannot afford domestic workers but parents have to go to work. For young, single mothers, in particular, these centres have become a lifeline that enables them to juggle their social reproductive roles with work, though the quality of child care services in these commercial ventures is questioned but limited research in this area hinders effective policy actions (Hughes, Kitsao-Wekulo, Muendo et al (2021). It is also not clear how families cope with suspected reports of child maltreatment as well as their perceptions on the role of states in this area.

2.4 Chapter conclusion

Slums are portrayed as spaces with numerous existential challenges and threats but at the same time, demonstrating human agency, creativity and ingenuity at their best among slum dwellers as they negotiate their challenging daily lives (Farrell, 2015; Corcoran, 2016). Though such narratives are not necessarily untrue, they tend to over-represent the celebratory self-drive of poor people uncritically while romanticising poverty and the slums. They also tend to downplay important realities of the struggles that the vast majority face in informal settlements. Social progress in informal settlements is stymied by limited access to social services, high rates of unemployment, crime and violence, high incidence of disease incidence, especially HIV/AIDS, and living conditions are generally poor. A political economy lens shows that historical encounters like colonialism, apartheid, neopatrimonialism as well as politics and governance choices in both Kenya and South Africa have significant consequences for human development outcomes. The urban poor in the urban neighbourhoods of Nairobi and Cape Town are increasingly bearing the brunt of the undesirable outcomes raising questions about how urban poverty affects the lives of families and children from low-income neighbourhoods. This background chapter demonstrates how the intersectionality of informal settlements, urban poverty, violence, and changing family structure are impacting on the lives of children from low-income families. Accordingly, assumptions about kinship care networks in the African family have been challenged and no longer hold. In informal settlements, many of the families are headed by young single mothers who are unemployed and disconnected from their extended families which traditionally offered important care networks. Parents and families in informal settlements have to contend with violence, poverty, and less than a desirable physical and social environment in which to raise children, opening spaces for a higher likelihood of abuse and subsequent intervention by actors in the child protection services sector.

CHAPTER THREE CHILDHOOD POVERTY, VIOLENCE AND SOCIAL WELFARE

3.0 Introduction

Globalisation, increased poverty and inequality, migration, climate change, global pandemics like HIV/AIDS and Covid-19, and pervasive violence against children have significantly contributed to how childhoods and family life are experienced in developing countries. The ways in which their impact manifests itself vary considerably, and yet the exact mechanisms of how this happens are still less understood in ways that could influence effective policy and program responses. Nevertheless, there is an increasing acknowledgment of this intersectionality which results in complexities, and which also is important for showing the role of systemic factors in the causation of child poverty and vulnerability. The fact that child poverty and vulnerability remain stubbornly high in Sub-Saharan Africa, in particular, raises questions about the effectiveness of current intervention measures in a dynamically shifting social, cultural, political and economic setting. This chapter foregrounds important questions on changing childhood experiences in an African context and their effects on child wellbeing. Available literature points to the need for long-term, transformative, and sustainable solutions that demonstrate commitment, a deeper understanding of the problem of poverty and child maltreatment, along with the context in which structural factors impact on children's wellbeing in the Global South.

Important questions are whether there are reliable and transformative strategies for tackling these conditions that threaten the lives and wellbeing of millions of children in developing countries like Kenya and South Africa. If so, how relevant are the solutions for countries where both childhood poverty and maltreatment remain a big development concern? The chapter starts with an extended discussion on the theoretical and conceptual understanding of childhood as a social phenomenon, before discussing how these meanings shape childhood experiences and policies in the context of globalisation. This is followed by an overview of the prevalence of child poverty and maltreatment and key debates on the response models and their relevance for a Global South context where the two problems co-occur at higher rates. The last section explores the potential for social welfare and social protection to simultaneously respond to violence against children and material deprivation

in the family. This section analyses historical and structural impediments to transformative policies and programs.

3.1 Conceptualising childhood

How a society defines children and childhood has consequences for how they are treated in everyday life, in state policies and programs, which ultimately impacts on children's claims to citizenship and entitlements. The attendant conceptions are embedded cultural attitudes as well as prescribed social norms that dictate relational interactions between children and other generational groups, particularly adults. In many societies an individual is presumed to be a child if they have not yet fully attained the characteristics that confer upon them the 'privilege' of adult status, for example being married, founding your own family and having the capacity to be entrusted with important personal, family, or clan responsibilities. Since adulthood is socially determined, such an understanding makes childhood a social construct rather than a natural, immutable state, and is, therefore, a contested concept subject to varied interpretations (Prout and James, 1997). Variability of conceptual meanings has both an ontological and methodological impact on how children are framed, studied and presented in research and policy. Inclusion and participation of children as active agents and competent producers of knowledge on childhood has become a central concern within childhood studies as a discipline (Cheney, 2019; Hanson *et al.*, 2018; Cheney and Okwany, 2017; Abebe and Bessell, 2014).

Age and generation are important for the societal structuring of individuals into distinct social categories that divide the life course into phases such as childhood, youth, adulthood, and the elderly. The structuring effects of age and generation have relevance for understanding on-going social transformation over time and space (Ansell, 2014). The most common measure of age is the use of chronological order. Popularised by the UNCRC, chronological age is the most widely accepted means of defining childhood. Article 1 of the convention defines a child as anyone below the age of 18 (UNCRC, 1989). Chronological age is an important tool in statecraft as it is used for organising and controlling populations (Scott, 1998). Age shapes child welfare policies and determines childhood expectations and the treatment of children both in terms of opportunities afforded to them and commensurate restrictions (Imoh, 2019:169). The state and civil society organisations use age to define and target programs to specific social groups (e.g early childhood for education and nutrition, or adolescent sexual and reproductive health programs).

In non-western societies chronologically- determined age may not matter as much as an individual's functioning capacity, hierarchical relations with others in terms of seniority, societal expectations and responsibilities, as well as subjective and situational demands (Abebe and Ofosu-Kusi, 2016). Intuitively, as one successfully acquires key social functionings they gradually transition to adulthood rather than merely upon turning 18 years, the conventional majority age (Abebe 2007; Ansell *et al.* 2014). Though situational and functional age are instrumental, they can also be consequential and contradictory (Honwana, 2014). Functional age determines the prescribed timing for social activities such as schooling, while situational age might be important for negotiating life situations. For example, to survive the harsh street life, young street boys and girls might self-identify as children to avoid arrests or to get lenient treatment when embroiled in the juvenile justice system. Honwana (2014) vividly captures these contradictions and fluidity of situational age by observing that "at 10, a child soldier is an adult, at forty, an unemployed and unmarried man is still a youth (Honwana, 2014:31).

Like age, *generation* also carries a variety of meanings but in its most basic use, it describes the relationality of social groups differentiated by age-based life phases that include children, youth, adults and the elderly (Alanen, 2014; Huijsman, 2016; Nyamu 2020). It also denotes kinship-descent notable in parent-child relationships as well as a historical epoch or a group of people who share a common life and cultural experiences that are transformational (Alanen, 2014). The latter, which is also called the Mannheimian generation emphasises the need to understand and study generation as a cultural phenomenon shaped by "specific social and historical contexts" (Alanen, 2014: 141). Typically, the generation is formed by people born and raised in the same generational location (social and historical) who share similar interpretations of those experiences and identify a significant event that group members consider important in shaping their lives for example the post-World War II baby boomers, or millennials growing up in the era of rapid globalisation, technological advancement, but with diminished economic opportunities (Alanen, 2016, Huijsman, 2016).

Over time, both conceptual and ontological debates on what constitutes childhood have spawned two broad and oppositional perspectives. The first is that childhood is axiomatically understood as a universal and global phenomenon (James, 1997; Boyden, 1997). The second views childhood as a multiple, subjective, contextual, local and global

phenomenon that is socially constructed and also influenced by structural and historical factors (Abebe and Ofosu-Kusi, 2016). This conceptualization also informs knowledge on child welfare models, child protection practices and their impact on children and families. Consequently, these perspectives have both a heuristic and analytical value in childhood studies and interpretive work.

3.1.1 Childhood seen as a global phenomenon

Though the universalised and global child has become dominant, it represents Western European childhood ideals. The child is seen as an autonomous and rational being, and childhood is a precious period characterised by playfulness, innocence, vulnerability and dependence on adults for nurturance and protection in the process of becoming human beings (Liebel, 2020; Prout and James, 1997; Boyden, 1997). A universal childhood is the product of various social transformations occurring in western societies since the late 15th century onwards. The progressive change occurred alongside the changing modes of economic production from peasantry to industrial capitalism, the French and American revolutions, the emergence of international laws and human rights (Imoh, 2019:161). Emerging scientific knowledge in disciplines like law, medicine, education, sociology and psychology provided legitimate sources of knowledge for theorising childhood at the time (Cregan and Cuthbert, 2014:7-8). Through processes like colonisation, developmentalism, globalisation, media presentations and universal education, the scientific knowledge and views were hegemonically transplanted onto other parts of the world (Cregan and Cuthbert, 2014; Balagopalan, 2019).

Psychology and sociology made the greatest contribution in this regard, as did the UNCRC which had the most far-reaching effect in authorising a global conceptualization of childhood (Hanson *et al.*, 2018; Keddell, 2018; Taye, 2019; Twum-Danso 2016, Cheney 2014, Okwany *et. al* 2011, Bourdillon 2011, Cheney 2007, Abebe 2007). Leading psychologists like Jean Piaget propagated the notion of childhood as a universal, natural growth and development process. With the right nurturing, all children are expected to achieve various developmental milestones in their evolutionary journey to becoming fully human beings (Cregan and Cuthbert, 2014; James and Prout, 1997). The growth milestones were both physical and cognitive, with children considered irrational before they attained adulthood (James and Prout, 1997). Socialisation theories in psychology and the social evolution theory in sociology by Auguste Comte became influential in advancing notions of biological developmental stages and social evolution of humans from ‘savages’ to ‘civilised

men' (James and Prout, 1997: 10). Formal schooling and good parenting practices became central to the production of the 'desirable' child, as well as an instrument for controlling and preventing childhood crises. It was feared that "childhood innocence if not properly directed and trained at home and in school could give way to riotous and immoral behaviour" (Boyden, 1997:193). Similar fears concerning the child-rearing practices of colonised communities led to imposition of western childhood ideals into development practices targeting the 'third world' (James and Prout, 1997; Boyden, 1997, Cheney, 2007). International organisations like UNICEF encouraged growth monitoring of children and provision of nutritional supplements to help those lagging behind the prescribed milestones to 'catch up' (Ben-Arieh, 2008; Cregan and Cuthbert, 2014). Similarly, the colonial practice of frequently arresting and involuntarily enrolling street children into juvenile rehabilitation programs where caning, detention and manual labour were used (Ocobock, 2006; Campbell, 2012) are other illustrative examples of the desire to tame unruly children. Such actions are said to protect them from a presumably risky life that robs children of their innocence (see Boyden, 1997; Sitienei and Pillay, 2019; Consortium for Street Children et al., 2019; Liebel, 2020).

Informed by western scientific knowledge, the UNCRC entrenched several ideas on contemporary childhood and universalism. Firstly Moyo (2012) argues it affirms children as individual rights-holders, espousing innate individualism. Individualism is considered antithetical to reciprocity and communitarian ideals central to the relationship between children and their families in non-western cultures (Moyo 2012; Ferguson 2015). Secondly, the UNCRC defines childhood in chronological terms with an arbitrary cut-off age at 18 years (Cheney 2007; Franklin 1995). Ironically, despite being a response to African social and cultural concerns, the African Charter on the Rights and Welfare of the Child (ACRWC) also defines children using the same chronological and biological framing, rather than social age and functioning which distinguishes children from adults in African societies (Tatek. Abebe and Ofosu-Kusi, 2016). Thirdly, Article 3 of UNCRC upholds the principle of the best interest of the child (BIC) as a fundamental premise for all actions concerning children's welfare. In combination with age, the BIC principle has become central to child protection and child welfare actors' determination of what constitutes harms against children, like neglect, exploitation, child labour and hazardous work (Boyden 2013). Any deviations from the prescriptively western normative of an innocent, carefree, vulnerable, work-free

childhood is an unacceptable aberration in context of the Global South and requires immediate corrective actions (Abebe 2007; Bourdillon 2011).

Though hegemonic, this perspective is increasingly getting challenged by southern childhood scholars. For example, Imoh's study on affluent children in urban Ghana demonstrated that not all African children suffer lack (Twum-Danso Imoh, 2016, 2019), although the children studied represent more the exception than the rule. But even despite these powerful remonstrations by Imoh and others cited in this review, the preponderance of a universal childhood has proved almost unassailable. In many cases, African childhoods are still analysed against western childhood standards and found to be 'deficient', 'compromised' or 'stolen' by adversities (Abebe and Ofofu-Kusi, 2016; Twum-Danso Imoh, 2016, 2019). The same hegemony is notable in child protection models and frames the overall orientation of critical child welfare practitioners including social workers and teachers (Boyden, 1997). The resulting effect is an enduring development trope of the deprived African child and childhood, a 'hopeless' and 'helpless' continent at the mercy of variegated development interventions (Abebe and Ofofu-Kusi, 2016:312; Cheney 2007). These framings are linear, partial and problematic, and hence, scholars call for research to account for the many complexities of the 'the other' and southern and childhoods (Imoh, Bourdillon and Meichsner, 2019; Abebe, 2019; Hanson *et al.*, 2018; Abebe and Ofofu-Kusi, 2016).

3.1.2 Multiple and socially constructed childhoods

A growing number of scholars have questioned the application of a 'scientific' basis to define non-western childhoods, and asserted a multiple childhoods view (see Prout and James, 1997:7; Boyden, 1997; Cheney 2007; Abebe 2007, 2019; Abebe and Ofofu-Kusi, 2016:312; Keddell, 2018; Imoh, 2019; Balagopalan 2019a, 2019b). This alternative perspective emerged in the 1970s and 1980s and was enabled by the French historian Philippe Ariès's audacious claims of having 'discovered childhood' as a historical and contextual concept. His claims challenged prevailing theories of a natural childhood as he demonstrated that childhood did not exist in medieval societies until the late 15th century, and that children were never accorded preferential treatment (Cregan and Cuthbert, 2014; Heywood, 2010). In Ariès view, children's existence was only acknowledged after they overcame the extreme threats of infant mortality that were rampant at the time (Ibid). Because of the threat parents were emotionally detached and among the nobility, childcare was left in the hands of wet-nurses and servants, while working-class children were viewed

as no more than an important part of the much-needed labour force, hence they were rapidly integrated into it as soon as they were deemed able make meaningful contributions (Cregan and Cuthbert, 2014; Heywood, 2010). Only later did parents begin to value and invest in other dimensions of their children's wellbeing beyond survival, such as education. Frijhoff notes that

Education itself remained loose, amorphous [...]. In the early modern period, however, attitudes changed. The child was discovered by the nobility and the bourgeoisie, who attached growing importance to an education [...], and scholarship followed with the discovery of the child as an object of philosophical reasoning [...], pedagogical intervention [...], and social concern (Frijhoff, 2012:23).

Though Ariès' historical work is vigorously contested (see Heywood, 2010; Frijhoff, 2012) it is also seen as transformational for childhood studies because it laid the foundation for the development of the sociology of childhood and enabled a rejection of the universal childhood narrative advanced by sociologists at the time (see James and Prout, 1997). A new ontology of childhood as a constructed configuration "of social relations" with young members of the society began to emerge (Alanen 2014: 134). This notion argues that despite the indisputable fact that children are biologically immature, they are individuals capable of rational thought and that rather than childhood being natural, the meanings and practices ascribed to it are culturally determined, meaning that multiple childhoods exist (Prout and James, 1997). Hence childhood is constructed, reconstructed, and can also be de-constructed (ibid). Consequently, these ideas have profound epistemological and methodological implications because such multiple perspectives also recognise children's agency as social actors and give greater visibility to children as subjects with a voice and important contributions to make in scholarship (James and Prout, 1997; Alanen, 2014; Huijsmans, 2016). In addition, childhood shifts from being merely a social group to an analytical social category, taking on similar status as gender, race, or ethnicity (ibid). As a social structure, childhood acts and is acted upon by other structures in society and must therefore be understood in relational terms (Alanen, 2014). Furthermore, Alanen argues that childhood is formed through intergenerational interactions that come to determine what it means to be a child- existing in a distinct "generation category of beings that is internally related to other existing generational categories" (Alanen, 2014: 133). Hence, childhood meanings are based on how other generations conceive childhood discursively and in practice as (Nyamu, 2020) shows in relation to policies on children with albinism in Kenya and Tanzania.

Interpretive sociology further propagated the idea of multiple childhoods as an instrument for “the creative production (‘agency’) of social life rather than the determination of social behaviour by systems of social organisation” (James and Prout, 1997:27). This view is a critique of structural-functionalism as it emphasises agency over the structure, and multiplicity arises from agents acting within a culturally and contextually-defined space. To make sense of the associated processes and outcomes of these interactions, scholars use research approaches like micro-sociology, deconstructive sociology and structural sociology (Alanen, 2014). Micro-sociology relies on methods like phenomenology, interactionism and pragmatism to facilitate understanding of children’s experiences and interpretations of their social interactions (ibid). Deconstructive sociology on the other hand views childhood, children and child wellbeing as culturally-determined and as historically formed constructs (ibid). It, therefore, seeks to “unpack such constructions” (Alanen, 2014:135) using techniques like discourse and conversation analysis to examine important social processes, discursive practices and formations of children/childhood along with the role of institutions like the school and family in shaping children (Alanen, 2014). Structural sociology, on the other hand, utilises ethnography to explore children’s subjectivities, agency and meaning-making of their relational and material world in which history, political, social and economic processes matter-and for which ethnography becomes crucial (Alanen, 2014; Qvortrup, 2014). Finally, social constructivism is concerned that analytical work occurs at the micro-level and often the emphasis is on children’s voices (participation), their knowledge and capacity to think and act as rational agents.

Notions of local and cultural childhoods also emerged out of the above ontological and methodological shifts. While this change represents a progressive understanding of childhoods, a cultural childhood is criticised for being narrow in focus, and for ignoring the realities of today’s world in which there are other mediating factors on childhood beyond culture (Balagopalan, 2019a and 2019b; Tatek Abebe and Ofosu-Kusi, 2016). Essentially, the critique is that culture is employed in a deterministic manner which Abebe and Ofosu-Kusi (2016) argue leads to “unhelpful ghettoization of children/childhood from other spheres of social life” and ignores “knowledge about childhood from families, and communities with whom children are connected through relationships and social structures” (p. 311, citing Abebe and Kjørholt, 2013). Consequently, they call for an understanding of childhood more broadly as relational, generational and structural and that the three elements

require an appreciation for both micro and macro-level factors which also ensures greater relevance for policy-related studies (Abebe and Ofosu-Kusi, 2016).

A structural perspective of childhood

Structuralists argue that childhood is the product of social and material worlds that children grow up in which constitute a “structural context” (Qvortrup, 2014: 666). Indeed, several Global South scholars have shown how history, socioeconomic and political forces impact childhood and children’s lives (for example Imoh, 2019; Taye, 2019; Hanson et al., 2018; Abebe and Ofosu-Kusi, 2016; Okwany et al. 2011, Bourdillon 2011, Twum-Danso 2009; Cheney 2007; Abebe 2007; Katz, 2004). These scholars also consider contested interpretations of distinct childhood experiences on account of structural impediments. For example, debates abound on whether child labour and child trafficking (mainly as migration for domestic work) are forms of child maltreatment and therefore violations of children’s rights, or are simply a different kind of childhood resulting from alternative economic, social and cultural contexts (Tatek, 2007; Bourdillon 2011; Boyden, 2013; Taye, 2019). Child rights activists generally tend to conflate most forms of child work to harmful child labour, but Taye (2019) and Bourdillon (2015) posit that this is a parsimonious reading of ILO Convention 138 which only prohibits hazardous forms of child labour. The alternative view is that child work is a necessary part of children’s everyday interactions, skills acquisition, and children’s meaningful contribution to their families and society (Taye, 2019; Abebe and Ofosu-Kusi 2016; Bourdillon 2011; Tatek 2007; Katz, 2004). Similarly, children who voluntarily migrate for work and better economic prospects or education are seen as exercising agency on one hand, while the perilous journeys unaccompanied children make are labelled as dangerous, exploitative, or child trafficking (Huijsman 2008; Boyden 2013). These examples depict intersections between children’s agency and external forces that are equally critical for determining children’s lives in both constraining and enabling ways (Abebe and Ofusi-Kusi, 2016; Kartz, 2004).

Childhood is also understood as a generational category, and generation is understood to be a structure that defines how other social groups (generations) view children, locate them within a certain social space, and treat them in that "generational position" (Alanen, 2014: 137). But children are not passive recipients of societal actions. They are an active part of a social system which they shape and reshape through on-going interactions between them and other generations and in the process of exerting their agency such that relationships and

meanings are reproduced, or new ones are generated (Ansell, 2014; Huijsmans, 2016). Generational practices are important for defining the meaning of childhood, often in a historical context such that what it meant to be a child in the 1970s may be quite different from what it means to be a child in the millennial era. The focus is not on individuals in interpersonal relationships but on a distinct generational unit (childhood). As Qvortrup notes, as structures, generational forms emerge from a given historical context and are defined by important parameters, the most important among these being "economic, political, social, cultural, legal, religious, technological, and [...] mode of socialisation" (p. 673). Structures can enable or constrain people's opportunities and life chances for achieving their aspirations (ibid: 667). Inequality and undesirable living conditions of most children in the global south point to the need for more critical and meaningful ways of examining childhood to realise a more equitable and socially just society that guarantees a better life for disaffected groups. Post-colonial childhood studies seem to be forging new frontiers in this direction.

The 'in-between' and postcolonial childhoods

Postcolonial scholars are equally concerned about structural factors and are critical of analytical strategies that favour cultural relativism, and do not question the existence and impact of deep-rooted systemic factors on contemporary childhoods (Balagopalan, 2019a; Imoh, Bourdillon and Meichsner, 2019a; Liebel, 2020). Such strategies confine children's experiences into binaries of specific cultural constructs and spatial locations "that seldom mapped onto the boundaries of nation-states" (Balagopalan, 2019a:17). A postcolonial perspective is thus radical in its efforts to theorise childhoods. It utilises postcolonial theories, enabled by a political economy lens to facilitate analyses of structural factors and important power-relationships like colonialism, development practices and neoliberal globalisation (Liebel, 2020; Balagopalan, 2019a, 2019b). At the core of postcolonial approaches is the belief that powerful forces like colonialism and globalisation are transformative on cultural, social, political and economic arrangements of communities and colonies where these ideologies were or continue to be executed (Liebel, 2020; Keddell, 2018). Such encounters significantly distort the meanings of childhood and children, family structures, and local child-rearing practices among the indigenous or local communities such as in Asia, and Latin America (Liebel, 2020) and Aotearoa New Zealand (Keddell, 2018). In colonies, local childhoods and children were denigrated in the same way that local

cultures, knowledges, economic, political systems, and social practices of native communities were infantilised (Liebel, 2020).

A racialized hierarchical ordering that placed colonial masters at the top of human civilization and native subjects at the bottom enabled self-assignment of colonial masters to “the role of saviours and self-appointed guardians responsible for transforming the ‘backward’ natives into “progressive citizen’s ready to take their place in the modern world” (Elkins, 2005:5). Children were the most malleable material for testing socialisation theories in the Global South (see Boyden, 1997) enabled by Christianity, formal education, and forced western enculturation through removal and placement of indigenous children in government institutions (see Keddell, 2018 for examples of the latter). By these means, native children were supposedly transformed into culturally, morally and socially acceptable ideals of their western masters.

Like colonialism, development practices are also implicated in re-shaping southern childhoods. The struggle for national independence in the 1950 and 1960s ushered in developmentalism in place of colonisation and with it the discovery of poverty (Escobar, 1995). A discursive formation of the third world and a declaration of war against poverty in developing countries ensured the continuation of modernization efforts in the postcolonial era (Escobar, 1995). Development efforts led by developmental states, charities, NGOs and bilateral agencies became critical for social welfare provisioning in developing countries, but these were accompanied by discourses on childhood that were as denigrating as those in the colonial era. The savage, native child was replaced by the poor and vulnerable AIDS orphan, child soldier, street child, and victim of child trafficking and child labour (Liebel, 2020) whose framing was shaped by children’s rights promoted by development agencies.

Rather than simply accept the narrative of different, deficient and unequal southern childhoods in need of rehabilitation, postcolonial thought disavows the harmful effects of productive encounters between the two groups and instead seeks to establish “a more socially just understanding of childhoods, and policies that mitigate structural challenges” (Liebel, 2020:4). It argues against the bifurcation of childhoods because the encounters embedded important changes to the social, economic, political and cultural fabric of the colonies. Hence, binaries of global/local, universal/local, natural/cultural, north/south, minority/majority or first/third world are unhelpful beyond casting children into a ‘them’ versus ‘us’ mould (Balagopalan, 2019b, 2019a; Imoh, Bourdillon and Meichsner, 2019b).

They are reductive and ignore the materiality of “history and political economy as well as a critical reading of power, philanthropy, and the politics of media representations” (Balagopalan, 2019a:13). Emphasis on differences masks nuanced realities about important childhood similarities and differences arising from “similar variables or parallel conditions “such as socioeconomic status, education, ethnicity” (Balagopalan, 2019:5). For instance, the north has equally deprived children among ethnic communities and other excluded groups just like there are also small sections of privileged children in the global south (ibid).

Contemporary childhoods have become undeniably entangled in both global processes and local realities (Abebe and Ofosu-Kusi, 2016; Abebe, 2019; Imoh 2016). Consequently, childhood is better understood from a continuum perspective instead of oppositional north/south tensions (Imoh (2019). A middle ground is required to forge a realistic understanding of contemporary childhoods in a globalised world in which local realities are also equally important (Balagopalan, 2019b; Imoh, Bourdillon and Meichsner, 2019). The ensuing entwinements mean that “events, incidents, activities, dangers and risks and even social relations that occur in one part of the world have significance for those living thousands of miles away” (Ibid: 6). For instance, the spread of radical Islam gave rise to securitization due to fear of terrorism, and increased surveillance of Muslim youth regardless of geopolitical location, whether it is the coastal towns of Kenya or among migrant Moroccan, or Turkish communities in Europe. The response is unanimously the same.

Similarly, neoliberal policies and global financial crises have generally resulted in a reduction in social spending, but more so in liberal states (Otto, Walker and Ziegler, 2017). A comprehensive ethnographic study by Cindi Katz’s (2004) captures the widespread and disruptive nature of global capitalism on rural Sudanese childhoods in Howa with the advent of formal schooling, migration, and establishment of a large state-funded modern agricultural project whose production targeted global markets. Simultaneously, Katz noted similar levels of disenchantment and frustrations among young people in inner-city New York as a result of collapsing industries and the shifting of large-scale production by American corporations to Asia and Latin America where labour markets are cheaper (ibid).

Postcolonial thought seeks to uncover the origins of the narrative of deficient southern childhoods based on racial, exploitative and unequal power relations in the modernization project initiated through imperialism, colonisation and globalisation processes (Liebel,

2020:10). It demands a reckoning with the enduring effects of "postcolonial constellations"- the "unequal material and ideological or epistemic power relationship that leaves little space for childhoods that do not correspond to the pattern of childhood that dominates the Global North" (Liebel, 2020:2). Postcolonial scholars are emphatic that colonialism, international travel, media and education transformed thinking and practices such as child-rearing, the family, and social reproduction processes (Twum-Danso and Ame, 2012; Tatek. Abebe and Ofosu-Kusi, 2016; Balagopalan, 2019a; Liebel, 2020). Equally affected are child protection practices (see Nyamu and Wamahiu, 2022). The dynamic processes have produced new social realities where local cultural norms, attitudes and practices have been infused with western ideas, values and attitudes, and ultimately these shifts influence understanding of childhood and related concepts such as children's rights in different contexts (Twum-Danso, 2019). For instance, arguments that individualism and the western cultural orientation of UNCRC are antithetical to African cultures spawn beliefs that recognition and enjoyment of child rights and entitlements is a preserve of the north and elites in the global south-those with education and higher social status (Twum-Danso, 2019). By contrast, the language of entitlements within human rights has become powerful for advocating better standards of living among the poor (ibid). Some scholars also find that young people are also adopting the same human rights language in order to benefit from development programs like educational scholarships and admission into alternative care institutions which offer food, shelter and education to vulnerable children (Cheney, 2010; Cheney and Rotabi, 2015).

3.2 Globalisation, social reproduction and the changing role of families

Production and reproduction processes are essential for the survival of any society in terms of species multiplication and continuity, as well as sustaining the means for daily subsistence. Jointly they constitute social reproduction. Katz (2004) defines social reproduction as the

Daily and long-term reproduction, both of the means of production and the labour-power to make them work. At its most basic, it hinges on both the biological reproduction of the labour force (both generationally and daily through the acquisition and distribution of the means of existence, including food, shelter, clothing, sanitation, and health care) and the physical conditions that make ongoing production possible (Katz, 2004:x).

Family or household survival depends on healthy members who can work over their productive life phase, which requires the renewal and maintenance of labour-power on a

daily basis. Household care work (e.g. cooking, cleaning, and childcare) are critical to this process and are an important contribution not just to the household but to the economy as well. Traditionally, the stability and survival of the family were guaranteed through a household-based mode of production for consumption and exchange that was overseen by an “able-bodied male breadwinner” and a gendered division of labour (Chhachhi and Truong, 2009). But industrial capitalism upended this arrangement-though this is not wholly the case in societies that are still agrarian and collectivised. Shifts to factory-based production and market-based commodity exchange encouraged unprecedented capital accumulation along with the separation of production from reproduction (ibid). Confining reproduction to households and casting it as a gendered role despite women’s entry into the formal labour spaces rendered women’s contributions ‘invisible’. Bina Agarwal argues that domestic and care work which is “home-based or unwaged work is often seen as less valuable than work that is physically or monetarily more visible” (Agarwal, 1997:10). Instead, a premium is placed on market-based paid work while devaluing household care work and the reproduction of human beings (Kabeer, 2013; Chhachhi and Truong, 2009:5). It also threatens social cohesion, entrenches inequality and exclusion of women, precludes their participation, and exacerbates the feminization of labour-and eventually, of poverty itself (Elson, 2014; Kabeer, 2013; Chhachhi, 2011; Chhachhi and Truong, 2009; Agarwal, 1997).

Separation of the two integral processes to human life has created a crisis that is now a foundational cause of poverty and vulnerability in the modern world. State and employers have externalised costs associated with labour renewal, and in so doing increased the care burden borne by families to guarantee the wellbeing of their members. Despite the challenge, families continue to play the critical role of nurturing and providing a stimulating environment for children’s healthy development and wellbeing, offering valuable spaces within which children receive preparation that equips them with life skills and competencies necessary to confront different circumstances in life (Wyness, 2014; Moyo, 2012). Households with limited resources cannot adequately meet these obligations because they struggle for daily subsistence, may not adequately care for children, the elderly or sick family members, whilst also accumulating reserves to cushion them against sudden shocks like natural disasters, or illnesses and the death of a breadwinner. Such concerns are what created welfare states in the first instance- though there are other factors which this section explores, taking a historical perspective.

History records the disruptive effects of the 19th century industrial revolution on family life. Privatisation of land, mechanisation of agricultural and industrial production pushed landless peasants into a life of destitution and vagrancy in urban centres. Wide-scale pauperism and inability to care for family members created the need for welfare assistance which was initially provided by churches and charities, and later by the state, giving the latter a prominent role in the lives of children and families (Winter and Cree 2016; Ferguson 2015). State intervention through the introduction of Victorian Poor Laws was necessary to forestall social and economic dysfunction, and henceforth determined the state's treatment of the poor and working-class populations as either deserving or undeserving of social assistance (Winter and Cree 2016; Chhachhi and Truong, 2009). The poor were blamed for their poverty, while the laws also propagated the notion of saving the rest of society from moral decay caused by the poor (Winter and Cree 2016). The role of the church and church-based charities became essential to the project of mending "faulty moral character and morals" of the poor using various social and religious technologies to discipline them (Ferguson 2015:16). Employment and targeting of social assistance based on criteria that determined who is deserving became core in the design of social welfare policies in modern society. Support was prioritised for those in formal employment because of their perceived valuable contributions to the economy (Chhachhi and Truong, 2009; Mkandawire, 2016). Employers are obligated under the law to invest in their employees' wellbeing (and in more generous welfare states their families as well) by providing pensions, medical cover, sick leave and the like.

Generally, social services are expensive, which is why they were traditionally left to households, non-profit organisations and the public sector as opposed to the private sector (Borzaga, Salvatori and Bodini, 2019). In the 21st century the social reproduction crisis has deepened as a result of neoliberal policies and the global financial crisis. Elson (2013) demonstrates these far-reaching effects through an analysis of four global economic crises in Latin America (the 1980s), Asia (1997), America (2008) and Europe (2010). Economic system failures force the market to externalise costs while putting pressure on households to act as the safety net in times of strain. Elson argues that women are forced to take on more care responsibilities whilst also increasingly being pushed into the labour market to plug gaps in household incomes. Unfortunately, most take up informal employment and are paid less than men for similar work (Elson, 2013). At the same time, cuts in social spending calls on the same social group to offer social services such as home-based care of sick family

members when health services are unaffordable (Elson, 2013). There is an assumption that women's capacity to offer labour "is infinitely elasticable to stretch to make up for any shortfalls in income and resources required for the production and maintenance of labour" (Elson, 2013:192). The state's retreat in neoliberal times and limits to social welfare spending increase vulnerability of the poorest social groups (Kabeer, 2007; Kabeer 2013; Devereux and McGregor, 2014; Gupta, 2018; Bywaters, 2018). It also has ramifications for the capacity of families to care for children in increasingly precarious economic times. The restricting of social assistance to those in formal employment disadvantages many child carers (mostly women) who are in informal employment. This exclusion is also the basis for raging debates on targeting as a tool for limiting social assistance, and universalism which promotes a wide coverage of social protection programs as social justice and rights issues (see Makandawire, 2005; Devereux, 2021).

Children's lives have also been disrupted in other ways. Their contribution to production and reproduction have significantly reduced in the post-industrial era, though not yet completely replaced in all cases. Qvortup (2014:684) argues that the onset of the "new *Oikos*" (economy) rendered children invisible in markets while also permanently altering previously well-established generational relationships that were crucial for social reproduction and nurturance. Children have assumed less instrumental value as labour contributors and insurance in old age, while their sentimental value increased (ibid). Changing attitudes towards children impinge on current debates on children's rights and approaches to child protection. Abuse and neglect are taken more seriously now, as is parenting which is considered critical to children's capacity to grow into healthy, well-adjusted and thriving human beings. Unfortunately, consideration for families' material circumstances and their ability to provide children with the right nurturing environment are not always given the same consideration. Yet they affect the quality of parenting and the kind of environment in which children are raised. For this reason, family and its associated social care networks remain important and impinge on childhood poverty and child maltreatment in modern society.

3.2.1 The African family, kinship ties and social welfare

The traditional African family has undergone considerable social, cultural, and economic changes in the last century to the extent that contemporary African cultures are in fact said to be amalgamations of various influences. The most notable changes occurred as a result of what the renowned Kenyan postcolonial scholar Ali Mazrui calls "triple heritage of

Africanity ": (Oheneba-sakyi and Takyi, 2006:10). This was in reference to the resulting interactions between traditional African cultures, Islamic religious and cultural influences, as well as Christianity and western European cultures due to formal education, colonisation, imperialism and other global forces. Jointly these have significantly transformed and shaped contemporary African society (ibid). Pre-colonial indigenous African societies were defined by the communal organisation of social and economic activities and a strong cultural heritage (Suda, 2009; Mbiti, 1969). Collective living buttressed families in times of material deficits and stresses like famine or the demise of parents, which left the clan responsible for the survival and continuity of its members through kinship care, sharing and solidarity (Ferguson, 2015; Oheneba-Sakyi and Takyi, 2006; Suda, 1997). Group members reciprocated by fulfilling their obligations to kith and kin through in-kind contributions, active participation in the social-cultural communal life, and maintaining harmonious living and social order (Twum-Danso, 2009; Oheneba-Sakyi and Takyi, 2006). Reciprocity and other embedded solidarity mechanisms secured individual members' social claims to support (Ferguson, 2015). Moreover, the distributive power of kinship systems was strong and profoundly egalitarian which facilitated equitable sharing of wealth and opportunities so that "everyone had land and hoe at the start of life" (Mboya, 1965:18).

Contact between Africans and Arabs through local trade and intermarriage, and with Europeans via the Trans-Atlantic slave trade and colonisation led to rapid cultural changes and rapid depopulation (Oheneba-Sakyi and Takyi, 2006). The loss of able-bodied community members, the spread of new diseases and western values initiated the breakdown and disorganisation of African families (ibid). This breakdown soon accelerated with colonisation in the late 19th century onwards. Colonial regimes sought to entrench Christian and western ideals of a heteronormative nuclear family and individualism (Chimbiri, 2006) and sought to abolish several African cultural and religious practices they found abhorrent even though they had been central to posterity and harmonious living among Africans. Among the supposedly repugnant practices included polygyny; the paying of bride price (*lobola*, in South Africa); 'marrying' of young girls by barren women to acquire grandchildren; and widow inheritance which were intended to protect a dead brother's wife and helped to posthumously sire children for his lineage (Oheneba-sakyi and Takyi, 2006; Prazak, 2006; Ocholla-Ayayo, 2000). The practices also protected the inheritance and property rights of widows and orphans, ensuring their welfare. Unfortunately, widow inheritance also constitutes the ground for unjust and sexually exploitative practices as well

as a barrier to enjoyment of women's property rights (Meda, 2013; Human Rights Watch and FIDA, 2020). While clashes between African traditions and Euro-Christian ones were inevitable, over time an uneasy coexistence of values emerged (Deche, Kinyanjui and Mwaura, 2019). For instance, while many Africans publicly and legally adopted monogamous heterosexual marriage practices embedded in the Christian values, covert forms of polygyny survived, and the law turned a blind eye. Consequently, informal conjugal unions are popular particularly in the urban areas and include 'outside wife-ship'. This is an arrangement where educated African men in monogamous unions secretly take up a mistress or girlfriend that they support financially while eschewing divorce (Oheneba-Sakyi and Takyi, 2006).

Children were a central motivation for founding families as they guaranteed continuity of lineages. Their importance was underscored by the extent of alternative family formulations that were permitted, including the fact that marriage dissolution and remarrying was encouraged among childless couples (See Abebe, 2019; Ocholla-Ayayo, 2000). Typically, as affirmed by the African adage that '*it takes a village to raise a child*', childcare was a shared collective responsibility between parents, the extended family, clan and community at large because children belonged to the entire community (Suda, 1997; Ocholla-Ayayo, 2000). Parents made heavy investments to prepare children for a successful transition to adulthood through education, socialisation and sanctioning of young people's behaviour to ensure that they grew into responsible human beings capable of contributing to a healthy social, political, economic and cultural life of their communities (Ocholla-Ayayo, 2000; Deche, Kinyanjui and Mwaura, 2019). Emphasis was placed on the importance of one's identity and belonging, blood ties and ancestral connections, loyalty, respect and the duty of care and obligations towards parents, relatives and community (Twum-Danso, 2009; Abebe, 2019). These care networks minimised children's vulnerability and protected children against the likelihood of abuse and neglect (Suda, 1997; Mbagaya et al., 2013; Deche, Kinyanjui and Mwaura, 2019).

The gradual but immense pressure on the traditional African family structure due to urbanisation, growing poverty, migration, and doubts about the relevance of extended family ties have contributed to its weakening (Chimbiri, 2006; Oheneba-sakyi and Takyi, 2006; Prazak, 2006; Ocholla-Ayayo, 2000; Suda, 1997). Even so, many African households still depend on some form of kinship ties for survival. This affirms that interdependence remains a defining character of most African families simply because "few households in rural

African contexts are autonomous economically or socially and child-rearing practices are a collective venture” (Abebe, 2019:3). The more important question is the extent to which on-going changes undermine Africa solidarity and care networks that have existed for centuries and whether these can still be counted on to guarantee social security. There is no question that economic hardships in neoliberal times have made it harder to meet such obligations. Chant (2015) notes that a decline in family support is most obvious in formerly collective communities that were previously subsistence but now manifest higher poverty levels due to compromised livelihood options. Nevertheless, some residual practices and aspects of kinship care are still relied on to perform vital social-cultural functions that guarantee the social wellbeing of family members and in that sense assert the on-going importance of kinship systems to social reproduction in modern-day African communities. It is common among Africans in urban centres to fall back on care networks in their rural homes in the event of joblessness, or retirement. They also rely on the remittances of agricultural foodstuffs to cut on their food and living costs in urban centres (Ocholla-Ayayo, 2000).

For African elites, social ties with rural kin are valuable. They go to great lengths to maintain them. In Kenya “elite wives maintain extended family ties to recruit relatives for household and child care assistance [...]. Elite men maintain their family ties so they can retire among their relatives at home, or to claim a share of the land” (Prazak, 2006: 218). Migrants maintain ties with natal families and express a preference to be buried in their ancestral lands upon death no matter how long they have lived abroad (Prazaka, 2006). Regular remittances to support ageing parents and children left under the care of grandparents or other relatives guarantees connection, it helps to maintain strong bonds and allows migrating adults to assert their parental duties to some degree. On their part, urban-based relatives are expected to provide temporary accommodation to relatives moving to urban areas for training and employment and make financial and material contributions for medical care and bereavement in their extended families (Ocholla-Ayayo, 2000; Oheneba-Sakyi and Takyi, 2006; Prazak, 2006). Even when not economically stable, migrants are still under immense pressure to provide support, hence fulfilling these obligations comes at a huge cost including foregoing the achievement of personal financial stability. Indeed, many middle-class South Africans bemoan the burdensome and sometimes retrogressive *‘black tax’*-the obligatory expectation to financially support family and kin relations as long as one is employed or perceived to be in a position to help (Mangoma and Wilson-Prangle, 2019). Limited state welfare along with widespread precarity of employment and livelihood opportunities puts

pressure on extended families to continue meeting childcare needs and social security in old age particularly in times of social and economic upheaval. Single parents, the elderly, divorced or widowed women are generally more precariously positioned and tend to require family support more than other groups due to their limited assets and resource base (Oheneba-sakyi and Takyi, 2006:14).

Weakening kinship ties have also reduced pressure among more economically independent and educated women to marry, and encouraged the emergence of new family structures (Oheneba-Sakyi and Takyi, 2006; Chant, 2015). Today, the global south has higher rates of single-parent households, female-headed households, and more recently, smaller family sizes (Rabe, 2017; Chant, 2015). In South Africa in particular, a growing number of middle-aged African women are voluntarily unmarried or single mothers by choice (Prazak, 2006; Budlender and Lund, 2011) while young people are preferring informal conjugal unions through cohabitation and having children without ever formalising their unions (Prazak, 2006). Coupled with a growing perception of men's inability or unwillingness to provide for their families, marital instability has increased (Oheneba-Sakyi and Takyi, 2006). Such unions can improve people's economic standing due to joint incomes, but can also create complexities about child support and custody in the event of such unions disintegrating, conflicts over joint assets, or the death of a partner previously unknown to the extended family. Prazak (2006) argues that some of these changes have mainly weakened the larger kinship network, but the more direct ties with parents, grandparents, siblings, blood aunts and uncles remain strong. These mini extended family formations or "neo nuclear families" have replaced traditional families as important but restricted sites for social reproduction and production, but unlike before, support now flows from the young to the old (Chimbori, 2006: 235). The smaller units have shown resilience as a critical response to the HIV/AIDs pandemic in Africa as thousands of grandparents and other relatives have taken responsibility for the care of millions of orphans. These units are also well suited for multiple house-holding practices which have become common among migrant parents who support and make decisions about their children while living in separate households within and beyond cities and national borders (Pillay, 2020:191). One drawback of these smaller formations is that in the sharing of care responsibilities among households, children and orphans may be circulated between different relatives as a typical form of traditional African fostering (see Cheney, 2010; Pillay, 2020:194-197), but one that could be detrimental to children's emotional wellbeing and stability.

An immediate implication of the weakening kinship care system is a reduced ability of families to adequately meet children's material and safety needs without external support. Growing incidences of violence against children, child maltreatment, drug and substance abuse, high HIV/AIDS prevalence, and the neglect of orphans and sickly parents are all strongly associated with increased family dysfunction (Children Institute, 2017; Meinck *et al.*, 2017; Proudlock *et al.*, 2014; RoK and UNICEF, 2012). The disconnection deprives families of social capital and important care networks that could be harnessed for unmet needs. Communities with higher levels of poverty manifested considerably weaker ties and less kin support, with this phenomenon being more "dramatic" in tribal communities traditionally characterised by a high degree of communal and intra-gender cooperation in work and social life. Among them, and elsewhere, the worst affected are usually women, especially the widowed and aged" (Agarwal, 1997:12). The growing importance of poverty in the social reproduction crisis is apparent, given that women are the main caregivers and an increasing number of grandparents. Limited social capital can increase the threat of child maltreatment, especially where it is associated with domestic violence and marital problems. Nuclear families living away from their extended families may lack emotional support that is vital in times of marital difficulty and provides an affordable conflict resolution mechanism.

Men may also resort to violence to reassert their masculinity because "gender imbalance in power is far more threatening than the past when social control was less individualistic and more in the hands of the collectivity" (Prazak 2006; 216). Without a system that keeps individuals in check, men who feel emasculated by diminished patriarchy-based power imbalances in urban spaces may feel less accountable to their extended families and are therefore more likely to abdicate family responsibilities without recourse (*ibid*). Similarly, since cities are assumed to be more prosperous locales, urban-based couples may be reluctant to ask for material or other forms of support from their rural families for fear of being judged as failures. Under such circumstances, poor families unable to meet their children's needs optimally might neglect or inadvertently expose them to other forms of maltreatment through parents' risky behaviours, or unhealthy living environments leading to the need for child welfare interventions. Where social services are inadequate children's wellbeing could be compromised or worsened.

3.3 Violence against children in a changing global context

Violence in society results from “the interplay of individual, relationships, social, cultural and environmental factors” (WHO, 2002:12). Individual factors relate to personal attributes render one a victim or a perpetrator of abuse, while cultural, social and environmental factors are dependent on interpersonal interactions and structural concerns mediated by societal, cultural, gendered, institutional or age-defined power relations. In patriarchal societies certain cultural attitudes and practices shape important relationships such as adult-child, husband-wife, men and women. Gendered relations impact on women's autonomy and the likelihood of experiencing violence. Generally, children and women are at a greater risk of experiencing violence whether this is at an individual, interpersonal, community or societal level (WHO, 2002 and 2020). The pervasive nature of violence against children (VAC) has made it a threat to public health, human rights and social development (Better Care Network, 2017). *The Global Status Report on Preventing Violence Against Children 2020* estimates that at least one billion or one out of every two children aged between 2-17 years experienced some form of violence annually (WHO, 2020). Younger children (between 2-14 years) were more likely to be abused physically and psychologically by parents and caregivers, compared to children aged 15-17 years who were more likely to be bullied in school (ibid). In addition, at least 30% of the latter group had experienced bullying the month before the global study (ibid).

The most prevalent forms of abuse according to the UN Global Study on Violence (2006) include neglect (the failure to meet children's material and emotional needs) and physical abuse. Even in the global north in countries like Canada, the USA, Netherlands and Australia child neglect, physical and emotional abuse constitute the bulk of substantiated child maltreatment investigations (see Bell and Romano, 2017). However, physical abuse remains high in Africa because corporal punishment is a culturally acceptable form of discipline (Mbagaya et al., 2013; Cyr *et al.*, 2013; Mildred and Plummer, 2009). The 2020 report shows physical abuse is the most prevalent form of child maltreatment in Africa at a rate of 60% among boys and 51% among girls (WHO, 2020). Child neglect is also high in Africa at 42% among girls and 39% among boys, only being surpassed by Latin America where it was 55% and 57% for girls and boys respectively. Child neglect was lowest in North America (41% for girls and 17% for boys). In Europe, boys (27%) experienced twice the level of physical violence as girls (12%), while globally, girls encountered more sexual abuse than boys (WHO, 2020).

In all settings primary caregivers are the leading perpetrators of violence and the abuse is likely to be exacerbated where the caregiver is also a victim of intimate partner violence. Evidence shows that at least one in four (25%) children under the age of five live with a mother who is a victim of intimate partner violence (WHO, 2020). In addition, since March 2020, children's risk of exposure to violence was further exacerbated by measures put in place to counter the spread of COVID-19. Strict lockdown measures compromised the livelihoods of many caregivers, compromised their mental health as a result of stress induced by reduced or total income loss, and restricted social interactions between family members and households. Diminished social interactions limit the capacity of families to tap into important care and support networks which are essential for material and emotional support in times of difficulties (WHO, 2020; UNRISD, 2020). School closure also denied many children an opportunity to receive social and mental stimulation that is crucial for development. In essence, the pandemic foregrounded the threats faced by children and families in societies with limited social protection programs. More than ever before, the demand for social protection has become more apparent through the current economic decline and is likely to impede the expansion of social welfare, particularly in developing countries at a time when it is most needed.

Some of the devastating consequences of child maltreatment include deaths; severe injuries and health complications; behavioural problems and adoption of risky sexual behaviours that could result in unintended pregnancies and sexually transmitted diseases such as HIV/AIDS; drugs and alcohol abuse; emotional and psychological problems including depression and inability to form meaningful relationships; and impaired brain and cognitive development which can negatively impact education and learning outcomes (see WHO, 2020; Hillis *et al.*, 2016; Ainsworth and Hansen, 2011; Margolin and Gordis, 2002). Some of the long-term effects may persist into adulthood and negatively impact social, psychological and economic circumstances of child victims and their society (WHO, 2020; Margolin and Gordis, 2002). The economic cost of VAC in the lifetime of those affected can be equally enormous though estimates vary widely between countries due to limited data availability. The annual cost of child maltreatment is estimated at US\$ 428 billion in the USA and US\$ 13.5 billion in South Africa (WHO, 2020). Though similar cost estimates for Kenya are unavailable, the expectation is that it would be generally high given that children experience higher levels of violence at the family and community levels coupled

with high levels of poverty and low coverage of social services. The next section briefly discusses child maltreatment prevalence rates in Kenya and South Africa.

3.4 Key policy responses to violence and child maltreatment

Child maltreatment responses have evolved and reflect changing societal attitudes towards children, the role of the family, effects of globalisation and state obligations to citizens. In western countries, increased reporting of violations between the 1980s and 1990s led to an increased demand for child protection services in tandem with a broadening of the definition of abuse and enactment of stricter laws which include mandatory reporting by professionals like doctors and teachers (Gilbert, 1997). Responses have evolved from a singular focus to broader protection and wellbeing concerns. Hetherington (2002) argues that child welfare strategies now include protection of children by rescuing them from harm and the provision of welfare services to families to mitigate risks. At the same time, possible actions to mitigate can either be minimalistic or progressive, and range from preventive actions and support to families, protective responses that ensure abused children receive the necessary support to mitigate effects of abuse and reduce the possibility of recurrence (Hetherington, 2002). It can also involve policy-led interventions. Often, policy interventions at the local level are informed by global efforts, signalling the serious threats that VAC poses to children's wellbeing, and the need for its inclusion in the global development agenda.

The Sustainable Development Goal (SDG) #16 and target 16.2 prioritise ending exploitation, trafficking, torture and all forms of VAC¹¹. Similarly, the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) gives attention to VAC in the African continent. Aspiration number seven of Agenda 2040: An Africa Fit for Children articulates Africa's priority of ensuring every African child is protected against violence, exploitation, neglect and abuse, with a call on state parties to protect the life, health and rights of all children. The charter condemns all customs, traditions, and cultural practices that are inconsistent with children's rights provisions, obligations and duties (ACERWC, 2016).

Previous efforts paid attention to understanding the nature of VAC, prevalence and impacts. For example, the 12 overarching recommendations of a ground-breaking 2006 UN global study on VAC provided important response guidance (UNVAC, 2006). At the time, there

¹¹ See: <https://sdgs.un.org/goals>.

was a need for a stronger evidence base to inform effective actions; better reporting mechanisms, and expanded services to support victims of VAC and child maltreatment, and improved legislative frameworks. However, there have been limited mechanisms for holding states accountable for ending VAC and tracking progress towards established global initiatives. Generally, the progress made between 2000 and 2015 was not satisfactory as some reviews of the MDGs showed (UNRISD, 2016). Since 2016 the child rights sector has witnessed a plethora of initiatives, campaigns and partnerships that are more solution-focused. Key initiatives include *Girls Not Brides* (advocating for the eradication of child marriages), *Together for Girls*, and *Global Partnership to End Violence against Children* (WHO, 2020). Such initiatives incorporate several governmental and non-governmental agencies that are at the forefront of global development efforts. Evidence-based models for fighting VAC such as INSPIRE were developed under the auspices of the End Violence against Children coalition and have shown promise.

The INSPIRE strategy stands out for an integrated, coherent and holistic model for tackling VAC at all levels and settings and incorporates seven strategies that combine prevention and responses. It has seven critical strategies but an embedded philosophy in INSPIRE is the enforcement of laws as an overarching strategy along with a strong emphasis on prevention and management of abuse (WHO, 2020). The seven include; focus on legislation and law enforcement; establishment of positive norms and values; creation of safe and sustaining environments for children; parent and caregiver support; income and economic strengthening of families; provision of response and support services; and education and life skills training for children (WHO, 2020). The core responsibility is placed on states to provide leadership, make substantial investments in child protection through action-oriented preventive and response programs, and most of all, encourage multi-sectoral collaboration across four core sectors of health, education, social welfare and justice, but is not limited to these alone (ibid). Key prevention approaches include parenting education and support through home visits or centre-based services, cash transfers, microfinance services combined with gender equity training, savings and loans schemes for family economic strengthening, anti-bullying programs, addressing violence by school staff, training on life skills and recognition of abusive situations, school enrolment, among others (ibid). To manage abuse once it occurs, the model recommends six states have child protection services, clinical services for sexual abuse, counselling and mental health services for victims and perpetrators, victim and perpetrator identification and referral protocols (ibid).

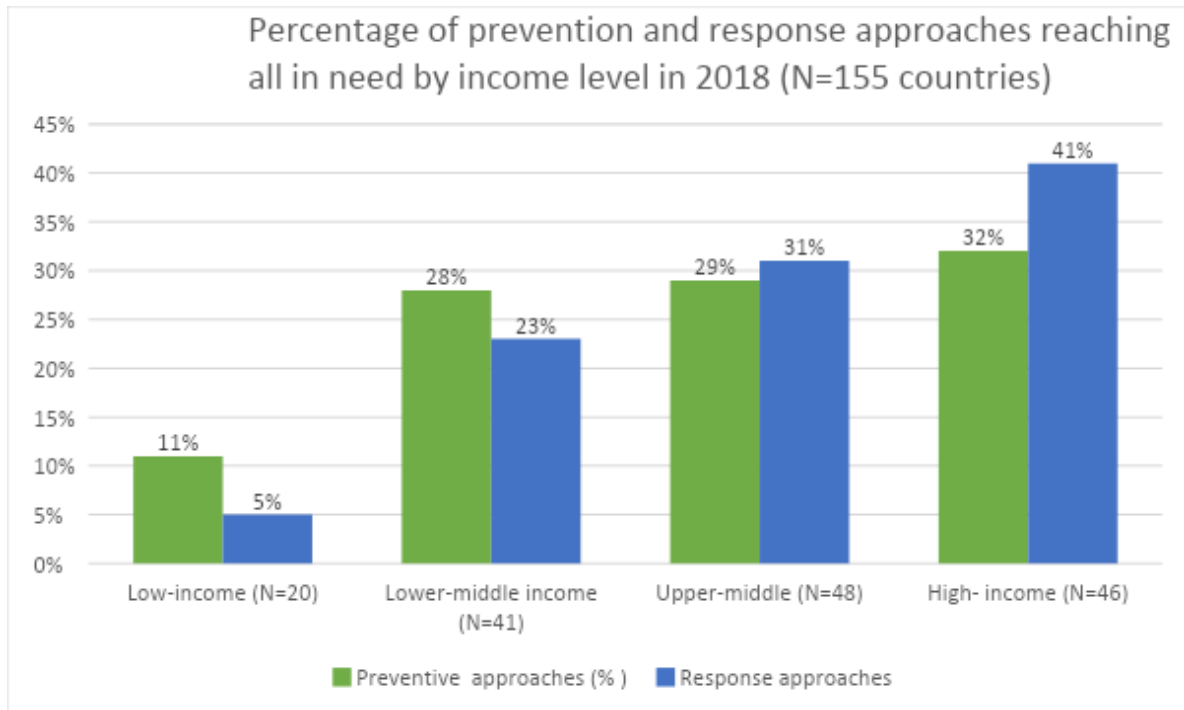
Out of the total of 29 approaches within INSPIRE, states are expected to prioritise the combination of multiple approaches that respond to their unique contexts and resource levels (WHO, 2020). Meeting the lofty goals of INSPIRE requires the delivery of effective, accessible, comprehensive and family-friendly services to families affected by violence (WHO, 2020).

States are urged to balance between prevention and response services, though this appears to be a challenge. The first Global Status Report (WHO, 2020) which reviewed the implementation of INSPIRE in 155 countries in 2019 shows that greater efforts are still directed to responses where states invest the most resources, but regrettably there was notably low support for preventive strategies, with huge variations between geographical regions. Surprisingly, coverage of prevention and response approaches was higher in low-income countries compared to medium and high-income countries which prioritized service delivery to victims and perpetrators of child maltreatment (WHO, 2020). Analysis of specific strategies linked to prevention and maltreatment response shows that only 26% of the countries have adequate coverage of parent and caregiver support services in the form of home visits and centre-based services (WHO, 2020). Home visits and centre-based services had the least support in low and middle-income countries, with a coverage rate of between 10% and 17%- perhaps because of their usually small social work labour force. Coverage was higher in high-income countries at rates of between 39% to 48% (WHO, 2020:490). This means that millions of children are more likely to come into contact with child welfare services only after exposure to abuse.

Similarly, state support and uptake of income and economic strengthening strategies were notably low, despite at least 53% of African countries recognising that poverty reduction was important to fighting VAC. The coverage rate of income support was highest (at 78%) in the European region and less than 50% in Asia, parts of the Middle East and North Africa and the Pacific (WHO, 2020). Unsurprisingly, legal means are overwhelmingly well supported in all 155 countries with all of them (100%) reporting that they had enacted specific laws against sexual violence and related crimes such as those that limit youth access to firearms, and 88% had enacted all the six laws considered essential for fighting VAC via legal means (ibid). Ironically, nearly half of the countries (47%) reported inadequate enforcement of the laws (ibid). Furthermore, though 80% of the countries have national plans of action on VAC, only 20% have fully funded their plans, while even fewer have a

system for monitoring their efforts (WHO, 2020). The graph below summarises the differences between prevention and management strategies based on economic status.

Figure 3: Comparing prevention and management approaches to child maltreatment



Source: Reconstructed by the author based on data from WHO (2020:43).

Remarkably, INSPIRE is a commitment to the prevention of VAC which makes an explicit link between child maltreatment, parental earnings, and material deprivation, recognizing that family economic strengthening is integral to child protection strategies. It acknowledges that cash transfers, credit savings and loans, and other related family empowerment programs are vital tools in the fight to end VAC. The model also recognises the centrality of parenting and support to families in their child-rearing responsibilities. Inevitably, this sense turns attention to the social welfare policies in individual countries and underscores the fact that ultimately national-level responses to VAC and child maltreatment are a function of the prevailing broader social welfare policies, child protection practices and systems are nested in existing country-specific social welfare arrangements. How each country responds to VAC and child maltreatment is political and must be analysed within a country’s overarching social policy environment and the complex political economy. For the global south that history is intricately linked to colonialism and for the north the industrial revolution and world wars played a crucial role in the social welfare evolution.

3. 4.1 Impact of colonial legacies social welfare in the Global South

Esping-Andersen's (1990, 1999) classic work on three social welfare state regime typologies made fundamental contributions to endeavours to theorise social welfare systems in the north (see Gilbert, 1997; Hetherington, 2002; and Gilbert et al., 2011). The work also has analytical value for the Global South if read jointly with more southern-centric social welfare conceptualizations, for example, efforts by Mkandawire (2016), as well as Wood and Gough (2004, 2006). Esping-Andersen (1990, 1999) argued that how people's livelihood and wellbeing are secured is the result of a country's historical trajectory, political context and the nature of citizen mobilisation or solidarity. These factors in turn shape institutional frameworks that emerged and how these interact with the global political economy to bring about security or insecurity of citizens (Wood and Gough, 2006). Success in securing people's welfare and the distinct character and the kinds of outcomes the welfare regime produces depend on the nature of social stratification, the employment situation in a given country as well as the levels of de-commodification (Esping-Andersen, 1990:2-3). De-commodification refers to the extent to which citizens' livelihoods are guaranteed as entitlements and their survival is not dependent on the market, and the more de-commodified the welfare arrangements the more positive the outcomes (ibid). However, unlike primordial societies where the household guaranteed livelihoods, in cash-based industrial and post-industrial societies the state, market and the household are essential for securing people's welfare (ibid), but the degree to which each factor contributes to welfare varies from state to state. Accordingly, Esping-Andersen (1990, 1999) theorised that welfare state regimes in developed western nations can be classified as either liberal, social democratic, or conservative.

Liberal welfare regimes are residual, meaning that access to social welfare relies on means-testing to determine the deserving poor. Benefits are minimal since social rights are limited, and it encourages the market as an alternative provider of social welfare (ibid). This typology is typical in Anglo-Saxon countries like the USA, Australia, and Canada (ibid). Social democratic regimes are universalistic and predominate in Scandinavian countries (Denmark, Sweden, Finland and Norway). Claims to welfare guarantees are anchored on citizen entitlements rather than individual needs. The state is committed to providing high quality state-funded social services and benefits and it aims for an egalitarian society (Esping-Andersen, 1999). The state's heavy involvement in social servicing crowds out the private sector (ibid). On their part, conservative welfare regimes are family-centred. Because the

typology was heavily influenced by religious teachings (Catholicism), it assumes and privileges the typical traditional family led by a male breadwinner and non-working housewife (ibid). The family is expected to play a central role in guaranteeing the welfare and security of its members, hence incomes are family-based, with the state directing its support to the main earner (Wood and Gough, 2004). However, the state applies the subsidiarity principle, intervening only “when the family's capacity to service its members is exhausted” (Esping-Andersen, 1999:27). At the same time, non-normative family units such as those of single mothers must justify their claims to state support (Wood and Gough, 2004).

Despite Esping-Andersen’s influence on global social policy thinking, the work remains incomplete because it does not account for welfare arrangements in developing countries. All the same, it is still relevant for informing alternative theoretical analysis in starkly different social welfare contexts in the global south especially because of the shared history as far as moralising poor laws of the Victorian era are concerned. Colonial encounters transposed the same technologies onto colonies and these were used to manage the poor and indigenous communities. Combined with racial discrimination, unequal power relations and state power, colonialism played a far greater role in shaping welfare in the global south, and thereby inscribed in them the kind of social contract that developed between citizens and state both at the time and in the post-colonial era (Wood and Gough, 2006; Mkandawire 2016; Seekings, 2019; Schmitt and Martens, 2019). Consequently, the cumulative effects of colonisation, the imposition of neo-liberal policies which limited state-spending on social welfare, the influence of international laws and development practices further imperilled social welfare in the global south (see Makandawire, 2016, Künzler, 2019; Schmitt and Martens, 2019). The result is that Asia, Latin America and Africa do not conform to Esping-Andersen’s welfare regimes. His three worlds of the welfare state are based on three assumptions about formal institutional frameworks and their role in securing social welfare (Wood and Gough, 2004, 2006). Esping-Andersen assumed state legitimacy, the state’s ability to regulate markets and protect vulnerable groups, and also that the state has an undeniable role in providing important public goods that guarantee a basic standard of living for all citizens (ibid). In reality, formal institutional frameworks in most developing countries tend to be “precarious and fragile, if not altogether absent” (Wood and Gough, 2006:6). Weak institutional and regulatory capacity in addition to contested states and influence from powerful political and economic forces (internal and external) means that

welfare state regimes do not exist in the Global South, and that citizens are exposed to various livelihoods risks and vulnerabilities (Wood and Gough, 2006).

The resulting social welfare arrangements are either informal security, or insecurity welfare regimes (Wood and Gough, 2006). Informal security regimes rely on community and social networks that work through informal mechanisms to guarantee the welfare of most citizens. Welfare-dependent relationships are hierarchical, asymmetrical, and offer limited state social guarantees (Gough and Wood, 2004:2). Paradoxically, state social spending on education and housing for social development may be high, but the outcomes remain depressed due to high levels of poverty and other related social challenges such as political instability, high HIV/AIDs prevalence and unemployment (Wood and Gough, 2006). According to Wood and Gough (2006), Kenya and South Africa are examples of informal security regimes. On the other hand, insecurity regimes are found in weak, predatory, or failed states with extremely low or virtually no public investment commitments, and peoples' welfare is dependent on clientilistic relationships (Gough and Wood, 2004). The provisioning of social services falls heavily on NGOs and external funding as exemplified by Somalia and Bangladesh (ibid).

Wood and Gough's (2006) rendering of southern welfare regimes is far more relevant than Esping-Andersen's but it is nonetheless problematic to the extent that it ignores fundamentals of history and culture which are critical to understanding the evolution and context of social welfare arrangements. As Mkandawire notes, the former's typologies have "ambiguities, inconsistencies and lack of a historical narrative" (Mkandawire (2016:10). Historicization and the use of a political economy lens brings a more contextualised reality. Public institutions, taxation systems, the organisation of labour markets, in addition to the problematic ways in which colonised societies were incorporated into the colonisers' economies had far-reaching effects (Mkandawire, 2016). At the same time, former colonial masters and their agents continue to leverage their political, economic and political power on developing countries (Mkandawire 2016:3). Taking these factors into account, Mkandawire posits that three welfare regimes emerged based on the dominant economic activities. The main activities included the cash crop economies of West Africa and parts of East African (Uganda and Tanzania only); the labour reserve economies in Kenya mainly and Southern Africa; and the brutally extractive concession companies' economies dominated the Congo Basin.

The labor reserve economies are relevant for this study. These economies were extremely exploitative of wage labour and controlled it using punitive migration rules that ensured its steady supply (Mkandawire 2016). For instance, high taxation and violent expropriation of the productive land from indigenous communities forced thousands of Africans to participate in the labour market. Inevitably, the strictly controlled labour migration patterns and state violence contributed to the dismantling of African families in apartheid South Africa (Budlender and Lund, 2011) and central Kenya where the *Mau Mau* resistance and colonial administration counter-insurgency responses were extremely brutal (Elkins, 2005). At the same time, colonial states restricted social protection to a white minority class or marginally covered certain cadres of employed black populations if any (Mkandawire, 2016; Seekings, 2019). This racialized welfare set-up was discriminatory and erroneously assumed that the “inexhaustible” traditional African care and support systems would take care of the majority of its members, but in actuality, it generated gross social inequalities (Seekings, 2014, 2019; Chinyoka, 2017; Schmitt and Martens, 2019). Though social policies in both Kenya and South Africa have since expanded to encompass more social groups, inequalities remain as illustrated in both Mkandawire and Wood and Gough’s welfare regimes classifications. Such characteristics in social welfare equally imbue child welfare systems with their distinct features as discussed in the next section.

3.4.2 *Child welfare systems and their corresponding child protection responses*

Child welfare is embedded in the complex political economy of social welfare, hence how it functions depends on a country’s culture, political and professional ideologies, as well as the established child welfare structures and associated legislative frameworks (Hetherington, 2002). Before the industrial revolution and the world wars which created dreadful living conditions for children and families (Cheney, 2007; Boyden, 1997), western states played a limited role in their citizens’ social welfare and even less so in the lives of children (Wyness, 2014). Children’s welfare was left to families, with minimal state interference into family privacy and parental responsibilities. It was tacitly assumed that families had the means to meet their social reproductive roles (ibid). Poor families who failed in this duty were blamed for laziness, though in such eventualities the church filled the gap as its Christian duty (Chhachhi and Truong, 2009; Winter and Cree 2016; Ferguson 2015:16). However, the widespread destitution of the industrial-era eventually justified the state’s involvement as “*parens patriae*” or the nation’s chief parent (Archard 1993:20). Henceforth social policy became an essential tool through which states could determine the

livelihoods of their citizens- and more so vulnerable groups like children, the elderly and people with disabilities. Assuming responsibility for children's welfare meant that states also accepted greater involvement in the care of 'at risk' categories of children particularly as awareness on child maltreatment and its reporting increased. States were forced to formalise their child welfare arrangements and institute laws to protect children from harm (Wyness, 2014; Archard, 1993). Ratification of the UNCRC and the African Charter on the Rights and Welfare of the Child (ACRWC) represent key state efforts to promote children's welfare which gathered momentum in the 1970s onwards.

Equally recent are efforts to theorise state responses to child maltreatment concerns and child welfare in general. The most dominant and recognised contributions in this regard are by Gilbert (1997) and Hetherington (2002). Both build on Esping-Andersen's three welfare states. Like Esping-Andersen, both their classifications of child abuse reporting and child welfare systems focus on northern countries. Gilbert (1997) analysed child abuse reporting practices in nine countries (Sweden, Denmark, Finland, Germany, Netherlands, Belgium, Canada, USA and the United Kingdom) and theorised that child welfare systems in western countries were either family service or child protection oriented. Gilbert argued that social democratic (Scandinavian countries) and conservative (continental Europe) welfare states value the family and strongly believe that society should support families to fulfil their childcare responsibilities because families are the bedrock for social development. These countries have family-centred and preventive child welfare systems with a strong bias towards early interventions (Ibid). Gilbert (1997) observed that liberal states (English-speaking) seemed to favour child protection approaches which blame parents for their failures, limit social expenditure, are legalistic and tend to delay interventions (Gilbert, 1997; Hetherington, 2002).

On the other hand, Hetherington (2002) compared the practical functionings of child welfare systems in England with those of four other English-speaking countries (Scotland, Ireland, Northern Ireland and Australia (Victoria) and continental Europe (French, Belgium, Italy, Luxembourg and Germany). The study identified dualistic and holistic child welfare systems. Dualistic child welfare systems were a feature of liberal welfare states which make a clear distinction between family support services and child protection services (ibid). The emphasis is on individual autonomy, rights and responsibilities and hence the state maintains a minimalist approach to family support under a limited state interference principle, but in a contradictory way the state is also expected to intervene in instances of child maltreatment

(Hetherington, 2002). By contrast, holistic child welfare systems are characteristic of Esping-Andersen's social democratic (Nordic) and conservative/continental Europe welfare states. Holistic child welfare systems consider "prevention, support and the protective responses to child abuse as parts of a whole" (Hetherington, 2002:28). Hetherington's classification is similar to Gilbert's (1997) as the two approaches align squarely with the family services and child protection orientations and both used the three welfare regimes as the starting point.

In a follow-up study 15 years later Gilbert and colleagues reviewed child protection practices in the original nine countries and added Norway. This latter study noted a myriad of changes that had occurred since the 1990s onwards which narrowed differences between his earlier orientations, though some countries still maintained dominant features of each (Gilbert, Parton and Skivenes, 2011). Some of the changes that profoundly influenced child protection practices were expansion of child welfare as a consequence of the growing importance of children and their rights; a broadening of the definition of maltreatment along with increased family surveillance systems; a more precarious and risky world; the rapid spread of neo-liberal ideas; the growing influence of globalisation, including increased internationalisation of governance which robs states of the ability to control their economies; global financial crises and increasing and narrow media attention on the most severe child abuse incidences and public pressure for decisive state responses including reforms (Gilbert, Parton and Skivenes, 2011). Furthermore, traditional child welfare practices such as institutionalisation and out-of-home child placements had become widely unpopular in western societies, leading to increased demand for kinship care and fostering. Along with this, there was a greater emphasis on formalised procedures and evidence-based initiatives that relied on scientific knowledge and thus popularised the use of standardised assessment tools and statutory processes (ibid). Finally, growing concerns about the over-representation of ethnic and racial minority children in the western child welfare system meant that the systems had flaws that needed to be addressed (ibid). These changes led Gilbert, Parton and Skivenes (2011) to revise their child welfare classification by adding a child focus orientation as the third category.

The argument was that some countries like the USA had gradually embraced elements of family support services while some Nordic countries had incorporated elements of child protection in their child welfare systems owing to the UNCRC (ibid). A child-focused

orientation has a resolute focus on the child as an individual with an independent relation to the state and hence is an approach potentially opposed to the family" (Gilbert, Parton and Skivenes, 2011: 252). It is also considered holistic because of its focus on children's "overall development and wellbeing" rather than a preoccupation with maltreatment (p. 252). States take greater responsibility compared to the family (defamiliarization) and are committed to early and long-term interventions that guarantee children's welfare and a safe environment for their continued development into adulthood (ibid). Hence child welfare systems with a child-focus orientation have policies that promote social investments that bolster human capital development and the country's global competitiveness through increased spending in areas like education, health care, early childhood care, survival and development programs, and the state expects a return on its investments in children (ibid). Most important, in all matters the child's perspective and needs are paramount, with emphasis on individualism (ibid).

With this overarching focus on children the researchers concluded that this orientation "puts children's rights above parents' rights, and emphasises parents' obligations as caregivers" (Gilbert, Parton and Skivenes, 2011: 255). Keddell (2018) observing New Zealand's child protection system in the era of neoliberalism and child rights reached similar conclusions about the child-rights approach to child protection. The blurring of lines between orientations makes it difficult to fit countries into one distinct category due to changes occurring from time to time. Consequently, welfare possibilities can be understood as occurring along a continuum- "from a more laissez-faire neo-liberal approach that emphasises the watchdog functions of government, to the more social democratic approach that advances policies associated with de-familiarization" (Gilbert, Parton and Skivenes, 2011:255). A country might have various elements of each type as it struggles to balance between rights and responsibilities and the relationship between the child, family and state (p.256). The table below summarises the three salient child welfare systems in the global north according to Gilbert et al. (2011) and the child protection practices embedded in each.

Table 2: Salient global child welfare systems and their orientations to child maltreatment

Parameter	Child-focused	Family-focused	Child protection-focused
Driver for intervention	Individual child's needs in a present and future perspective; society's need for healthy and contributory citizens	The family unit needs assistance	Parents being neglectful and abusive of their children (maltreatment)
Role of the state	Paternalistic/de-familiarization: state assumes parent role, but seeks to re-familiarize the child by foster home/kinship care/ adoption	Parental support: the state seeks to strengthen family relations	Sanctioning: the state functions as a "watchdog" to ensure a child's safety
Problem Frame	Child's development and unequal outcomes for children	Social/Psychological (system, poverty, racism etc)	Individual/moralistic
Mode of intervention	Early intervention and regulatory/needs assessment	Therapeutic/needs assessment	Legislative/investigative/punitive
Aim of intervention	Promote wellbeing via social investments and/or equal opportunity	Prevention/social bonding	Protection/harm prevention
State-parent relationship	Substitutive/partnership	Partnership	Adversarial
Balance of rights	Children's rights/parents' responsibilities	Parents' rights to family life mediated and supported by professional social workers	Children's rights /parents' responsibilities enforced through legal means

Source: Gilbert, Parton and Skivenes, (2011:2) *Child protection systems: International trends and orientations*

From the available literature so far, there is no evidence of similar attempts to theorise child welfare systems in developing countries and the various child maltreatment responses. Nevertheless, analytical efforts that take into account a combination of salient features of the social welfare regimes established by Mkandawire (2016), Wood and Gough (2006), and child welfare orientations by Gilbert et al. (2011) can enable a generic characterization

of the dominant patterns of child protection practices in Africa. A starting point is to appreciate how colonialism configured southern childhood epistemologies as deficient or 'less-than' (Imoh, 2016) and in countries like Kenya, this attitude established a pattern of violent interventions against juvenile delinquents (see Elkins 2005; (Ocobock, 2006; Cooper, 2012). In the post-colonial era, structural adjustment programs (SAPS) that were introduced by the World Bank and IMF starting in the late 1980s onwards forced many developing countries to limit their social spending and expand the role of markets in social provisioning, ultimately entrenching neoliberal ideologies in the national social policies (Adésínà, 2014). Typically, social welfare in neoliberal states is minimalist (Mkandawire, 2016). Furthermore, in the context of limited social investments social assistance tends to assume a charity outlook and is beholden to clientelistic tendencies (Wood and Gough, 2006). It therefore follows that child welfare services would also be restricted and when combined with the hegemony of child rights discourses which permeated the global south in the 1990 through international development practice, a predominantly child protectionist model is inevitable. States with neoliberal policies have limited preventive and early intervention options while simultaneously implementing extremely punitive domestic child protection laws to deal with caregivers who neglect their children's wellbeing (Keddell, 2018; Bywaters, 2018). Moreover, where family support is available eligibility is determined based on assessed needs (ibid).

Where child welfare systems are not formalised regardless of their orientation, social workers would generally have limited tools to work with and an even far less possibility of realising expected global child protection standards-let alone attaining broader and long-term goals of securing child-wellbeing. Imoh (2009:417-418) captures these challenges well by noting that though Ghana was the first African country to ratify the UNCRC, her capacity to implement the principles is hampered by a general lack of political will, and limited and inequitable allocation of resources towards child welfare. The country also has a limited institutional capacity to enforce mandates and legal provisions, and finally, the state faces resistance against children's rights from custodians of traditional norms and practices (ibid). Like Ghana, many developing countries have adopted the UNCRC and global notions of child rights and child protection, and face similar challenges in terms of informal and poorly resourced social and child welfare systems that would be necessary for sustainable child

protection actions¹². Welfare deficits are met through informal kinship systems (Fergusson 2015; Abebe, 2008; Oheneba-sakyi and Takyi, 2006) as well as by external actors who include NGOs and international donors who have become important social welfare providers. Influential international actors like UNICEF, International Labour Organisation (ILO), Save the Children, and Plan International wield considerable power through which significant influence and promotion of international development practice and social welfare ideologies occur (Künzler, 2019; Ouma and Adésínà, 2019; Seekings, 2019). These organisations are partly responsible for the diffusion and transfer of global discourses and other development practices in the global south.

Some of the important social policy changes in developing countries have been driven by donors and international development organisations, but their level of influence depends partly on how geopolitically strategic the country is, as well as the size of its economy (Künzler, 2019) - the larger it is the better chance a country has to negotiate conditions of their incorporation. Nonetheless, direct north-to-south policy mapping potentially yields mixed results due to the varied policy, cultural, political and historical contexts. An immediate outcome is the hegemonic nature of child rights discourse in the south and the introduction of an individualistic approach to children's protection (Cheney, 2007; Moyo, 2012). This occurred amid widespread poverty and limited social welfare, hence limited contextual analyses of family circumstances (especially material deficits) or narrowly interpreted rights might exacerbate abusive situations such as child neglect.

The pursuit of the most extreme cases of child maltreatment is one likely manifestation of such narrow interpretations whose relevance several researchers have questioned (see Pells, 2012; Myers and Bourdillon, 2012; Cornwall and Nyamu-Musembi, 2004; Jonsson, 2003). Where the vast majority of children are vulnerable to the same structural risks facing the wider community—for example, “some forms of social exclusion or poverty” (Myers and Bourdillon, 2012: 441), then concentrating investments in small proportions of extreme maltreatment cases does not effectively deal with the underlying problem. This challenge requires re-framing child protection policies and interventions to address wider concerns of childhood poverty, violence and wellbeing failures. It calls for more effective social policies that integrate the broader agenda of poverty alleviation and human development to children's welfare rather than treating abuse in isolation. So far there is sufficient evidence

¹² See Cooper, 2012 for examples on Kenya

to suggest that more widely conceived social protection efforts can address a wide range of child vulnerabilities including harms against children (see Roelen, Devereux, *et al.*, 2017; Patel *et al.*, 2019; Devereux, Roelen and Ulrichs, 2015; Pells 2012; Meyers and Bourdillon 2012). In a study that examined social grants in Ghana, Rwanda and South Africa, Roelen et al. (2016) demonstrated that social grants as a subset of social protection policies had the potential to address certain forms of child maltreatment. They however recommended further research in a variety of settings that would drive further conceptual, programmatic and policy-research work in this important field.

3.5 Childhood vulnerabilities, social protection and wellbeing

As a crucial policy tool, social protection encompasses “all public and private initiatives that provide income or consumption transfers to the poor to protect the vulnerable against livelihood risks and enhance the social status and rights of marginalised groups with the overall aim of reducing the economic and social vulnerability” (Ellis, Devereux and White, 2009:8). Poverty and vulnerability are addressed either through income assistance programs such as cash transfers, social insurance schemes (such as health and unemployment benefits), or the regulation of labour markets (Barrientos, 2010). The last two decades have witnessed exponential growth in the popularity of income assistance as the main social protection strategy in developing countries (Barrientos, 2010; Adesina 2011). Many governments have implemented conditional and unconditional cash transfer schemes in response to growing poverty and unprecedented development failures in Africa and Latin America) as well as the financial crisis of 1997 in Asia (Barrientos, 2010). But at the core of these social assistance schemes is a troubling ontological foundation of poverty and vulnerability as personal failures of the recipients; the result of “personal *characteristics* and circumstances of the individuals, and households” (Devereux and McGregor, 2014:297).

By shifting the blame to the poor, states absolve themselves and feel less obligated to take decisive action. This view results in largely residual rather than universal social assistance and social insurance schemes (Mkandawire, 2005; Adesina, 2011). Residual schemes cover a small proportion of the ultra-poor citizens, with benefits “allocated based on some authoritatively imposed targeting strategy” (Devereux and McGregor, 2014:303). Such targeting disrupts community cohesion among populations that are equally needy (Mkandawire, 2012), ignores gender concerns, is paternalistic and, could lead to risky behaviour among recipients of conditional assistance wanting to maintain benefits (Sabates-

Wheeler and Roelen 2011; Roelen 2014; McLeigh 2014). In refugee camps and community nutrition programs incidences of parents underfeeding or overfeeding their children to meet eligible body weight criteria have been recorded (Roele 2014). In Romania, school enrolment is directly tied to teachers' salaries and incidences of school dropout are never reported for fear of losing funds (Ibid: 374). In India, public works programs reduced schooling opportunities for girls by increasing domestic and childcare labour demands that are created due to parents' participation in such programs (Jones et al. 2008).

Most grants target small proportions of individual beneficiaries, the disbursements are deliberately kept low to dissuade perverse incentives, and the cut-offs are rarely ever set above the poverty line (Adesina, 2011; Ouma and Adésínà, 2019). Based on a national survey data set covering 3000 child support grant recipients in South Africa, Patel *et al.*, (2019:13) found that while the grant improved food security, perceptions of child health, nutrition and school enrolment, and significantly raised household incomes, it remained "insufficient to lift them above the upper bounds of the poverty line". Because of the high poverty and unemployment rates in South Africa, the paltry grant amounts are still an invaluable source of household income among recipients with limited alternative income sources, but they are inadequate to transform their life circumstances. In 2019, unemployment stood at 34.9% (OECD, 2020). Large proportions of households are entirely dependent on at least one social grant for survival (Conradie, 2017). Overall more than 50% of households benefit from grants (OECD, 2020), and when regional variances are taken into account, the coverage rate rises to 60% of the households (Ferguson, 2015). Under these circumstances, though grants target individual family members they have family-wide positive effects, with the greatest effect being experienced where the beneficiary is a pensioner in grandmother-headed households (Conradie, 2017). This further affirms that the economic status of a caregiver has direct consequences for their children's wellbeing.

The success of social grants to address a wide array of poverty and child vulnerabilities that manifest as inadequate nutrition, food insecurity, limited access to education, school retention, child labour, ill health, reproductive health services, and meeting the basic needs of OVCs as examples has been demonstrated (see Chakrabarti *et al.*, 2020; Patel, Hochfeld and Chiba, 2019; Handa *et al.*, 2015, 2018; Roelen, Devereux, *et al.*, 2017; Roelen, Delap, *et al.*, 2017; Molyneux et al., 2016; McLeigh, 2014; Roelen, 2014; Jones and Marquez 2014; Zavier and Santhya 2013; Ranganathan and Largarde, 2012). However, the scale and impact of success are mostly short, or medium-term (Adésínà, 2014; Devereux and McGregor,

2014; Roelen, Devereux, *et al.*, 2017), which leaves structural factors unaffected (Roelen, Devereux, *et al.*, 2017; Ouma and Adésínà, 2019). Higher levels of success are curtailed by limited integration of most schemes into the broader national social policies and programs since most schemes are designed as small-scale, pilot, or low-coverage donor-funded projects (Devereux and Kapingidza, 2019; Roelen, Devereux, *et al.*, 2017). An over-reliance on donors also undermines the independence and capacity of most states to determine their welfare policies. Externally driven welfare policies lack a mutually driven social contract between citizens and their government and challenge their legitimacy (Adésínà, 2014; Devereux and McGregor, 2014; Devereux and Kapingidza, 2019). Nevertheless, both Mkandawire (2016) and Adésínà (2011 and 2014) contend that despite limited resources, developing countries can still sustainably fund their social protection programs by mobilising domestic resources and more efficiently allocating the already available ones.

Unfortunately, efforts to harness the success of grants to address child protection concerns remain generally low despite child maltreatment being closely linked to material deprivation (see Doidge *et al.*, 2017; Patel *et al.*, 2017). Equally, the solutions are truncated and do not take into full consideration the impact of violence on children from low-income families, hence they fail to address the multi-dimensionality of the issues. Roelen (2014) argues that the de-coupling is partly because child protection (with the exception of child labour) was not originally embedded in the design and core objectives of most cash transfer programs. As a result, the contribution of social grants to mitigating VAC and child maltreatment specifically is still not well understood and evidence is fragmented (McLeigh, 2014; Roelen, 2014; Barrientos *et al.* 2014; Patel *et al.*, 2015; Roelen *et al.*, 2017; Doidge *et al.*, 2017; Peterman *et al.* 2017; Patel *et al.*, 2019). Luckily, some attention is now being directed to understanding pathways through which cash transfers might improve child protection outcomes and indeed, child wellbeing. Useful examples that are reviewed below include Barrientos *et al.*, (2014), Peterman *et al.* (2017), Roelen *et al.*, (2017), and Patel *et al.*, (2019). Barrientos *et al.*, (2014) who conducted a meta-analysis of impact evaluations of 78 cash transfer programs in 28 countries found three outcome effects of transfers on child protection. Child protection outcomes were broadly defined as efforts that prevented or reduced children's exposure to harm, including "violence, exploitation, abuse and neglect; family separation; and improved birth registration" (Barrientos *et al.*, 2014: 105).

Firstly, grants were effective in addressing child abuse where the objectives were explicitly focused on protective goals such as reducing child labour, child marriages and HIV infections, promoting birth registration and preventing family separation. Examples included schemes that reduced incidences of child marriage in Malawi. Grants prevented teenage pregnancies, increased school retention rates among girls, delayed sexual debut and associated risky behaviours among teenage girls from poor backgrounds in Uganda. Grants also improved family reunifications, reduced the risk of loss of parental care as well as incidences of domestic and community-level violence due to protracted civil wars in Peru and Columbia. In the Democratic Republic of Congo when grants were combined with caregivers' training on child protection and the signing of protection codes of conduct, grants increased caregivers' accountability and reduced the risk of exposure to violence and exploitation of children (Barrientos *et al.*, 2014). Secondly, grants had an indirect effect on child protection where objectives of the grant were mainly poverty-mediation. In such cases the grants reduced income poverty and vulnerability, resulting in reduced parental stress that is associated with domestic violence, physical and emotional abuse towards children (Barrientos *et al.*, 2014). Grants also reduced the demand for children's labour which enabled many to enrol and stay in school longer. Thirdly, the analysis noted an implementation effect on child protection depending on how grants were administered. Barrientos *et al.*, (2014) found that establishing cash transfers schemes bolstered demand and access to other social services, leading to increased efficiency of other government agencies especially child welfare and child protection. It also resulted in enhanced inter-ministerial and departmental coordination.

In a comparative study of schemes in South Africa, Ghana and Rwanda Roelen *et al.* (2017) found that social grants (cash transfers and public works programs) improved child protection by preventing parental loss, promoting family-based care of children through kinship, foster or adoption and enhanced the overall quality of child care. Similarly, Patel *et al.* (2015) corroborated findings by Barrientos *et al.*, (2014) by concluding that child support grants in a poor neighbourhood in South Africa indirectly improved parenting practices by positively influencing women's time-use, reducing parental stress associated with loss of income and time spent away from home. This ultimately allowed mothers to devote more time to childcare and forge stronger parent-child bonds. The grant also increased caregivers' confidence and capacity to make better financial and child care decisions (Patel *et al.*, 2015).

Peterman *et al.*'s (2017) extensive review of 14 impact evaluations focused on mechanisms through which social safety net schemes (SSNs) in low- and middle-income countries impacted childhood violence. Through a framework for theorising the effects of SSNS on childhood violence, they identified three levels at which various mechanisms operated. At the household level SSNs increased income security and reduction of poverty-related stresses among caregivers. At an interpersonal level they improved parental behaviour, caregiving practices and psychosocial wellbeing. At the individual child's level SSNs facilitated reduction of risky behaviours, especially among adolescents, and offered protective education. They however emphasised that SSNs should not be designed as stand-alone tools for targeting VAC specifically, but rather, efforts should be directed at the integration of SSNs into social welfare and child protection systems in order to have far-reaching effects.

Beyond developing country contexts, a number of UK-based studies (Bywaters *et al.*, 2016, 2017) also explored the more explicit links between cash transfers and certain forms of child maltreatment (mainly neglect) which are associated with parental material hardships, and which might contribute to, or exacerbate maltreatment. Similarly, one Australian cohort study estimated that 27% of all child maltreatment was attributable to economic hardships, leading the researchers to conclude that “these findings suggest that strategies that reduce economic disadvantage are likely to hold significant potential to reduce the prevalence of child maltreatment” (Doidge *et al.*, 2017).

Taken together, available evidence suggests great potential for complementarity between anti-poverty strategies and child protection interventions in response to violence. However, recognising the shortcomings of social grants, as well as the multidimensional nature of poverty and VAC calls for more radical strategies that simultaneously and sustainably address multiple child vulnerabilities and impact several child wellbeing dimensions. In other words, strategies must be transformative.

3.5.1 *Transformative social protection versus transformative social policies*

Two divergent schools of thought have emerged from the spirited debates on how best to tackle poverty and vulnerabilities- one on transformative social protection, and the other on transformative social policies. The first argues for reforms that would address shortcomings of the existing social protection schemes (mainly cash transfers) so that they can better serve the poor and vulnerable social groups. The second argues that attempts by the former do not

go far enough. They argue instead for fundamental changes at the global level as well as at the level of specific national governance and democratic structures which create unjust and exploitative social, economic and political conditions.

Transformative social protection (TSP)

This approach argues variously for social protection that is transformative in the sense that it addresses “power imbalances in society that encourage, create and sustain vulnerabilities” (Devereux and Sabates-Wheeler, 2004:9). TSP recognizes that human wellbeing failures are linked to underlying social, political and economic factors, hence, “policy interventions to address poverty must logically also operate at the socio-political level and cannot be confined solely to the economic level” (Devereux and McGregor, 2014:306). Hence, TSP addresses poverty and vulnerability sustainably and multi-dimensionally. They build capacity to deal with shocks caused by entitlement failures, facilitating opportunities for a full recovery from shocks; and developing coping strategies to avoid devastations caused by future failures (Sabates-Wheeler and Roelen, 2011; Roelen and Sabates-Wheeler, 2012). TSP programs provide resources that offer relief to the already poor, protect the vulnerable individuals and groups from sliding into poverty, promote people's productivity to become self-reliant and address the root causes of poverty and vulnerability (Devereux and Sabates-Wheeler, 2004). A TPS agenda demands a shift in mindsets and behaviors towards just treatment of the poor and vulnerable groups (Devereux, McGregor and Sabates-Wheeler, 2011).

But instead of pushing for an overhaul of the current social protection policy arrangements hinged on cash transfers-which they acknowledge are inadequate- this school of thought takes a cautionary approach. The process involves upgrades to existing schemes by re-politicising the social protection agenda to make it rights-based and expanding the scope and coverage. Importantly, TPS proponents urge that gains made so far must be protected whilst keeping a clear focus on “the primary objective—guaranteeing subsistence when private sources of subsistence are inadequate –while striving to upgrade pilot projects and institutionalise programmes so that they become permanent and irreversible entitlements” (Devereux, McGregor and Sabates-Wheeler, 2011:8). The result is a proliferation of programs variously labelled as ““Social protection plus”” (Devereux, McGregor and Sabates-Wheeler, 2011:8) which are now promoted and being tried. The remit of TPS efforts thus

includes child-sensitive and child-focused social protection, cash-plus programs, integrated poverty reduction and graduation programs (Roelen, 2015; Roelen et al., 2017).

Advocates of child-sensitive social protection (CSSP) push for reconfiguration of the current social protection policies to have far-reaching and positive impacts on children's lives by being rooted in children's rights (Sabates-Wheeler et al., 2009; Roelen and Sabates-Wheeler, 2012; UNICEF, 2019). This argument recognises the effects of institutionalised disadvantages on children, including the asymmetrical power relations between adults and children, children's dependency on adults for care and support, as well as the far greater impact of social, economic, political and cultural processes on children because of their situatedness (Roelen and Sabates-Wheeler 2012). It also addresses the multi-faceted, and structural nature of children's vulnerabilities, which are acknowledged as likely to endure throughout the lifetime, and across generations (ibid). Policy-makers must therefore attend to the entire life course, the gendered risks that cause discrimination and exclusion of girls, and ensure early interventions for the most vulnerable groups to disrupt the intergenerational transfer of poverty (Roelen and Sabates-Wheeler, 2012; UNICEF, 2019; Khurshid, Stewart and Delamónica, 2020). This 'long view' should also include children's caregivers because their wellbeing has a direct bearing on the wellbeing of children under their care (Sabates-Wheeler et al., 2009; Roelen and Sabates-Wheeler, 2012).

Cash-plus programs on the other hand are essentially "social protection interventions that provide regular transfers in combination with additional components or linkages that seek to augment income effects. The schemes do so either by inducing further behavioural changes or addressing supply-side constraints" (Roelen et al., 2017:6). Similarly, Patel *et al.* (2019:307) noted that "on its own, a cash transfer is insufficient to promote holistic child wellbeing". The bouquet of additional interventions that can be combined with income transfers for greater impact includes mental health services, a variety of family-strengthening programs, medical care and health insurance, nutrition and food security support, micro-credit facilities, and childcare education (Molyneux et al., 2016; Roelen, Devereux *et al.*, 2017; Peterman *et al.*, 2017; Patel *et al.*, 2017 and 2019; Chakrabarti *et al.*, 2020; World Health Organisation, 2020). The participation of grant recipients in awareness and non-economic empowerment initiatives is equally important for success (Barrientos et al., 2014).

Although still limited, emerging evidence from trials and quasi-experimental studies show

trends of success with cash-plus schemes in extending and sustaining the effects of social grants. Patel et al. (2019) found that the South African child support grant combined with supportive family strengthening components produced positive child wellbeing outcomes, particularly where such interventions were culturally appropriate. Similarly, based on case studies of three social transfer programs in Ghana, Chile and Ethiopia Roelen et al. (2017) found positive and sustained impacts of cash plus additional components whether these were integrated into the schemes such as psychosocial support, or whether the schemes provided direct access or linked recipients to external support services like case management and referrals to social services, or health insurance. Success was especially attributed to the significant reduction of “non-financial and structural barriers” (p.33) to accessing important services among the ultra-poor who are traditionally excluded.

Likewise, Little *et al.* (2021) conducted a meta-analysis of several cash-plus programs addressing child health and wellbeing during the first 1000 days of their lives. The assessed grants covered five interrelated areas of poverty alleviation which were linked to nutrition and food security, primary healthcare, child protection, and psychosocial stimulation. There were statistically significant effects where cash combined with nutrition supplements and behaviour change communication (BCC) to mitigate acute and long-term malnutrition and stunting; cash plus primary health care for reducing child mortality rates; and cash with BCC for poverty alleviation in the context of chronic poverty. Grants also showed potential to affect child protection outcomes including the reduction of violent discipline, even though this particular area had mixed results. For instance, cash-plus was found to be not more effective than cash alone in reducing violent discipline, though it increased fathers’ involvement with their children and improved decision making on child care practices. Neither did cash combined with psychosocial stimulation programs yield better results than cash alone in impacting cognitive development (Little et al., 2021).

Though the above findings are preliminary and are based on a limited number of studies carried out recently, they nevertheless indicate that overall, cash-plus has positive and enduring effects on child wellbeing. However, the combination of add-on services, implementation processes, and the most important success factors need further research to reach decisive conclusions. Ultimately, the extent to which social protection policies mitigate structural conditions, to that extent they possess a transformative capacity and respond to social justice concerns. Multi-dimensional wellbeing outcomes are a function of interactions between individuals, their families, community and the state, and these

determine the quality of life and levels of life satisfaction (Devereux and McGregor, 2014).

Transformative Social policies

The second school of thought argues that sustainable anti-poverty strategies should go beyond cash transfer schemes which are just one instrument among an extensive repertoire of tools that social policies offer (UNRISD, 2008, 2016; Adesina, 2011, 2014, 2015; Mkandawire, 2016; Hujo, 2021). Consequently, despite its popularity since the 1990s, the social protection paradigm is viewed suspiciously as residual, having considerably whittled down the overall power of social policy to do more than mitigate only the most extreme poverty (Adesina 2014; Hujo, 2021). This retreat or “diminution of social policy to its ‘social protection’ function” as described by Adesina (2015:111) is associated with limited attempts to mop up increasing poverty and inequality which resulted from the imposition of nefarious neoliberal policies on developing countries by the more economically and politically powerful global partners and financial institutions. In order to realise meaningful social and economic progress, Sub-Saharan African countries are challenged to adopt holistic transformative social policies instead of the “fragmented forms of social protection” for poverty reduction (UNRISD, 2016:60). The full remit of social policy has four-fold functions: production, reproduction, protection, and redistribution. The four affirm the constitutive nature of social policies as having intrinsic value, a normative framework, and instrumental function (Mkandawire, 2012; Adesina, 2015). Core to the normative framework are the norms of solidarity (between classes and generations) and equality (between men and women) which are possible through redistribution and social provisioning mechanisms (Adesina, 2014:3).

Hence, unlike TPS which attend to a defined target group, transformative social policies mobilise the multi-tasking role of social policies, with a resolute focus on a political, institutional and structural changes that aims to build cohesive, solidaristic, and more egalitarian societies (Adesina, 2014, 2015; Hujo, 2021). Otto et al. (2017:4) emphasise this very point when they argue that if well utilised, social policies can be instrumental to shaping visions of human development that are truly transformative, sustainable, and inspired by a drive for an egalitarian society- one that espouses an ethic of collective care and solidarity. The transformative capacity is predicated on the integral design of the social policies themselves and their functionality, which determine how they deal with "structural, institutional and political dynamics. Ideally, as UNRISD points out, social policies that

contribute to transformative change are those that expand rights, increase equality and reduce power asymmetries, and support sustainable and equitable structural change of the economy" (UNRISD, 2016:10). This point shifts the debate and focus towards developmental welfare states, universalised social welfare arrangements, and sustainable development efforts that intimately couple economic and social policies (Mkandawire, 2012, 2016; Hujo, 2021).

Transformative development has become more urgent under the 2030 sustainable development agenda which now also incorporates climate justice (UNRISD, 2016). The calls for development efforts to be socially just, equitable, and to have a human face by combining sustainable economic, social and environmental goals have never been louder (ibid). There is no denying that the stakes are higher now. As Hujo (2021) argues, the transformative approach must acknowledge that "*social policy is about politics and a social contract that is mutually beneficial, defining obligations and rights, creating the bonds, mutual support and trust that tie societies together, beautifully expressed in the Ubuntu philosophy as I am because we are*" (p.5).

The overarching demands on social policy especially in the global south are rather lofty but not impossible, as the argument is no longer about economic progress before social development, but is rather that development should be realised along both targets in a manner that guarantees a dignified life and wellbeing. Strictly speaking, there is a sense in which discussions on social transformation cannot ignore citizen-state relations, the nature of citizens' interactions with key social institutions that mediate individual, family and societal wellbeing outcomes, as well as the role these social institutions play in enabling or constraining opportunities for citizens. For people from the Global south, decolonial and postcolonial theories have provided important frameworks for reasserting demands for a more equitable world. In a critical piece on postcolonial imaginations of development analysed through the experiences of Nyerere (Tanzania), Nkurumah (Ghana), and Senghor (Senegal), Adesina (2022) demonstrates the considerable success associated with simultaneous pursuit of political, economic and social development goals by African states in the period immediately after independence. He attributes their success to a firm ideological commitment to African socialism and "policy sovereignty" (P.52), to which they must return in order to reverse the negative effects of a decade of neoliberalism, but also to counter the effects of imperialism.

There are renewed struggles for emancipation and self-determination of former colonial subjects who acknowledge that despite the end of colonial rule several decades later many remain captive to the economic, cultural and political control of former colonial masters and western powers. Though there are useful nuances between them, the various postcolonial approaches whether subaltern, decolonial/decolonization, critical race theories, or epistemologies of the south, these jointly provide a useful basis for analyses, thought and action against the effects of the Global South's negative history and encounters with the western world (Liebel, 2017, 2020; Ndlovu-Gatsheni, 2015). Postcolonial approaches oppose the "unrelenting worldwide asymmetrical power structures" (Liebel, 2017:4). They consider the Global South's violent history and encounters with the west to understand how these processes shaped and continue to impact southern societies. They include the anti-colonial liberation movements that resulted in political freedom of former colonies as well as contemporary social movements against capitalist globalisation and intellectual dominance (Adesina, 2022; Liebel, 2017). As an epistemological contribution from the south, postcolonial critique opens interstices for examination of a wide range of issues where postcolonial critique might have relevance for today's world (Liebl, 2017). Some of the relevant areas include epistemic justice, access to natural resources and climate protection, policy autonomy, and childhood studies and child protection practices.

Decolonization/decoloniality as a popular southern ideology challenges coloniality- the enduring negative impacts of Euro-centric project of modernity defined by mercantilism, colonialism, imperialism, and capitalism on the colonised people and their countries (Ndlovu-Gatsheni, 2015; Maldonado-Torres, 2007). These processes created a dominant global power structure that is hierarchical, exploitative, racialized, and aimed at subjugating the non-western 'other' who is considered inferior intellectually, culturally, and economically and as a human being (Ndlovu-Gatsheni, 2015:17). The modernization project was characterised by "enslavement, conquest, colonisation, dispossession, domination, repression and exploitation" (Ndlovu-Gatsheni, 2015:19). At its core was an insidious dehumanisation and delegitimization of the native's personhood (being), lived experiences, thought, language and systems of knowledge (Maldonado-Torres, 2007; wa Thiong'o, 1986). Decoloniality attempts to confront and resist the negative attitudes and practices that continue to impact on people in former colonies. It contends that liberation of former colonies is incomplete without recognition of the deeply transforming power of coloniality.

As noted earlier, southern childhoods were particularly malleable to colonial control and influences (Nyamu and Wamahiu, 2022; Kwaw, 2015; Campbell, 2002; Ocobock, 2006; Elkins, 2005). A combination of western scientific knowledge, colonial violence, and cultural, political and economic dominance sustained deficient epistemologies of southern childhoods and paternalistic tendencies towards the south by the global north. Furthermore, Liebel (2017:2) insists that the introduction of a rights-based approach also maintains a paternalistic attitude, justifying the work of international development agencies, rather than empowering children to make demands on their rights. Their efforts are directed at ‘less desirable childhoods’ in developing countries which manifest as vulnerable orphans, child labourers, child soldiers, street children among others (ibid). This critique informs calls to decolonise childhood studies (Cheney, 2019) and child protection in the global south (Nyamu and Wamahiu, 2022; Liebel, 2017, 2020; de Castro, 2020; Fay, 2019).

From the literature presented here, decolonization is seen as a critical strategy for realising positive social transformation to various aspects of southern lives. However, one might cynically ask ‘what impact has the decolonial discourse had on the shaping of policy in the Global South?’ Or, ‘how critical southern engagements with the discourses produced by international actors such as the UN and the INGOs are reshaping child protection discourses. Indeed, initiatives like INSPIRE and others are informed by critical questioning and insistence that structural impediments to progress in the Global South require contextualised responses. Hence, any interrogation of the current child welfare policies, programs and interventions such as this study seeks to do, can no longer escape questions of how historical legacies manifest in contemporary lives of children and their families bearing in mind that the current welfare arrangements are rooted in colonial histories. This study therefore makes an important contribution towards knowledge on southern childhoods and in this way contributes to “epistemic plurality” (Abebe, Dar, and Lyså, 2022:255). I return to this discussion later in chapter nine where I discuss how violence and neglect are managed in modern day Kenya and South Africa, with a call for a transformative agenda within child protection.

3.6 Chapter Conclusion

The chapter extensively explored the conceptualizations of childhood and established the need to view childhood as a multiple experience influenced by local, global and contextual issues. Importunately recognition of the global connectedness of the world today as

transcending spatial and temporal realms is important to understanding contemporary childhoods particularly in the Global South. Furthermore, a multiple perspective offers an alternative for theorising childhood and children's experiences in the modern world (Balagopalan, 2019a), taking into account historical and structural factors that impact on social life processes such as social reproduction, and key social institutions like the family and the state. Of particular relevance are state policies on social welfare provisioning in a globalised world and how these impact on child wellbeing.

Literature has also shown that child poverty and vulnerability remain particularly high in Sub-Saharan Africa despite myriad interventions, casting doubts on the effectiveness of current interventions. To counter this problem, equally robust social policies are needed to meet emerging challenges that confront people living in conditions of poverty and vulnerability. Transformative social protection is offered as an alternative, with a challenge put forth to move current social assistance strategies in developing countries beyond the limits of the currently dominant economic dimension to wellbeing. A transformative approach should take into account relational wellbeing notable through interactions between parents and children, the family and state institutions or the state and citizen relations. These relations define people's production and reproduction opportunities and therefore, their wellbeing more broadly. It is subjective in the sense that on one hand individuals can exercise their agency in determining how to realise their livelihoods, and on the other, they can self-assess the extent to which they are satisfied with their lives (Devereux and McGregor, 2014). This study aims to fill this gap by applying a wellbeing framework to analyse the extent to which child welfare systems in Kenya and South Africa are potentially transformative.

CHAPTER FOUR: CONCEPTUAL AND THEORETICAL CONSIDERATIONS OF CHILD WELLBEING

4.0 Introduction

The complex nature of poverty in developing countries requires methods that pay attention to multidimensionality, taking into account interactions between economic, political, cultural, and social factors. The study uses the *Wellbeing in Development* (WeD) framework. The selection of WeD was informed by the need to dynamically conceptualise poverty as multi-dimensional, which would allow for an exploration of the effects of deprivation and violence on the lives of families involved with child welfare. A wellbeing approach enables assessment of people's progress towards achieving a desirable standard of living. The conceptual value of wellbeing is that it is both a state of being (outcome) as well as a process that is grounded within a specific historical and cultural context (Camfield, Streuli, and Woodhead, 2010:14). This understanding fitted well with the study's understanding of childhood as socially-constructed and impacted by historical, local, and global processes. The chapter begins with discussion on the historical foundations of wellbeing, its definitions, and relevance to human development as the ultimate process and means of realising wellbeing. It also traces links between wellbeing and children's rights, and especially the overarching principle of the best interest of the child. This is followed by current debates on researching child wellbeing in general as well as the applicability of the WeD to a global south context, and implications of using wellbeing for qualitative research work with children.

4.1 Conceptualising wellbeing

Development of the WeD framework is attributed to scholars at Bath University in the United Kingdom (UK). The framework can be used either as a conceptual or analytical tool for researching wellbeing- but it is not a theory *per se*. Though conceptual frameworks might serve a similar purpose as theories, there are notable differences. Theories as widely accepted philosophical beliefs or explanations about a phenomenon which holds true in a variety of contexts help to "organise and systematise our thinking" (Neuman, 2011:58). They should have clear concepts, underlying assumptions, a defined unit of analysis, and indicate clear relationships between concepts regardless of the nature and complexity of those relationships (Neuman, 2011). Conceptual frameworks on the other hand, are simplified representations of important concepts and ideas that explain a social phenomenon

(Neuman, 2011). Conceptual frameworks may also be described as tools for thought. Often, concepts presented in a framework might be assembled from various theories to explain the phenomenon of interest to a researcher, and hence, conceptual frameworks can be ‘tailor-made’ to serve specific research needs. In a framework, key concepts, assumptions, and linkages between the various concepts should be clearly defined in order to clarify the theoretical underpinnings.

The WeD framework is philosophically anchored on three theoretical perspectives (McGough et al., 2007; McGregor, 2007). The first includes variants of the basic human needs’ theories common within the disciplines of psychology, economics, and social sciences. The most important of these is the Basic Needs Approach popularised by the International Labour Organisation (ILO), and the Theory of Human Need (THN) developed by Doyle and Gough (McGough et al., 2007). Both are concerned with material or objective wellbeing. The second set of theories focus on resources that are required to meet human needs (human and non-human, individual, and collective) on one hand, and on the other, the access and control of those resources and their effect on people’s livelihoods (Ibid). Theories in this category are rooted in sociological and anthropological traditions and include Pierre Bourdieu’s symbolic capital theory, livelihood vulnerabilities by Robert Chambers, and Caroline Moser’s Asset Vulnerability Framework (Gough et al., 2007:19). The third set of foundational theories coalesce around concerns for the quality of life, happiness, and aspirations. These are inspired by psychology, health science, and participatory methods pioneered by Robert Chambers whose interest was to assess people’s perceptions of poverty and human progress (McGregor, 2007; Gough et al., 2007). Equally important to the development of the WeD is the Capability Approach (CA) which seems to be cross-cutting. The CA has been credited with expanding the meaning of wellbeing as the outcome of development. Though the CA is also not a theory *per se* (see Robeyns, 2005) its contribution was foundational to conceptualising wellbeing and imbuing it with its strong philosophical underpinning (Fukuda-Parr, 2003). Consequently, Sen’s work cannot be overlooked in discussions on wellbeing. The vital links between the CA and wellbeing are discussed in detail later in the chapter.

Foundations of wellbeing and contested meanings

The diverse listing of theories and conceptual models that inform wellbeing make it quite a diverse concept and generates unique problems around its definition. Several definitions of

wellbeing abound, but all are intrinsically tied to its history and disciplinary traditions. In economics and philosophy, wellbeing is associated with utility and happiness, in health with quality of life, and in psychology, it is associated with hedonic wellbeing (Camfield, Streuli and Woodhead, 2010). The history of wellbeing is informed by this rich multi-disciplinary background which also shapes both its meaning and application in research. Though disparate historical narratives exist, here I offer three perspectives by Gough et al. (2007), Statham and Chase (2010), and Chirkov, Sheldon, and Ryan (2011) which are interlinked and have relevance to the definition of wellbeing that this study adopts. All the above scholars trace wellbeing to the idea of happiness and the continuous pursuit of the meaning of a good human life.

From a western development history perspective Gough et al. (2007) identify three evolutionary phases of the concept. At its debut in the early period of the classic Greek philosophers, wellbeing had a broad meaning which was associated with Aristotle and Buddhism. Writing on the philosophical foundations Chirkov, Sheldon, and Ryan (2011:2) trace the idea of wellbeing back to Socrates' time arguing that it covers aspects of morality, virtue, and autonomy. Initially, happiness was thought to be beyond human control—a matter best “left to gods and fortune” (Chirkov, Sheldon, and Ryan, 2011:2) until Socrates challenged this prevailing orthodoxy. Henceforth happiness became an achievable ideal which Socrates argued human beings could deliberately pursue as a personal goal and attain through personal effort (Ibid). Furthermore, Socrates distinguished two levels of happiness—first as the fundamental desire for a higher goal of human happiness, a deeper life satisfaction which came to be referred to as *eudaimonia*, and second was a hedonistic or sensual pleasure that is biological in nature (Ibid). Later on, Aristotle built on the ideas of Socrates by studying “the nature of *eudaimonia*” (Chirkov, Sheldon and Ryan, 2011:3). In Aristotle's view, happiness “was a result of living a life driven by reason, well-justified virtues, and moral values” (Ibid: 3). Rational choice and moral virtue are therefore useful determinants of happiness, but autonomy remains central to its attainment. Also, while Aristotle and other philosophers especially Spinoza and Kant acknowledged the value of autonomy to the realisation of happiness, they recognized that relationships with others in society as well as political, social, and economic factors could enable or constrain “the manifestation and functioning of autonomy” (Ibid: 4).

The significance of happiness as *eudaimonia* started to wane in the first century (after the death of Christ) as a result of Christianity, marking the second evolution of the meaning of

wellbeing. The religious dogma of the time eschewed the pursuit of happiness through human effort, and instead wholly espoused the belief that happiness was a gift that only God could give to those who served Him faithfully on earth. Alternative thinking along these lines was of happiness as an after-life goal which adherents of the faith obtained after enduring suffering on earth (Chirkov, Sheldon and Ryan, 2011). In either case, happiness was the result of divine intervention and dependence on God, hence the importance of autonomy for gaining happiness was discredited (Ibid: 4). However, though this narrow view persisted for several centuries, it was eventually dislodged in the renaissance period which marked the third evolution of how happiness and consequently wellbeing was understood. In this phase, the broad meaning of wellbeing as rational thought was once again reasserted and became highly valued in the renaissance era (Chirkov, Sheldon and Ryan, 2011). Gough et al., (2007:4) opine that the broader fourteenth century meaning of wellbeing implied “living and faring well”. In other words, a contented life which allowed one to thrive and to realise their personal and social goals. This meaning came to be closely associated with the term “‘welfare’ [...] when it meant to journey well and could indicate both happiness and prosperity” (Gough et al., 2007:4). By around the 19th and 20th centuries, wellbeing had acquired a more external and objectively assessed understanding of the quality of life. This change was necessitated by demands to objectively assess, quantify and justify state welfare support for the deserving poor in the aftermath of the deleterious effects of the industrial revolution which required state intervention (Gough et al. 2007). The conceptual rendering of wellbeing is still evolving and has garnered interest among scholars in multiple disciplines interested in human development beyond economics, psychology, and health.

Developments in the health sector particularly in the late 1970s further expanded the meaning of wellbeing in relation to quality of life. Statham and Chase (2010) trace this to the World Health Organisation (WHO) and the late 1970s movement on the de-medicalization of health. The revised meaning of health mainly targeted post-colonial states that were grappling with failing health systems, negative cultural beliefs that clashed with modern medicine, and growing demands for expanded social services as an important goal of the liberation struggle (Hall and Taylor, 2003). The 1978 Alma-Ata Health Conference Declaration broadly defined health as;

A state of complete physical, mental, and social wellbeing, and not merely the absence of disease or infirmity, is a fundamental human right, and that the attainment of the highest

possible level of health is a most important world-wide social goal whose realisation requires the action of many other social and economic actors in addition to the health sector (Hall and Taylor, 2003:18).

The new perspective eventually led to the development of the subjective dimension of wellbeing which focuses on mental status which was influenced by people's social context. Proponents of the new thinking argued that ill-being could still be experienced without the presence of physical illness, making health a social issue as well (Statham and Chase, 2010). The new understanding challenged states to acknowledge that healthy living went beyond the reach of modern medicine to include aspects of social and economic wellness. It also rallied multiple actors to guarantee its enjoyment. Community volunteers like traditional birth attendants, para-health workers, and social institutions like schools and churches became integral stakeholders in primary and preventive health care programs in developing countries (Hall and Taylor, 2003). Over time, wellbeing has expanded to mean "the quality of people's lives" (Statham and Chase, 2010:5), and henceforth, healthy living, and having a good life acquired an expanded meaning as part of wellbeing.

The multi-disciplinary nature of wellbeing equally presents definitional contestations (Phiri and Abebe, 2016; Camfield et al., 2009; Gough et al., 2007; Gasper 2007; Crivello et al. 2009). Crivello et al. (2009) capture the gravity of wellbeing's definitional challenge which they compare to poverty- an equally conceptually challenging term to define. They emphasise the elusive nature of wellbeing which is open to numerous definitions, conceptualizations, and methodological approaches" (Ibid: 53). Often, wellbeing is interchangeable with terms such as happiness, 'life satisfaction', and 'quality of life' to refer to how people value the quality of life they live (Camfield et al., 2009:2) which compounds the problem as many definitions exist from varying standpoints. Despite the lack of consensus, in principle, scholars broadly agree that wellbeing is imbued with "plurality" (Gough et al., 2007:4) meaning that it is adopted for multi-dimensionality. Like human rights, it is also a normative ideal (Gasper, 2007) because it establishes basic standards. Finally, wellbeing is socially and culturally contextual (Crivello *et al.*, 2009). In other words, wellbeing is conceptually valuable for analysing social progress from multiple perspectives, determining what a good life means in different cultural contexts, and accepts the notion of a universally acceptable minimum standard of living.

The leading scholars on WeD (Gough, McGregor, and Camfield, 2007) offer the most comprehensive definition of wellbeing. Their definition is informed by a recent and more

globally accepted understanding of development, influenced by the capability approach. The authors argue that people's lives are a product of multiple factors that go beyond the previously narrow economic conception of poverty and deprivation, and which jointly contribute to human wellbeing (Gough, McGregor and Camfield, 2007:4). Four factors are central to their definition. Firstly, wellbeing is both objective and subjective; secondly, wellbeing is a "relational and a dynamic concept"; thirdly, it is contextual; and finally, wellbeing is both an outcome and process of on-going interactions between "social, political, economic and cultural processes of human social being" (Gough, McGregor and Camfield, 2007:5). Based on this argument they define wellbeing as the interplay between firstly the resources that a person can command; secondly what the people can achieve with those resources, and in particular what needs and goals they can meet; and; thirdly, what meaning they give to the goals they achieve and the processes in which they engage (Gough et al., 2007:317). These three aspects are what give rise to the three dimensions of wellbeing as *objective, subjective and relational*. Any evaluation of wellbeing must take into account these three dimensions as well as the context in which the assessment occurs.

The three dimensions of wellbeing

While the medico-psychological, philosophical, and welfare economic roots were foundational to the multi-dimensional character of wellbeing, Gasper (2007) further argues that this feature also means wellbeing is constitutive of several variants, it exists at multiple levels and makes the concept dynamic. All the above features give wellbeing a greater conceptual appeal for research and policy work compared to other concepts that explain poverty such as the basic needs theory (Ibid). In assessing people's wellbeing, Gasper emphasises that a concise evaluative judgement of wellbeing is only possible if such an endeavour takes into consideration the composite of all the dimensions that make up the concept. Despite on-going contentions and confusion regarding 'dimensions' and 'domains', there is a general agreement that dimensions are overarching and tend to be universal whereas domains refer to features or aspects of the dimensions (McGregor, Coulthard and Camfield, 2015). Over time, scholars seem to agree on three universal dimensions of wellbeing which include material (objective), subjective (quality of life), and relational wellbeing (Ibid). Any evaluations of wellbeing have to account for all the dimensions. Each has its distinct elements and measuring indicators though these are not always fixed or universally agreed since they are contextual (Gough et al., 2007; McGregor et al., 2015).

Objective wellbeing: It evaluates “externally approved, and thereby normatively endorsed, non-feeling features of a person’s life” (Gasper, 2007:59), meaning that its evaluation follows set standards or criteria based on universalized ideals. Most studies on wellbeing have focused on this particular aspect, which has the most measurements and indicators—though not without controversy. Generally, most societies have certain expectations of what constitutes a decent or comfortable life in the objective realm. For instance, most people would agree that not being able to afford medical care to treat diseases and not having access to food which leads to starvation are undesirable outcomes. Both situations would create discomfort for the individual, causing them unhappiness or in extreme cases, death.

Subjective wellbeing: This is about the “feelings of the person whose wellbeing is being estimated” (Gasper, 2007: 59). Consequently, subjective wellbeing is primarily influenced by personal values, culture, and social norms which make an individual’s perceptions of what a good life means highly personal. Whereas such meanings may not be rational to others, they may be very valid and meaningful to the assessed individual.

Amartya Sen illustrates the dichotomous and sometimes contradictory nature of objective and subjective wellbeing with an example of wellbeing assessments in India. In a 1944 post-famine survey that was carried out in Calcutta to assess the effects of famine among elderly widows and widowers, women subjectively assessed themselves to be doing well in life even though external objective assessments showed that they suffered higher levels of morbidity (Kynch and Sen, 1983:364). On the other hand, among widowers’ subjective assessment was lower despite them experiencing fewer health problems when assessed objectively (Ibid). The authors argue against a utilitarian approach to wellbeing which is favoured by economists, arguing that judging people's wellbeing status purely based on “pleasure or desire-fulfilment or choice [...] leaves out many relevant considerations” (Ibid: 365). Furthermore, Sen (2003) argues that such omissions obviate people’s deprivation and diminish any urgency for policy prioritisation and state interventions because people have generally learned to adapt to their situations. This is because for many poor people, “hardship is accepted with non-grumbling resignation [...] the victims do not go on weeping [...], and very often make great efforts to take pleasure in small mercies, and to cut down personal desires to modest ‘realistic’ proportions (Sen, 2003:45).

Relational wellbeing: It is less researched compared to objective wellbeing. However, its growing importance in the last decade underscores its significance for understanding wellbeing in a broader sense. Relational wellbeing is produced through the “interplay of social, political, economic and cultural processes of human social being” (Gough et al., 2007:3). This dimension is particularly central to understanding how perceptions, values, and norms in collective societies are socially and culturally bounded and how they influence the kind of life people consider valuable (Deneulin and McGregor, 2010). McGregor, Coulthard, and Camfield (2015) have further extended the conceptualization of relational or sustainability wellbeing whose basis is the OECD's *How's Life Framework*. The framework itself was a response to challenges from the Stiglitz Commission report of 2009 to focus less on economic growth when evaluating wellbeing. At its core, sustainability or relational wellbeing is concerned with how key structural factors enable or constrain the achievement of the other dimensions of wellbeing both in the present and in the future. It turns the focus to resources or “capitals” (which include natural, social, economic, and human capital) as important for “enabling relationships through which present wellbeing can be translated (or not) into future wellbeing outcomes” (McGregor, Coulthard, and Camfield (2015: 14). In support, and from a capability approach standpoint, Otto et al (2017) and Robeyns (2005) argue for wellbeing evaluations to take into account procedural dimensions. These arguments go back to foundational debates on structure and agency and their dialectic relationship in social theory, and how these shape policy interventions. The relevance of the relational dimension of wellbeing to this study is clear in relation to welfare and social protection arrangements which define the relationships between the family/community and the state. These relations are influential in determining child wellbeing outcomes.

4.2 Wellbeing, human development, and the capability approach

Accumulating evidence on the multi-dimensionality of poverty and important of people's participation have been key factors to popularising attainment of wellbeing as a valuable end to human development, and made wellbeing conceptually relevant for development practice and policy work (Gough et al., 2007). Consequently, the meaning of development, what constitutes a good life, why it is important for human beings to achieve development and how to measure development or ‘good change’ are now important developmental concerns (Otto et al. 2017). Valuable contribution towards this shift have come from Mahbub ul Haq and Amartya Sen.

Sen's capability approach (CA) has greatly enriched the current understanding of wellbeing and development as Sen challenged the idea of capital and wealth accumulation as the all-consuming purpose of economic pursuits and indeed development (Otto et al., 2017). He instead argued that despite the importance of economic growth, it is not an end in itself but rather the means for satisfying deeper and more enduring human desires which enable people to live the kind of lives that they have reason to value (Sen, 1999). Instead, in Sen's view, wellbeing, poverty, social justice, inequality, and human suffering should be best understood through the capabilities and functionings perspective. Capabilities are defined as "what people are notionally able to do and to be, while functionings refer to what they have been able to do and to be" (Gough et al., 2007:6). Thus, for Sen human development is the "process of expanding real freedom that people enjoy" (Sen, 1999:1) which makes development both a means and an end. In other words, development is a constitutive process and on the other hand, it is instrumental to the realisation of other forms of freedom which Sen refers to as substantive freedoms. Substantive freedoms enable individuals to make choices about the kind of life they would have reason to value (Ibid). Ingrid Robeyns whose model simplified interconnections between various concepts in the CA argues that any assessment of people's development should be about "what people are able to be and do, on their quality of life and on removing obstacles in their lives so that they can have the kind of life that, upon reflection, they have reason to value" (Robeyns 2005: 94).

Though capability approach scholars argue that it is a conceptual framework and not a theory, its theoretical utility has been enhanced through the HDA concept. ul Haq used the concepts of agency and freedom to demonstrate the extent to which development programs and policies resulted in the expansion of people's choices and better quality of life (Otto *et al.*, 2017:5; Gough et al., 2007:4-5; Camfield et al., 2009; Crivello, *et al.*, 2009). By expanding the meaning of development to wellbeing achievement, it became possible to contemplate evaluative judgments on the quality and impact of social change on people's lives using non-monetary indicators or a combination of both. ul Haq pursued new means of measuring human progress from a multi-dimensional perspective, which was eventually realised through the human development index (HDI) (Fukuda-Parr, 2003). The value of HDI for assessing development transformed development practice globally and particularly how governments approach development is invaluable. The HDI and HDA are used as normative frameworks for measuring wellbeing and tracking social change globally (Gough et al, 2007; *Otto et al.* 2017). The Human Development assessment and reports rely on

universally valued capabilities and basic capabilities. Sen defined these as 'beings' and 'doings' whose realisation is critical for survival, and whose "lack would foreclose many other capabilities" (Fukuda-Parr, 2003:306). These capabilities hold great value for all individuals regardless of the global south-north divide. As a measure of average achievement, the HDI becomes a valuable tool for policymakers and states to quickly assess their progress towards their attainment and take corrective action (Fukuda-Parr, 2003).

4.3 Child wellbeing as an emerging space for understanding children's lives

Since the late 1990s, several efforts have been directed at finding appropriate indicators to assess how children fare in life. In this regard, child wellbeing has emerged as a distinct strand within the broader concept of wellbeing in human development. Child wellbeing is concerned with understanding and assessing children's quality of life as a distinct population group. Child wellbeing's rise to prominence especially within childhood studies was due to theoretical, conceptual, and methodological changes that occurred in the last two decades in response to rapid changes within the family institution as well as in social life due to global socio-economic and political transformations (Ben-Arieh, 2008) (2008). To understand and effectively plan for these changes policymakers and professionals working with children and families required reliable means for collecting information and accurately assessing the nature of this change and impact. Social indicators have the power to meet this need in addition to pointing out the direction of change, trends over time, and distinguishing inter and intra-group changes (Ben-Arieh, 2008).

Using child wellbeing, it is possible to analyse different dimensions which enables more holistic assessments and responses. Previous assessments and measures were based on developmental theories of the time which explained children's progressive growth and development through dimensions such as physical, psychological, spiritual, social, and moral development. These approaches were criticised for their unilateral focus and ignoring children's perspectives (Ben-Arieh, 2008; UNICEF 2007; Lippman *et al.*, 2009). To account for children's experiences, a new way of measuring those experiences was needed but did not become a reality until nearly the turn of the twenty-first century, though efforts in this direction had started much earlier. In the 1960 UNICEF together with the Social Indicators Movement began spirited efforts to develop measures for assessing children's progress as a separate population group, partly laying the foundation for the future development of child wellbeing measures (Ben-Arieh, 2008). Their ideas have continued to grow through the

robust research work of organisations such as the International Society for Child Indicators and UNICEF's Innocenti Research Centre (Ben-Arieh, 2008).

Furthermore, Ben-Arieh posits four factors that explain the growing popularity of child wellbeing. The first is advances in child developmental theories, especially Bronfenbrenner's ecological model of child development (Ben-Arieh, 2008). The model was revolutionary because it challenged how scientists theorised child growth and development at the time (Prout and James, 1997). It introduced the notion of multiple levels of interactions and environments that impact on children's developmental processes and experiences. In the model, four interconnected environmental systems are identified as distinct but also interlinked via layered concentric circles. The child is placed at the centre and his relationship and interactions with the four environments denote their proximity and strength of influence. The most immediate and intimate level is the family. Family interactions and circumstances have a far-reaching and most immediate impact on children. For example, the effects of in-utero maternal nutrition can affect a child's intellectual development for the rest of their lives. Other significant factors extend further outward, with the most external being the macro-system (Arieh-Ben, 2008), but not less important, even though distanced from the child. At the second level, institutions like the school and religious organisations are important both to the child and the family. They directly interface with children as they grow up and shape their values. The third and fourth levels (exo-system and mesosystem) have an indirect influence on the child through the parents' experiences. Their influence is structural in nature, arising from the macro-environmental factors such as cultural, social, political, economic processes, and ideologies (Ben-Arieh, 2008). Acknowledging structural factors in children's development has been influential for informing more effective social policies for children.

The near-universal adoption of UNCRC which establishes normative standards for the treatment of children as rights-holders is the second influencing factor. The UNCRC is also attributed to a subsequent increase in states' focus on children (Franklin, 1995). According to Ben-Arieh (2008), the four overarching UNCRC principles of non-discrimination; the best interest of the child; participation and respect for the child's opinion; and survival and development required new sets of indicators to assess the extent to which states were meeting their obligations to children. Since state parties to the convention are required to provide periodic reports to the United Nations, having such indicators and robust data gathering systems have become even more important (Lippman et al., 2009). For example,

to demonstrate adherence to the non-discrimination principle states must demonstrate inclusive and affirmative actions taken to promote the wellbeing and rights of special interest groups/needs (e.g. children with disabilities, children from minority groups such as pastoralist communities in Kenya, the Dalits caste in India). Otherwise, there is a risk of homogenising children.

The growing acceptance that childhood is a unique life phase in its own right rather than a transient period in children's process of 'becoming' adults has further expanded childhood into a social phenomenon to be studied in similar ways as gender or other social categories (Ben-Arieh, 2008). The seminal works Jens Qvortrup played a central role, eventually leading to the emergence of the sociology of childhood becoming recognized as an independent social science strand. Qvortrup and scholars in this tradition argue that childhood is not merely a life phase that children transition after a temporal occupation of that space (Qvortrup, 2014, 1999; Prout and James, 1997). Rather, childhood represents an "actively negotiated set of social relationships within which the early years of human life are constituted" (Prout and James, 1997:7). Its understanding is shaped by culture and hence it is a social construct that is "both constructed and reconstructed both for children and by children" (Prout and James, 1997:7). Similar to feminist or disability studies, childhood sociology has its own theoretical and methodological approaches, a clear focus on children as social actors, and believes children are research subjects and co-producers of knowledge. The new theoretical understanding of childhood gives children a voice, it recognizes children as social actors and allows childhood to be studied as a distinct social category as opposed to children as merely a group in the society (Prout and James, 1997). The paradigmatic shift to researching childhood has also made it possible to conceptualise childhood as a social phenomenon that is socially constructed, which then provides an interpretive frame for contextualising the early years of human life (Prout and James, 1997:8). Understanding how childhood is lived in different contexts helps to also understand how policies and programs come about and how they shape childhood.

Finally, improvements have occurred with regard to accessing quality of data, data collection strategies, and a reduction of the bureaucratic processes of acquiring national data from governments (Ben-Arieh, 2008). Most states and to a lesser extent private firms previously are now keen on institutionalised evidence-based policymaking and hence the need for collaboration and more investments in research initiatives (Ben-Arieh, 2008). All the four factors have opened space for children to participate in research focusing on them

and for children as a unit of analysis in research (Ibid). Thus, the need to attend to children's voices-as the basis for the articulation of their subjective wellbeing has been catalytic both in methodological as well as theoretical terms (Ben-Arieh 2008:12). There is growing literature on work focusing directly on child wellbeing, but as would be expected, most of these are done by western scholars in the west or global south settings (see Kamerman, Philipps, and Ben-Arieh, 2010; Ben-Arieh *et al.*, 2014).

4.4 Research implications of the shift to child wellbeing

As noted in the previous section, the use of child wellbeing was a radical shift that starkly contrasted to previous approaches to studying childhood. Whilst the initial focus was on the extent to which children's basic needs were met, child wellbeing focuses on young people's flourishing. Ben-Arieh (2008) argues that it is in fact, the existence of such social indicators that inspired development (and also guides evaluation) of child survival programs whose aims were saving children's lives. Such programs include immunisation and growth monitoring campaigns, child mortality/morbidity prevention, nutrition, and school feeding as well as school enrolment and attendance. In the recent decade, the focus has moved from survival to development and children's quality of life. A corollary to this was the challenge of defining what those desirable standards are, and how to successfully assess their attainment or their lack. Since wellbeing embraces multiple dimensions of what constitutes a good life, it challenges narrowly defined notions of progress in a child survival framework. Children's development constitutes more than surviving the vagaries of a childhood lived with risks of disease and hunger.

As a counter-force to ill-beings or deficits, wellbeing shifts from focusing on the basic requirements for survival to a focus on "the quality of life" (Ben-Arieh 2008:10). It moves away from negative measures to positive measures and transforms the narrative from "dying to meaningful living" (Ben-Arieh 2008:10). Moreover, arising directly from the influence of the sociology of childhood, wellbeing rejects the notion of childhood as primarily a preparatory phase for adulthood which it refers to as 'well-becoming'. Qvortup (1999) argued that before the UNCRC, our understanding of children's lives was shaped by adults either as they experienced childhood before or how they perceived children. As such, preoccupation was the process of children's growth into responsible and moral human citizens. Qvortup refers to this process of change as human '(be) coming' (Ibid). This conceptualization of childhood laid a foundation for the concept of well-becoming, defined as efforts geared towards "preparing children to be productive and happy adults" (Ben-Arieh

2008:10). A child wellbeing approach, therefore, advocates for simultaneous evaluation of both the present and the future, acknowledging the need to treat children as full citizens both now and as the growth towards their futures. This position is also supported by the UNCRC and resonates with how this study involved children in telling their own stories and those of their families.

Further developments in the area of child wellbeing are still unfolding and will continue to spawn more nuanced and certainly more empirically-informed understanding of child wellbeing. Already, the growing calls for a composite index that summarises child wellbeing in similar ways as the HDI- and which will make cross-country comparisons possible have been met with positive responses (UNICEF 2007; Ben-Arieh, 2008). But as would expect, the most excitement and action has come from quantitative researchers, and consequently, there are now a number of child wellbeing indices (Ben-Arieh, 2008; Bradshaw et.al 2006; Lippman, Moore and McIntosh, 2009). A good example is the European child wellbeing index which has 43 indicators and is used to assess wellbeing in close to 30 countries in the European Union and beyond (Bradshaw and Richardson, 2009).

Nevertheless, the use of qualitative methodologies to study child wellbeing is still limited (Camfield, Crivello and Woodhead, 2009; Camfield, Streuli, and Woodhead, 2010; Alanen, 2014). These researchers are critical of the hegemonic use of quantitative techniques for subjective (as hedonic wellbeing or happiness) and objective (as material deprivation) wellbeing assessments. Unfortunately, most research work on wellbeing uses quantitative measurements and indicators which, do not provide concise meanings of wellbeing in varying cultural contexts (Camfield et al. (2010). Instead, critics promote the use of anthropological approaches for examination of child wellbeing which they argue are particularly valuable for exploring subjective wellbeing (ibid). Their strong explanatory and interpretive power are amenable to the analysis of individualised and culturally-relevant meanings (Camfield, Crivello and Woodhead, 2009; Camfield, Streuli, and Woodhead, 2010). The Young Lives Project (YLP) -a multi-national longitudinal cohort study that follows the development of children in various dimensions including psychosocial wellbeing in four developing countries that include Ethiopia, India, Peru, and Vietnam, and hosted by Oxford University has demonstrate the usefulness of participatory and interpretive approaches to child wellbeing studies (Camfield et al., 2009). For instance, Ethiopian children's interpretation of a picture of an unkempt child did not just indicate material deprivation, but it also showed a lack of concern for the child by their caregivers (Camfield

et al., 2009; Camfield et al., 2010). Hence, qualitative methods present opportunities to develop richer meanings and interpretations of people's experiences, and more so children's wellbeing from a subjective perspective.

Equally concerning is that critics have questioned the utility of a wellbeing approach for studying non-western societies mainly because some find it difficult to contemplate that poor or materially deprived people can also experience happiness despite poverty and hardships (Gough et al., 2007:33). For the doubters, the big question is whether wellbeing which is about happiness and good life, has any cultural relevance for developing countries where extreme poverty and suffering might seemingly obfuscate any likelihood of happiness and life satisfaction. But it must also be appreciated that a converse situation occurs in rich countries where incomes are high and there are adequate social welfare guarantees, yet happiness is not guaranteed (Sen 1999; Bradshaw et al., 2006). Amartya Sen addressed this concern by pointing out that people who are used to deprivation are likely to adjust their expectations to still find happiness despite hardships (Sen, 2003). Sen is however quick to add that such adaptations should not be used as an excuse by policymakers not to act to alleviate people's suffering. In other words, just because people's subjective perceptions may contradict objective and external assessments of their material wellbeing (Kynch and Sen, 1983) does not mean that the measures are accurate. Rather it demands an expansion of the informational base upon which wellbeing is evaluated, which requires going beyond economics measures (Sen, 2003). This is as well, despite progressive theoretical and methodological approaches of wellbeing having hitherto been assessed mainly using data from western contexts and participants (Ben-Arieh, 2006).

Some of the important misgivings on the applicability of wellbeing are being challenged by empirical evidence from the global south. These global south studies unequivocally demonstrate that even poor people- including children place a lot of value in life satisfaction and aspirations, which challenges the persistent narratives of deficiency and deprivation in the global south. Twum-Danso (2016) recounts stories of an alternative childhood in Ghana among middle-class families. Similarly, Abebe and Ofusi (2016) observe that though rapid social, political, and economic changes are occurring in Africa, children are still able to exercise their agency to shape their lives in ways that make sense to them. Phiri and Abebe (2016) use child wellbeing to explore children's understanding of poverty in a rural agricultural community in Zambia, bringing out rich illustrations of the depth of children's perceptions about a social phenomenon like food security. In addition, Conradie (2013;

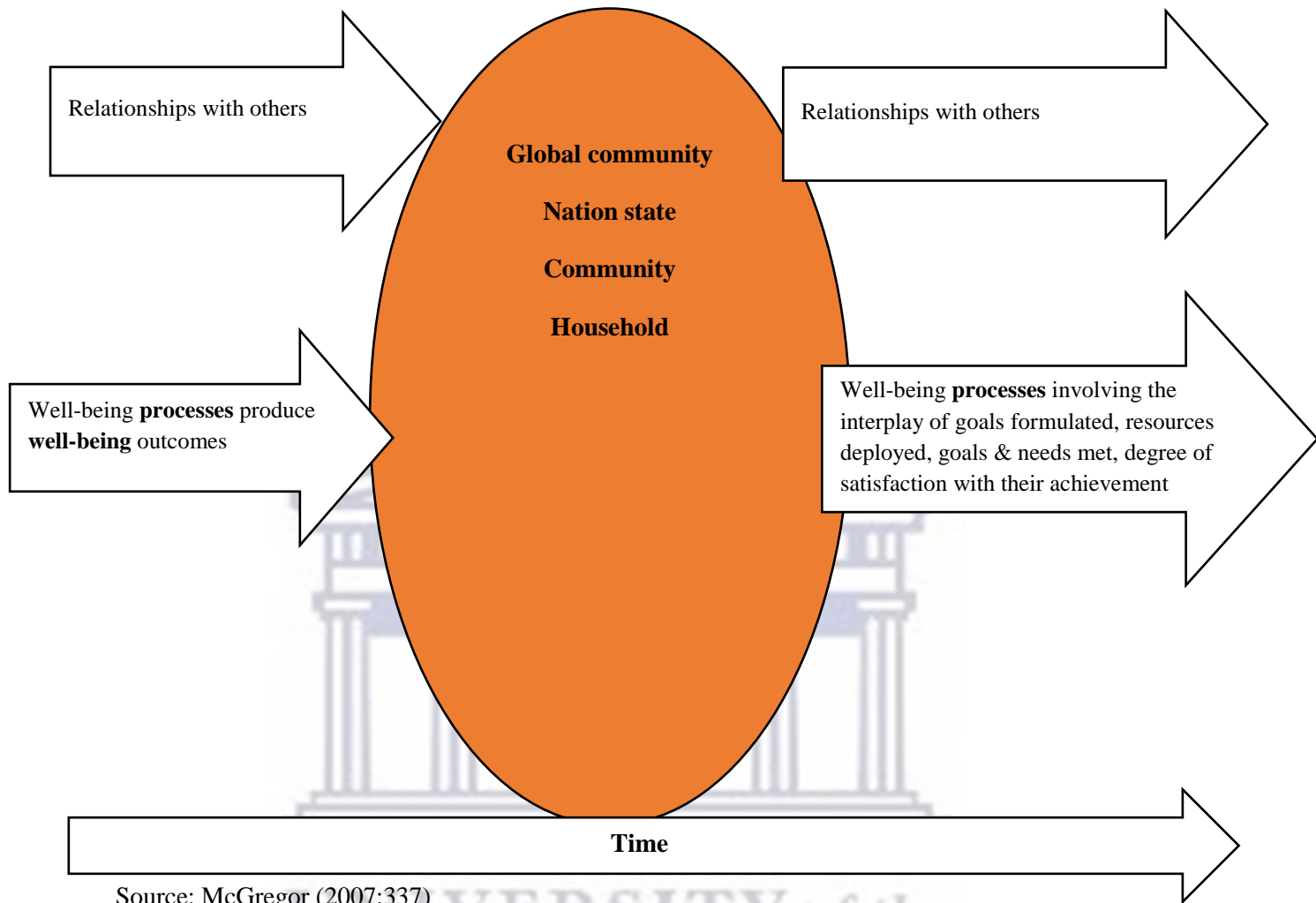
2017) studied aspirations and agency among women living in Khayelitsha, a poor neighbourhood in Cape Town, South Africa, and shows how rural-migrant women negotiate the challenges of poverty and difficult socio-economic contexts to realise better lives for themselves and their families. Another more recent study used the WeD framework to study experiences of female caregivers on raising children with disabilities in Khayelitsha and the process of transforming their wellbeing outcomes through participatory action research (Van der Mark, 2019). All these studies demonstrate the conceptual usefulness of wellbeing in developing countries in very illuminating ways.

Besides the above studies, a major advancement in the application of child wellbeing to global south contexts has come from two major cross-country studies that convincingly developed the concept into a methodologically and conceptually viable idea. The first is the Young Lives Project and the second is the Wellbeing in Developing Countries (WeD) research which is hosted by the University of Bath. The latter project which is carried out by the WeD group in Ethiopia, Peru, Bangladesh, and Thailand has been particularly useful for theory-building and methodological advances (Gough et al., 2007; Camfield et al., 2009). It resulted in the wellbeing conceptual framework that informs this study, and which is discussed in greater detail in the next section.

4.5 The Wellbeing in Development framework and its relevance to this study

The WeD group defines wellbeing as the interplay between resources, needs, and quality of life which jointly constitute the conceptual building blocks of the WeD framework (Gough et al., 2007). The three constitutive elements are summarised as “what a person has; what they can do with what they have, and; how they think about what they have and can do” (McGregor, 2007:317). In other words, wellbeing is realised at the confluence of resources at a person’s disposal to be able to meet their needs, the goals and the aspirations that they consider important to them and subsequently, their perceptions or views on how satisfied they have been, with the life goals they pursue (McGregor 2007). Figure 3 below presents the framework.

Figure 4: The Wellbeing in Development Conceptual Framework



Source: McGregor (2007:337)

The WeD framework has five distinct features which are considered its key assumptions. These include the centrality of human beings as social; the important needs and harms to individuals; how people construct meaning, and the centrality of culture and identity in this process; the effects of time and process; and finally, resourcefulness, resilience, and adaptation (McGregor, 2007).

Feature 1: The centrality of a social human being

As figure 3 illustrates, the WeD framework places the individual at the centre of any analysis of their circumstances and their context. That positioning denotes the human subject’s relational interactions with their environment in terms of interpersonal relationships occurring at family, household, community, or global levels. It may also involve interactions between the individual and specific social structures and institutions in their environment

(Gough, 2007). Moreover, these interactions are productive depending on the inputs and how various mediating factors impact on the individual, meaning that “wellbeing is both constructed and largely achieved through relationships” (McGregor, 2007:325). The relationships may be personal to impersonal. Bonds between family, friends, and kinship ties tend to be intimate compared to those between citizens and the state which are bounded by a social contract that denotes state and citizen obligations, and those between individuals and the market which are purely economic (ibid). A final point is that the framework emphasises the totality of the human person in all dimensions (such as biological and social) as well as an instrument for mediating communication processes across time (McGregor, 2007). Taken together, social structures along with the individuals’ endowments and experiences determine the kinds of meaning that people make of their lives. Important among the mix of social structures are social welfare policies and programs that families could benefit from along with the social and political mechanisms that underpin them. The latter affect choices about who benefits and in what ways.

Feature 2: Harm and needs: Wellbeing recognizes the egregious harms caused directly by material deprivation, or indirectly through circumstances injurious to a person’s physical, social, and psychological state whether these were intended or unintended. McGregor argues that fulfilment of needs or failure to do so depend on the kinds of relationships created, but obviously, deleterious relationships lead to denial of important resources for meeting basic needs such as food, medical care, and security (McGregor, 2007: 326). This double-sided view expands the dimension of risks, and in this way enables a far-reaching analysis of the effects of poverty and deprivations on poor people, taking account of multiple actors and complex on-going processes. Critical to this understanding also are the kinds of interactions and relationships citizens, families or individuals have with state and social institutions, including what the state does or does not do for its citizens (McGregor 2007:326). Through individual narratives of families and children, the study will analyse important aspects of objective wellbeing and their effects on children along with the structural and relational factors that enable or disable objective wellbeing.

Feature 3: Meaning, culture, and identity: Within WeD culture is defined as “dynamic systems of norms, values, and rules that are developed by particular communities, founded in their relationships to particular natural and social environments. They are found at all levels of social collectivity, within a nation and beyond” (McGregor, 2007:327). Culture is central in the

evaluation of wellbeing. It is the basis upon which meanings are constructed and interpreted, but interpretations depend on a given context. The power and influence of culture as a central phenomenon in the lives of individuals have been recognized for centuries, and this same power operates in shaping wellbeing. Within the WeD framework wellbeing is the product of shared cultural values, norms, and beliefs among people who are connected in some ways. For that reason, the value of the social organisation is underscored. Social organisation plays a central role in the development and “transmission of the meanings through which our relationships are conducted and constrained” (McGregor, 2007: 327). Besides shaping people’s identity, it also provides useful frames of reference with which to interpret and navigate everyday situations and to overcome challenges (McGregor, 2007). So critical is a culture that even where personal views differ with societal expectations, people are willing to sacrifice their personal goals for the sake of belonging and acceptance in their society. Such choices may impact on the wellbeing of individuals in significant ways. Culture mediates definitions of what is considered important in a given society, what are appropriate behaviours, as well as providing the criteria for self-assessments and even regulation. In this study, culture has great relevance especially in relation to child care practices. Culture will provide the scaffolding essential for the analysis of the family space, the relationships, obligations, and networks, and how these shape parent’s lives and subsequently, children’s wellbeing. An overarching theme here will be African families in a globalised world and the decolonial perspective of multiple southern childhoods.

Feature 4: Time and processes: Within WeD time is understood in progressive terms, meaning that it is historical (defined by key moments and life events), as well as current (McGregor, 2007). The study was ethnographic, allowing the researcher longer engagements with study participants. However, this cannot compare to longitudinal studies like those carried out by Young Lives or the WeD Group. These types of studies powerfully demonstrate changes occurring in the lives of participants over time as they engage with various processes that are important to the research topic. To bridge this gap, I relied on the compilations of personal case histories and the use of multiple tools and methods to analyse the lives of children and families who are part of the case studies. This strategy is described in greater detail in the methodology chapter.

Feature 4: Resourcefulness, resilience, and adaptation: Resilience is about recognizing risks in one's life, taking mitigative actions to survive the crisis, and ‘bouncing back’ after the crisis. Resilience and adaptation are powerful concepts for framing how people survive

and flourish despite shocks or threats to their lives. It acknowledges that people are ingenious at finding ways to circumvent the ill effects of hardships so that they can be happy once again. The concept of wellbeing assumes that families are constantly making trade-offs on what to prioritise (Devereux and McGregor, 2014). Hence, an analysis of trade-offs can show how families cope, what choices they make to survive (coping strategies), and how these prepare them for future crises (adaptation and resilience). To illustrate this, I recall Anna's story in the introductory chapter. If Anna's father were to be imprisoned, her mother would automatically take up the dual role of the new breadwinner and primary caregiver. Without arable land, she might have to take up farm-work for a daily wage and leave her children under the care of a relative (assuming there is one, willing to do so), or on their own. Would her earnings adequately meet the family's needs and avoid further accusations of abuse and neglect? Most likely, the family would need to increase their labour output, meaning that eventually, Anna or a sibling would still drop out of school to assist their mother despite the best 'rescue' efforts. A wellbeing lens would examine material, subjective and relational concerns, thereby offering a richer understanding of the dynamic processes occurring at the family level, whether internally or externally induced, and how these choices affect the lives of children and shape their trajectories. Whereas resilience is not the core of this investigation, the choices that families make when faced with adversities will be of concern, along with assessments of the trajectories such choices create for children. Adversities in this study focus on child abuse and neglect that is closely associated with material circumstances. Resilience studies show that having aspirations and knowing how to navigate life circumstances brings a sense of empowerment and a general feeling of satisfaction, which is associated with overall wellbeing or life satisfaction (Gough et al., 2007:32).

Application of the WeD framework to this study

Three dimensions of wellbeing will be examined to understand the kinds of vulnerabilities children and families involved in the child welfare services are exposed to. The importance of multi-dimensionality has already been underscored (McGregor, 2007). This study was also informed by the work of Sumner et al. (2009) and McGregor et al., (2015). Both have elaborated on the application of the WeD framework to research on children. Sumner et al., (2009) suggested analysing life experiences from the material, subjective and relational domains. Similarly, McGregor et al., (2015) proposed these three as the universal wellbeing dimensions (i.e material conditions; quality of life or subjective; and relational). Material

wellbeing is about the “practical welfare and standards of living” (Sumner et al. 2009:23); relational wellbeing is concerned with interpersonal relationships, while subjective wellbeing focuses on “values, perceptions and experiences” (Ibid). Expounding on the latter, Phiri and Abebe (2016) argue that the openness of wellbeing as a concept makes it useful for understanding people’s aspirations, perceptions of what is important in their lives, and how they make meaning out of their current life experiences. What people also do- that is their agency to overcome adversities thus become foundational themes in studies that utilise wellbeing. Thus, wellbeing is a powerful tool for the analysis of complex social problems. Drawing from Sumner et al. (2009), Table 2 below shows the dimensions that will be important areas of exploration in this study.

Table 3: Wellbeing domains and indicators

Dimensions	Domains	Indicators
Material Conditions (Objective & subjective)	<ol style="list-style-type: none"> 1. Caregivers’ ability to work and earn an income, ownership of businesses or assets contributing to the family ‘s earnings. 2. Children’s daily basic needs (food, clothing, play, shelter & living arrangements) as well as the opportunity to attend school regularly. 3. Access to services & amenities 	<ol style="list-style-type: none"> 1. Family’s main livelihood means, sources of income (e.g formal employment; self-employment; grants; remittances), as well as adaptations co-opted to meet family, needs e,g remittances from other family members and kinship care arrangements. 2. Perceived adequacy of the living conditions by child and parent (e.g number of meals, neighbourhood); OR ability to meet children’s needs and adequate care and the type of neighbourhood 3. Contact with social welfare service providers
Quality of life (subjective evaluations)	<ol style="list-style-type: none"> 1. Cognitive development (education or instrumental capabilities) 2. Views on social support (care and support networks including family support & other important social connections) 3. Subjective views on safety and security 4. Affective or psychological- mental health 	<ol style="list-style-type: none"> 1. Parental education and how this is connected to their life chances (based on personal narratives) 2. Evidence of extended family support e,g with child-rearing/care, remittances, in-kind donations 3. Physical, domestic or other forms of violence that threaten child’s or primary caregivers’ safety 4. Emotional support and views about personal happiness and satisfaction with current life along with explanations for why the situation is considered good or bad

	5. Social competencies including self-esteem, problem-solving capacity, feeling in control of one's life	5. Effects of mental health on earnings and capacity to provide care
Relational wellbeing (the child, family, and state relations)	1. Access to social services and social security arrangements 2. Networks of care, support, and love (in the family and community).	1. Types and perceived quality of services received concerning the needs/presenting issue at the time of contact with child welfare). 2. Understanding state-family relations and expectations of state- support for child care among parents. 3. The cultural value of social networks to children and their families in determining their levels of satisfaction with life embeddedness to child care practices.

4.6 Chapter Conclusion

Evaluative approaches that take into account the multidimensional nature of poverty in developing countries are more meaningful and can have a greater impact on policy designs and reforms. A wellbeing approach enables an evaluation of the outcome of development interventions in terms of their impact on people's lives whilst paying attention to people's involvement, their own subjective assessments, and what the interventions achieve in terms of their living standards. The chapter reviewed the concept of wellbeing, its theoretical foundations, and relevance to studies that focus on poverty, vulnerability. It also explored the added value of child-wellbeing to studies that focus on childhood vulnerabilities and utilise qualitative approaches, noting current limitations in this area. Moreover, the Wellbeing in Development (WeD) framework, which underpins this study and justified its selection. The importance of history (time), cultural context, political processes, social policies as well as other structural factors in shaping development practices and outcomes was underscored. These elements are reviewed in detail to understand how they influence wellbeing and childhood experiences among children from poor urban neighbourhoods involved in child welfare services.

CHAPTER FIVE: METHODOLOGY

5.0 Introduction

This chapter provides a detailed description of how the study was conducted including important assumptions that underpinned the entire research process, the research design, and data collection techniques, the process of selecting the study sites and participants, as well as how data was analysed and presented.

The central aim of the research is to produce and advance knowledge, though research does also have emancipatory ends hence there is increasing emphasis on research with social justice aims. As a knowledge-production enterprise, research is embedded in established traditions, beliefs, and practices which inform how truth or reality is understood. That interpretation of reality is determined by the accepted knowledge paradigms at that prevailing moment, but such claims can be confirmed, falsified, or refined as more research adds to the understanding of reality (Joas and Wolfgang, 2009). Consequently, at the heart of every scientific inquiry are philosophical, methodological, and even disciplinary considerations regarding the research approach, what questions to ask, what instruments to use, the kind of data to be collected, as well as how that data is analysed. Collectively, the theoretical approach, the methods which include data collection and analysis techniques form the methodology. A clear articulation of these elements along with the research problem and a well-developed execution strategy or design ensures the success of the research project (Babbie and Mouton, 2007). The research methodology holds various parts of a study together and ensures that both the process and outcomes adhere to acceptable standards of credible scientific inquiry and rigour. In this sense, the research methodology serves both a theoretical and instrumental value.

5.1 Philosophical and theoretical considerations

The research processes are conducted within defined knowledge paradigms. Joas and Knöbl (2009) observe that "empirical observations- however banal they maybe- are never free of theoretical statements" and that "theories not only imbue the instruments of empirical social research, they also inform the social world we wish to study" (p. 3). This statement underscores the linkage between theory and research and emphasises that empirical research does not occur in a vacuum but rather, its aims are realised within a given theoretical framework and philosophical understanding. Inevitably, given the divergent disciplinary and research interests, multiple theoretical perspectives and paradigms have emerged,

creating confusion, but this situation presents opportunities for continuous dialogue which is helpful for scientific advancements (Joas and Knöbl, 2009). Indeed, Thomas Kuhn postulated that such dissatisfaction and critical questioning of theoretical perspectives is what triggers scientific revolutions or ‘paradigm shifts’. Kuhn believed that a paradigm shift occurs when;

an old ‘paradigm’ – an old way of looking at phenomena, an old grand theory, and associated research methods—is replaced fairly rapidly by a new ‘paradigm’ (Joas and Knöbl 2009:14).

As the statement indicates, scientific inquiry is constantly in flux as researchers seek to prove or falsify old theories and develop more acceptable explanations. However, in some cases, as Kuhn argued, old theories were not necessarily falsified but modified through the alternative hypothesis that sought to explain claims that were not yet proved, and in this case, he gave the example of the unrealized predictions of the Marxist theory about historical materialism. (ibid). It is precisely these continuous changes that make it imperative for researchers to understand the role of both theory and empirical observations, how this shape their research and make it explicit in their work. Researchers need to determine the most reliable ways of studying reality using the available repertoire of knowledge and tools. In addition, they must be clear about the theoretical frameworks that best help them to interpret their findings to show how they come to an understanding of what constitutes reality.

5.1.1 Philosophical assumptions in research

In social sciences, there is a wide array of research paradigms, approaches, and designs from which researchers can select strategies that best meet their goals. However, the repertoire of possible strategies and approaches is informed by distinct philosophical assumptions and theoretical perspectives that undergird any social inquiry (Babbie, 2014; Creswell and Poth, 2018). Simply put, philosophical assumptions are how we view the world, which is reflected in our research orientation and our methodological choices (Ibid). Although these assumptions may not be explicitly stated, they nevertheless remain embedded and are evident in our research choices, beliefs and preferences, professional training biases, academic advisors’ influences, or in professional interactions through conferences, seminars, or published work (Creswell and Poth, 2018: 47). The four most important philosophical assumptions are ontology, epistemology, axiology, and methodology (O’Leary, 2004; Creswell and Poth, 2018).

Ontological assumptions relate to beliefs about the nature of reality or truth, while epistemological assumptions focus on how we come to know or discover the reality and therefore, also define the relationship between the researcher and the research process (Creswell and Poth, 2018). Axiological assumptions deal with the assessed value of the research process and the role that values play in research; while methodological assumptions determine research strategies, methods, and tools that a researcher uses to carry out their investigations (Ibid). Besides the four, O'Leary (2004: 6-14) adds a fifth assumption on interpretation and application of findings-though this classification seems to fit more with methodological assumptions. Together, the above assumptions influence different world views on the research.

A variety of paradigms and methods have emerged in social sciences depending on interpretations and the emphasis of certain assumptions over others by scholars. What is important is for researchers to be aware of the significance of each of these assumptions to the research process, methodological choices and their presumed hierarchical interlinkages. Babbie and Mouton (2007) make a clear distinction between three hierarchical world theories in social science inquiry. The world of meta-theory is the highest and it is concerned with defining social reality or ontology.

Broadly, there are two overarching ontological assumptions- positivism and post-positivism (O'Leary, 2004), also dichotomously referred to as positivism and interpretive frameworks (Creswell and Poth, 2018). The positivist tradition dates back to French philosophers Auguste Comte [1798-1857] and Emile Durkheim [1857-1917] (Giddens, 2006; Babbie, 2014). Comte was a positivist and believed that scientific truths about the social world could be uncovered using natural science methods through “empirical observations and the logical analysis of what was observed” (Babbie, 2014:35). For positivists, knowledge is objective, the reality is universal and observable, and that based on certain laws predictions can be made about the social world (Giddens, 2006). They demand rigorous procedures and require the researcher to remain neutral and detached from the research process to discover truth (ibid). The concomitant research paradigm of this worldview is the quantitative approach to social inquiry. On the other hand, the interpretive or post-positivism tradition challenges the assumptions of positivism (O'Leary 2004, Giddens, 2006). Max Weber (1864-1920), a key proponent of interpretivism argued that social science should aim to understand rather than explain human behaviour (Giddens, 2006). This world view assumes reality is not fixed and that multiple, contextual, and subjective realities exist because individuals' experiences are

shaped by their environment, which encompasses distinct historical and cultural factors (Ibid). These assumptions inform the qualitative research paradigm, which rather than merely observing and describing, also seeks to interpret what is observed.

Clarity regarding our ontological persuasions determines choices about our epistemological stance which constitutes Babbie's second level-scientific world. Epistemology is preoccupied with how truth is discovered using various methodological approaches. At the lowest level are theories, which dictate the research procedures and methodological choices (ibid). Babbie (2014) makes a clear distinction between theories and paradigms by noting that the two are interconnected but not the same. He argues that "theories seek to explain" [...], paradigms provide ways of looking [...] they provide logical frameworks within which theories are created" (Babbie, 2014:32). They are much like how a person might use a pair of spectacles to enhance visual acuity but the spectacles do not change the constitutive features of the object under observation. Similarly, paradigms guide the research processes by providing a lens through which the researcher can gain focus to 'see' their subject of investigation. However, how they interpret what they study (interpretations) might vary from one researcher to another. This emphasises the importance of theory in research as vital tools for analyses and interpretation of findings (Babbie and Mouton, 2007). Some of the common theoretical perspectives in qualitative research include social constructivism, symbolic interactionism, conflict theories (such as Marxism), post-positivist; postmodern perspectives, transformative frameworks; pragmatism; feminist theories; critical theory and critical race theories; advocacy or participatory, queer and disability theories (Creswell and Poth, 2018; O'Leary, 2004; and Babbie, 2014). Kuhn's paradigm shifts continue to date, meaning this list is not exhaustive.

An important final point is that theories can be applied at two levels; as macro-theories focusing on whole society phenomenon such as Karl Marx's ideas of class struggles, and secondly, at micro-theory, where the focus is on social life in the family or among individuals, groups, or subcultures (ibid).

5.1.2 A qualitative paradigm to understand child wellbeing

This study is located within an interpretive framework. Consequently, it takes a qualitative paradigm. Paradigms are "fundamental models or frames of reference we use to organise our observations and reasoning" and are based on certain beliefs and assumptions about the "nature of reality" (Babbie, 2014:33). A qualitative paradigm produces textual or graphical

data whose meanings the researcher must decipher from the narratives told by participants. Thus, meaning-making is at the core of qualitative research, and just as is the case in quantitative research, analysis of textual data demands rigour as well as clear frames through which data can be adequately analysed and understood (Creswell, 2007). The personal, intimate, and subjective experiences and perceptions of the researched group are important for understanding the reality the researcher wishes to uncover, but these can only be accessed through the perspectives and interpretations provided by the people studied. Thus it is only through their experiences that researchers gain an understanding of their world and hence, reality (Hammersley and Atkinson, 2007). For that reason, qualitative research occurs in natural settings rather than the controlled environment that defines quantitative research. Rather than use objective and well-calibrated instruments that are external to the process, qualitative researchers become part and parcel of the process- as “the main instrument” (Babbie and Mouton, 2007:270). This role demands that qualitative researchers acknowledge their values, biases, and experiences which they bring to the research and how these might shape both how they research the issue and interpret results (Creswell and Poth, 2018:302). Besides, a qualitative paradigm uses inductive methods rather than testing a hypothesis based on a particular theory or assumptions (Ibid). Ultimately a qualitative researcher seeks an insider’s or ‘emic’ perspective on meanings that the researchers ascribe to their circumstances (Babbie and Mouton, 2007). But exactly how they come to uncover these meanings depends on the epistemological stance taken out of the many possibilities described in the earlier sub-section.

This study took a social constructivist perspective as its main interpretive framework. Constructivism takes the view that meaning is constructed through social interactions between individuals and their world (O’Leary, 2004). Both the process and the context in which the study occurs are equally important to "understand the historical and cultural settings of the participants" (Creswell, 2007:20). As a starting point, this study considers childhood to be a socially constructed experience (Prout and James, 1997; Qvortrup, 2014) where experiences that children and their caregivers talk about are the product of the social interactions which are situated, subjective, and are influenced by the social, political, cultural, and economic circumstances in which the interactions occur (ibid). As such, experiences of poverty and violence are lived, subjective, and bounded by complex structural forces that individuals interact with in their environment. For that reason, the truth how children from poor families’ experience poverty and violence and how the state

intervenes must be understood by engaging with the context-specific dynamics that shape their wellbeing. Children's well or ill-being emerges as decisions are made about their lives by parents, social workers, courts, and other state apparatus as they interpret and apply specific policies. The social constructivist theory is relevant and compatible with the WeD framework (Gough, McGregor, and Camfield, 2007) which guided the entire study. The WeD framework recognises the importance of processes occurring over time, people as central actors and their context, which makes children as well as their families' critical social actors whose subjective perspectives and experiences were important for understanding the researched social world. As Babbie and Mouton (2007:28) emphasise, social inquiry efforts must be cognizant that "people are continuously constructing, developing and changing everyday interpretations of their worlds", hence the researched people should have an active role in the knowledge production processes

5.2 Research design and methods

The research design offers "a logical sequence that connects empirical data to a study's initial research questions and ultimately to its conclusions" (Yin, 2014:28). Within qualitative research and informed by the various paradigms and related theories, an array of possible designs or approaches exist including ethnography, case histories, and case studies (Babbie and Mouton, 2007). Alternatively, if the focus is on data analysis, research designs may be classified based on data management and manipulation techniques (see Hancock, Ockleford and Windridge, 2009).

5.2.1 Ethnographic Case Study Design

This study employed a research design that combines ethnography and case study approaches. Ethnography allows the researcher to gain proximity to and interactions with the study participants to gain a deeper appreciation for what motivates their behaviours and choices. In the often-cited words of Clifford Geertz, ethnography allows for 'thick descriptions' of everyday experiences (Wolff, 2004). In ethnography, the proximity to the researched and the integral role played by the researcher in data collection and interpretative processes rather than forced neutrality is one of its distinct features that enable such rich descriptions and interpretations (Hamersley and Atkinson, 2007). Ethnography's interest in cultural meanings makes it well suited to real-life situations that are embedded in culture, and so to understand them, one must also understand the cultural context in which the social phenomena under investigation are produced.

An important cultural experience that this study investigated was childhood and childcare practices in Africa as they related to child maltreatment in a dynamically changing context of poverty and other globally occurring processes. These social practices were understood to be impacted or produced as a result of material conditions and family-based violence and to be also shaped over time by different historical and social policy contexts. The meaning of ill or wellbeing was contextual and informed by local meanings, which the research has the responsibility of uncovering. In this regard, Wolff (2004) argues that in Geertz's view, ethnologists must aim to "grasp the meaning of social events and do this based on the observation of simple actions [...] to unravel the multiple layers of local meanings, to arrive at a comprehensive and insightful picture of the social circumstances under investigation" (Wolff, 2004:48).

Similar to ethnography, case studies also seek to understand real-world problems. But whereas ethnography is interested in identifying patterns and interpreting cultural meanings, case studies seek in-depth explanations (Creswell and Poth, 2018). Robert Yin, an expert on case study design defines the method as "an empirical inquiry that investigates a contemporary phenomenon in depth and within its real-world context especially when the boundaries between phenomenon and context may not be evident" (Yin, 2014:16). The case study method has several strengths. First, it enables researchers to conduct "an intensive investigation of a single unit" and to have "multiple perspectives" (Babbie and Mouton 2007:281). Secondly, by taking account of context, case studies can potentially cast more light into multi-layered and interlinked issues that can explain complex relationships, events, perspectives, or even behaviours (Ibid). Thirdly, case studies are amenable to 'how' and 'why' types of research questions, making the design attractive for investigating contemporary research concerns where historical phenomenon might not be the main focus of investigations but is nevertheless influential (Yin 2014:12). Fourthly, case studies are suited to natural settings where "relevant behaviour cannot be manipulated" (Ibid,) and are thus compatible with ethnographic techniques. Researchers have to directly observe and interview those involved, which requires a repertoire of data collection methods and techniques (Ibid).

Case studies can take various forms depending on what the unit of focus in the investigation is as well as the objectives of the study. They can be *intrinsic* where a case seeks to explain and provide meaning; *instrumental*- in where a case is illustrative of the typical or most

emblematic of the social phenomenon under investigation; or *collective, with a case study providing* multiple perspectives by presenting as many alternative explanations or examples as there are possibilities (Creswell and Poth, 2018). Alternatively, case studies can be classified as generic, single and multiple (Yin (2003). The study adopted a collective or multiple case study design. It was multi-sited, and within each country, each family was considered to be an individual case which made the collective case study.

Case studies afford researchers in-depth exploration of the study phenomenon while ethnography promises thick descriptions. Combining the two methods offered a good complementarity between them in terms of both richness and scope. Ethnography is a much more firmly established method in its own right, but case study design has gained prominence despite lingering criticism. The credibility of the case study as a stand-alone qualitative research method has been questioned along with the presumption that its findings lack generalizability to wider contexts (Yin 2014). In response, Yin argues that generalisations in qualitative work should be understood as “theoretical propositions” where the aim is to expand theories rather than deriving “statistical generalisations” (Yin 2014:21). Case study research offers an idiographic perspective-detailed description of unique experiences of participants or a social phenomenon in its context, which enhances understanding about the phenomenon studied, which can also be a useful basis for comparisons in the case of multiple case studies (Creswell and Poth, 2018).

An excellent example of a case study that was notable for this kind of generalizability is The Street Corner Society study by William Foote Whyte. In 1943 Whyte studied Italian-American immigrants’ culture in Boston (Andersson, 2014). This study whose main strength was its detailed and accurate descriptions rather than generalisations became immensely influential in the development of urban sociology as a discipline (ibid). Similarly, regarding case study research, Creswell and Poth (2018) argue that rather than offer generalisations or laws based on universal truths, case study research offers an idiographic perspective- a detailed description of unique experiences of participants or a social phenomenon in its context. The aim is to bring about greater understanding, which is equally useful for making comparisons.

Within childhood studies, case studies in ethnography are gaining popularity, especially among social anthropologists in developing countries. Abebe (2008) successfully used an

ethnographic case study to examine orphanhood and childcare in Ethiopia. Cheney (2007) utilised ethnography and case histories to study the politics of children's citizenship and national development practices in Uganda. Both studies have made useful contributions to theory-building on the multiplicity of childhood experiences in Africa and the effects of globalisation on childhoods in the global south. A combination of both designs enabled complementarities between two distinct and equally powerful qualitative methods. Combining the two also mitigates some of the perceived weaknesses of the case study design.

5.3 Justification of ontological, epistemological and methodological choices

As noted in sections 5.1 and 5.2, from an ontological as well as epistemological perspective, the nature of research questions in this study lent themselves to a qualitative inquiry. This is because the research entailed an exploration of the perceptions, lived experiences and realities of children, caregivers and officers involved in the provisioning of child welfare services. In addition, recognising that truth and reality are constructed by those whose lives are studied, it was important that a constructivist approach is employed, allowing the main actors in the study to offer their narratives and interpretations of the circumstances of their lives, and more specifically, those related to the phenomenon under study- their encounters with the child protection and child welfare systems in the respective countries. Because people's lives are complex and are constructed over long periods of time, it was necessary to employ multi-methods. Multiple methods enabled a capturing of several dynamic issues in ways that also facilitated me as a researcher to gain an insider perspective of the lives in a deeper sense beyond a one-time event where participants respond to structured questionnaires. An ethnographic study was therefore suited to the long-term engagement and immersion in the communities where study participants spent most of their time.

5.2.2 *Gaining access and entering the field*

Qualitative research required 'thick descriptions' based on an insider's perspectives of those studied, but researchers can only gain such intimate knowledge by getting as close to the participants as possible. Researchers have to immerse themselves in the same environment as the study participant, and therefore the intricacies of accessing the field are an important step in the qualitative research process. The process is more than simply coming into specific bounded spaces within which the researcher collects their data, and could determine the extent to which the research aims are met or constrained. Accessing the field should

therefore not be trivialised as simply “a technical or psychological ground clearing problem, with the real research beginning after it has been dealt with” (Wolff, 2004:196). Rather, it is understood as a process of continuous negotiations for access to spaces, people, events, and opportunities for meaningful data collection. It is an unpredictable social system defined by relationships through which access can open or close intermittently, and one that requires on-going planning and flexibility (ibid). Access to the field can become an even bigger challenge when the research topic is sensitive. For instance, in this study, it proved difficult to directly recruit children and families with a history of child maltreatment in the community. It was therefore critical to identify reliable entry points or ‘gatekeepers’ who could either facilitate or support the process as O’Leary (2004) and Wolff (2004) suggest. For this study, access to children, their families as well as key actors in child protection and child welfare was facilitated through two organisations that work directly with children in need of care and protection in Kenya, and in the case of South Africa, families that require statutory child welfare services. More details on these organisations are provided in the findings chapter.

5.2.3 Data collection methods and techniques

Case studies are well adapted to multiple qualitative data collection techniques, and in fact, good case study research combines multiple sources of information including interviews, observations, document reviews, audio-visual materials, archival records, observations, as well as collection and examination of artefacts (Yin, 2014; Creswell and Poth, 2018; Yin, 2014). Congruent with both ethnography and case study techniques outlined above, this study utilised case histories, in-depth and key informant interviews, participant observations, and document reviews. The section below discusses each of them in detail.

a. Case histories using biographical narratives

A case history is a data collection technique that allows a researcher to build individual participants’ profiles based primarily on narratives that the participants shared about their personal life experiences, but this was not the only source of information that was utilised. Secondary sources were also used to augment the information provided by participants. This is an accepted practice in life-history compilations. For example, research work on experiences of Islamophobia and racial profiling of young Muslim youth in the United Kingdom involved accounts of the young people’ lives where their narratives were augmented with observations by the researcher and interviews with their parents, and community leaders (see Creswell and Poth, 2018:504). The range of information collected

covers the family background, social and economic characteristics, changes that occurred over time, and how those affected a marked period that has relevance for this study, as well as other key defining life events (Francis, 1997). Successful compilation of case histories thus also requires the researcher to have a good understanding of the macro-economic developments occurring at the time to situate and interpret people's life experiences within a historical context (ibid). Similarly, considerations were taken into account in designing this study which engaged with children and young people aged between eight and 19 years. Young people's views were important to explore their experiences of involvement with child welfare services and their subjective ways of interpreting these experiences.

From the start, this study argued for a foregrounding of relationality in the development of wellbeing. Taking cognizance of this fact meant that children's lives were understood as embedded in their society and investigations required commensurate methods for exploring relationships. For instance, case histories are useful for documenting children's experiences, but their narratives would be incomplete and lacking in context without the affordances of alternative perspectives by other people who are significant in the children's lives such as parents and primary caregivers, as well as caseworkers. A family case history would offer a more picture of a child's life compared to individual life histories, and they promise a richer context for analysing various dimensions of wellbeing. As Bertaux and Delcroix (2000) argue, whereas personal life stories centre on the life of an individual, family case histories take cognizance of the relationality, the connectedness, and the reciprocal relationships formed between individuals in a family, household, and their communities. Interviewees "tell not only their story but also what they know and may tell about the life paths of their kin" (Bertaux and Delcroix, 2000: 74), and in this way, family histories reveal how lives of various members intersect over time. (ibid). Additional value can also be derived from family case histories when a contemporary understanding of the family is applied (Bennett, 2018); in which case analysis expands from a narrow focus on generic issues arising from inter-subjective and socio-structural relationships such as marriage, child-rearing practices, or gender roles, to broader social-structural issues such historical connections, identity, and belonging among others (see Bennet, 2018:452-454).

Historical accounts are therefore extremely useful for showing how transformation has occurred in the lives of families and communities, and more importantly, also, the narratives show "how people negotiate change through time" (Bennett, 2018). Ideally, a longitudinal

study with multiple data collection points, multiple methods, and multi-disciplinary teams would allow for a more realistic accounting of change over time whether that change is historical, generational, or biographical (for example relating to one's life-phase) as advocated by Thomson (2010). Though this study was not longitudinal it included some historical material in the multi-sited case studies. Personal experience stories can be contained in single or multiple episodes or can be related to a private or collective situation that shapes a person's life (Creswell and Poth, 2018). Furthermore, intergenerational perspectives gained by interviewing three to four family members belonging to different generations are equally useful for unearthing historical changes thus enabling a more comprehensive picture of the family to emerge (Bertaux and Delcroix, 2000). Therefore, besides children, it was equally important to interview parents, primary care-givers, and case-workers. Family case histories thus offered richer and situated information about individuals within a relational context which in the end had greater analytical value in explaining social change (Bertaux and Delcroix, 2000), and more so the relational aspects of children's wellbeing which was of interest to the study.

b. Participant observation and field notes

According to Yin (2003), observations have a two-fold function in qualitative case studies. In the first instance, observations give the researcher a first-hand appreciation for the context in which events or the object of investigation occurs, which is useful for data interpretations. Secondly, observations can act as a triangulation method by providing additional or confirmatory information (ibid). As a data collection method participant observation is fairly common in ethnographic research, but this ubiquity means that many ethnographers assume the method is quite easy to carry out. However, O'Leary cautions against falling into this trap, pointing out that observation is in fact "a systematic method of data collection that relies on a researcher's ability to gather data through his or her senses" (O'Leary, 2004:170). Hence field observations are elaborate and demand the same rigour as other data collection methods. This is particularly so because researchers have to consciously guard against bias. Constantly the researcher makes decisions about what is worth taking note of by listening, looking, feeling, smelling, and even tasting, the risk of bias is high (ibid). For that reason, a researcher needs to be aware of how their social positions, history, or professional training and experiences might influence or affect their attitudes and reactions to what is observed as well as how observations are interpreted. Bias can be reduced by ensuring observations

are well planned and possibly triangulated by combining this strategy with other data collection methods (O'Leary, 2014).

Researchers can conduct observations either as participant-observers or indirect (non-participant) observers (O'Leary 2004; Yin, 2003). Likewise, observations can be unstructured, semi-structured, or structured (O'Leary, 2004). Participant observation was preferred in this study. The approach requires active immersion in activities that take place in the field and are of interest to the study (Yin, 2003). Some of the activities considered relevant to this study included case intake procedures where potential clients are interviewed and vital facts of their case are documented, case management sessions, home visits and documentation procedures including preparation of case files for court. Similarly, observations were semi-structured and relied on a checklist. Such a checklist ensures that the observations are systematic but also flexible enough to allow the researcher to document unusual, or unexpected occurrences (ibid). Descriptions cover key events and the context in which they occurred, the main actors, any insights gained as well as possible areas for further exploration. They also take into account the body language of participants, how certain ideas or subjects are talked about (for example by parents and caseworkers), body posturing, the feelings expressed when the subject is discussed, as well as how they talked about their concerns. Where necessary, clarifications can be sought either directly from the participants or secondary sources. Through observations, the researcher can also identify potential study participants for in-depth interviews or new sources of additional data (Yin, 2003). Observations can also initiate rapport-building that is essential to facilitate invitations into the participants' more private spaces.

c. The key informant and in-depth interviews

In the case study design, interviews tend to be less structured and take the form of "guided conversations. [...], fluid rather than rigid" (Yin, 2004: 89) though the researcher still has a set of questions that they seek answers to. Whereas all participants can be respondents in a study by providing answers to questions posed to them, not all can be informants (Yin, 2003). Informants have a wealth of information about the subject of investigation, and some are even experts in the subject. Informants are a rich data source and can provide unusual insights not easily available to those who have not been involved in the issue under investigation. However, researchers are also cautioned against relying wholly on informants because their opinions may not necessarily be unbiased, and might influence the findings

(ibid). Granted, in-depth interviews are non-representative but they allow the researcher to seek information from individuals who are most knowledgeable or have a deep understanding of the home phenomenon of interest to the study (Francis, 1997). Key informants included categories of professionals considered to have a crucial understanding of child protection practices and policies. They included judicial officers (magistrates and judges), social workers (South Africa), children and probation officers (Kenya), and civil society organisations at national and community levels.

d. Document reviews

Secondary material in documents can be rich sources of additional data. Documents such as letters, minutes of meetings, photographs, newspaper articles among others can be essential to "corroborate and augment evidence from other sources" (Yin, 2003:87). In a study focusing on interventions, case files which hold multiple types of reports become invaluable sources of data but care must be taken not to breach confidentiality. Caseworker's reports are particularly rich because they are based on multiple interviews, home visits, and other official records with detailed background information such as copies of birth, marriage or death certificates which might help to construct more complete and insightful family case histories and profiles. Other documents of interest included policies and guidelines on child protection protocols, law reports and court cases on child abuse that are publicly available (for example via online repositories or court archives), policy briefs, legislation on child protection as well as social protection-mainly cash assistance grants- targeting children in both Kenya and South Africa. These documents enhanced understanding of how the judiciary interpreted, implemented, and framed parents accused of neglect and physical abuse of their children. Material from this data collection technique formed an important explanation of the power of constructed narratives of children and families by the law to offer an understanding of the legal dimensions of child welfare services.

5.2.4 Case selection procedures

In qualitative studies, the sample of participants varies greatly depending on the study phenomenon and the kind of information required. At the same time, the researcher must set boundaries or criteria of what constitutes a case study based on the key characteristics that delineate inclusion or exclusion of each case. But the definition of a case is left relatively open for the researcher to determine. It might include an event, a process, or procedure of performing a task, a social phenomenon, geographical area, program, group, or even individuals (Fouche and Schurink, 2011). Important consideration should also be given to

study sites as they also provide the necessary context within which emerging empirical evidence is interpreted (ibid). In this study, the context was low-income urban neighbourhoods in Nairobi and Cape Town and the unit of analysis was the family. A core part of the family here was the child and their primary caregiver(s). The table below provides the criteria that were used to select cases.

Table 4: Case selection criteria

Selection criteria	Justification
Child and family involvement with the child welfare/ child protection system	The study focuses on the experiences of children and families involved with child welfare/child protection services. These included families that voluntarily sought assistance from child welfare as well as those referred by law enforcement agencies.
Families living in low-income urban or peri-urban neighbourhoods	Poverty and child maltreatment co-occur, creating a complex arena within which child protection interventions are carried out especially in low-income neighbourhoods in urban areas where manifestations of child ill or wellbeing can be more manifestly observed.
Families have an active case during the fieldwork period	To facilitate observation of child protection practices in action
Voluntary participation by the family	Access without coercion enables cooperation from participants and gains their trust.
Age of the child (up to 18 years of age) or young person (19-21 years and still under the care of parents).	Both the UNCRC and the national child laws (Kenya and South Africa) define a child as anyone below the age of 18 years. Some young people who are still dependent after turning 18 years or whose cases had started when they were still below that age were included.
Non-statistical representation of the varied types of child maltreatment except for child sexual abuse.	The aim was idiographic- to understand child protection experiences including how different abuses are handled and how a poverty context shapes the outcomes.

The choice and number of cases selected were informed by several factors which are in line with the case selection suggestions by O’Leary (2004). These included concerns regarding research goals, the purpose of the study, resources available, opportunity and theoretical demands of the study. For example, if the aim is to provide in-depth

descriptions (as is the case with intrinsic case studies) the numbers may be few compared to where the research aims to draw generalisations or make comparisons (O’Leary, 2004).

5.4 Entering the Field, selection of sites and study participants

This section describes how the study sites in each country case study were selected as well as how participants were identified and data collected. In each case, data collection strategies for adults differed from those of children in the sense that with adults the in-depth interviews were more structured than my conversations with children. The design of the various interview guides was guided to some degree by the WeD framework in the sense that the questions explored material needs, participants’ feelings and views about the key theme of the study (child protection interventions), and the relationships considered to be important for realising welfare. In the case of children, it was important to establish their living arrangements and who they considered to be the primary caregiver. In the case of adults, the discussion covered the adults’ role in securing the welfare of an identified child or a generic group of children in the case of state officers (social workers, probation and child protection officers), as well as attitudes and views regarding services available to children and families at risk.

5.4.1 Selection of the study sites and study participants in Kenya

In Kenya fieldwork took place between April and August 2018 and began with a preliminary literature review to understand the research context. I also made several official visits to various statutory and non-profit organisations involved in child protection work. This preliminary work informed the purposive selection of key child protection institutions. I prioritised institutions that directly interface with children and families and have a broad approach to child protection rather than issue-specific interventions, for example child trafficking or child labour. Given the criteria, I found the Department of Children Services (DCS) in the Ministry of Labour and Social Protection to be the most ideal entry point into Kenya’s child welfare system and I sought the necessary approvals to undertake the study within DCS.

The DCS has an overall mandate on children’s matters and the safeguarding of their rights and welfare in the country. This broad mandate allows the department to offer services directly, coordinate the activities of other state and non-state actors in their complementary child protection roles, and, supervise the operations of charitable children’s institutions (CCIs). The coordination role of the DCS makes it also possible to observe and analyse

activities of different actors that the department intersects with at different levels of its operations including NGOs, juvenile institutions and the courts. Among its core staff are children officers who play a critical role in the provision of child welfare services and interface directly with children and families. All suspected cases are reported to the children officers for action but in carrying out their duties, children officers are expected to work with other state agencies such as the police, local administrators (chiefs, county and district commissioners), out of home/alternative child care service providers, hospitals, and courts. Through court orders, children officers can place children in need of care and protection (CNCP) especially street/homeless, truants, lost and run-away children, and those in conflict with the law in various out of home care institutions. These may include alternative child care institutions (CCIs), remand homes, rehabilitation schools, or juvenile detention centres (formerly known as borstal institutions). The statutory juvenile centres are also managed by the DCS.

The department's lowest administrative unit is the sub-county children office which is managed by a sub-county children's officer (SCCO). Sub-counties are made up of several wards- the smallest electoral unit in a county, while each ward is composed of a cluster of villages in rural areas or, several neighbourhoods in urban areas. Out of the eight sub-county DCS offices in Nairobi County, three were purposively selected including Embakasi West, Dagoretti and Langata Sub-County offices. The Langata office also serves Kibra Sub-county. Jointly, the three sub-county offices serve an estimated total population of about 1,806,282 people which is about 41% of the city's population of 4,397,073 people. The table below provides more details on the sample population.

Table 5: Population estimates in the selected counties in Nairobi

Sub-county	Population	Average household size
Dagorreti	434,208	2.8
Embakasi (East & West)	988,808	2.8
Kibra	185777	2.9
Lang'ata	197,489	3.1
Total	1,806,282	

Source: Kenya National Bureau of Statistics (2020) *The 2019 Kenya Population and Housing Census Volume 1: Population by County and Sub-county*¹³

The three sub-counties cover vast areas of the city and are densely populated because they constitute several low-income neighbourhoods in Nairobi. Commensurate with the population size, the selected areas tend to have high incidences of child maltreatment. The two courts that serve the areas handle a high volume of child abuse cases. I also obtained permission to access one of the remand homes which is managed by DCS, where I volunteered professional services two to three days per week during the research period. I participated in case conferences, home visits and program meetings which allowed me to observe interactions between children and officers, and to engage in some of the core activities that form daily activities at the institution.

Because a disproportionate number of children from these areas are admitted into the available statutory juvenile institutions, an immediate consequence of this is that child protection services are intimately linked to the juvenile justice system. Hence, the Department of Probation and Aftercare Services under the Ministry of Interior and Co-ordination of the National Government also plays a vital role in child protection. They have responsibility for supervision of juvenile and adult offenders on non-custodial sentences, their rehabilitation and reintegration back into society. Many parents charged with child abuse-related offences are therefore handled by this department, which informed my decisions to include this department in my study even though it was not initially part of the original plan. This inclusion provided useful answers to the question of what happens when maltreatment involves a parent. Two Probation and Aftercare Services offices serving Kibera and Makadara magistrate's courts were purposively selected. Kibera Probation and After Care Office and the Law Courts serve the Southern and Western neighbourhoods of Nairobi that include the expansive Kibera slums, Kawangware and Dagoretti areas. On the other hand, Makadara Law Courts and Probation and After Care office serve the densely populated Eastern and Northern parts of Nairobi that include Kayole, Dandora, Mathare and Korogocho slums, and Embakasi. These are the same neighbourhoods covered by the three sub-county children offices, enabling useful connections to be made between different interventions by different actors serving the same child or family.

¹³ See <https://housingfinanceafrica.org/app/uploads/VOLUME-I-KPHC-2019.pdf>

5.4.2 Selection of study sites and participants in South Africa

Data collection took place between January and early July 2019, although contacts and negotiations with gate keepers began in late 2018. In South Africa the Department of Social Development (DSD) has an overall mandate for child and family welfare services at both the national and provincial levels. In the Western Cape Province, DSD services are organised and provided through its six regional offices which include the Cape Winelands, Eden Karoo, Metro South, Metro North, Metro East and West Coast. These six regional offices serve a total of 30 municipalities in Western Cape. Khayelitsha falls within the Metro East region. The initial plan was to work with the Metro East regional office of DSD but this did not work out as planned because approval to conduct the study through the Department of Social Development (DSD) was not granted. Instead DSD officials recommended working with Non-Profit Organisations (NPOs) that DSD sub-contracts and funds on an annual rolling over basis to undertake statutory child protection work on behalf of the government. Initially DSD left the delivery of child welfare services in nearly all of Khayelitsha to NPOs, but by mid-2018 the government had trained, recruited and deployed a large number of social workers to their provincial offices. Availability of a larger government workforce at the Metro East regional office resulted in larger geographical sections in Khayelitsha being directly managed and serviced by DSD staff and only Site C was left to an NPO.

Unlike in Kenya where the study also covered probation services as an important child protection actor, this was not the case in South Africa. An exploration of secondary literature showed that in South Africa probation services mainly target children and young people involved in crime, drugs and gang violence as the main concerns of children in conflict with the law¹⁴. In addition, the prosecution of parents for neglect, emotional, and physical abuse is generally rare in South Africa, with children's courts dealing with very few and often very serious charges of child abuse and neglect when a child's life, safety and wellbeing is under threat. This limited the study to the work of DSD as the main state-owned child protection service provider, but the unwillingness by DSD to work with an independent researcher limited the study's scope to the activities of NPOs. It also limited direct access to child protection policy-makers. Moreover, plans to collect additional data in 2020 targeting other

¹⁴ Refer to Songca, 2019 article 'A comparative analysis of models of child justice and South Africa's unique contribution'

policy-makers faced challenges due to the Covid-19 pandemic. I therefore augmented the primary material focusing on policy with material in official policy documents and legislations about the work of DSD and the South African Social Security Agency (SSSA).

I therefore conducted the study through Cape Town Child Welfare Society (CTCWS). This is one of the oldest and largest NPOs doing statutory child protection work in different parts of Western Cape on behalf of the Department of Social Development (DSD). The NPO has annual performance-based contracts with the DSD. An NPO's ability to deliver on the set targets and standards determines continuity of its funding and staffing levels. In the case of CTCWS the services offered are designated as Tier Three services in the DSD's Integrated Service Delivery Model (ISDM)¹⁵. The ISDM has five categories of services based on the level of interventions and include prevention; early intervention, statutory, residential and alternative care; and reconstruction and aftercare (DSD, 2005). Tier Three refers to the services that are undertaken when prevention and early intervention measures fail. Before 2018 the NPO's jurisdiction covered almost all of Khayelitsha, which meant higher staffing levels, but this became a challenge in 2019. Within Khayelitsha CTCWS carries out work in Site C which has a mix of both social housing and shack-dwellings as the two photographs show.

Figure 5: A street view of an informal section of Khayelitsha, Cape Town



¹⁵<https://operationcompassion.co.za/images/Pdf/Legislation%20guidelines/Service%20Delivery%20Model.pdf>

Figure 6: A street view of the social housing (RDP) section of Site C, Khayelitsha



Source: Photographs taken by the researcher

The largest proportion of the NPO's clients live in shacks built in the backyards of RDP houses and the outer perimeter of the formally built social housing settlement.

The NPO is also linked to several other smaller NPOs and child protection service providers within the area who became part of my study, but for most of the fieldwork period I was attached to CTCWS. I took the role of a university student researcher and intern and had a chance to rotate through three of its four core departments, working under the social worker in charge of each department. The intake services department acts as the first point of contact with potential clients, hence the social worker's role is to assess all reported child abuse cases and to determine if there is need to refer or intervene as necessary. The interventions department handles case investigations to ensure child safety standards in accordance with Children Act 38 of 2005. It offers family preservation services, counselling, and mediation of parenting plans. Lastly, the alternative care department supervises foster care, undertakes family reunification and facilitates adoption services. In each of these departments I was assigned the duties of writing reports, organizing case files, accompanying social workers on home visits, and assisting caseworkers with any other tasks that they needed help with. However, the sensitivity of the study topic limited the extent of my participation, so for

example I was not invited to staff debriefing meetings. In addition, my ethical clearance did not include attending court hearings on children's cases. Nevertheless, becoming a participant observer allowed me to initiate contact with service users especially children and their families and in this way, I was able to identify and recruit willing study participants.

5.5 Approach to Data Analysis

Despite its growing popularity, qualitative research still encounters criticism associated with a lack of transparency and rigour. Often, qualitative researchers are accused of vagueness in reporting their approaches to data analysis (Attride-Stirling, 2001; (Braun and Clarke, 2019b; Silverman, 2019). Silverman likens data analysis to a maze, "much like exploring new territory without an easy road map" (Silverman, 2019:114). Similarly, Babbie (2014) cautions against undertaking data analyses before mastery of the essential skills required because it runs the risk of data-generating poorly analysed results and wasting the copious amounts of data qualitative inquiries typically generate. Though there are several approaches to analysis, there is no 'fool proof' method. The choice of the most appropriate approach depends on the research goals and research questions, the researcher's experience, and epistemological framework (Silverman, 2009:114). Hence, the call for transparency, rigour, systematised, and methodical qualitative data analysis procedures (Attride-Stirling, 2001; Clarke and Braun, 2017; Nowell *et al.*, 2017; Braun and Clarke, 2019b) should be taken into account in choosing the most fitting analytical approach. Such a deliberative and reflective process enhances both the quality and credibility of qualitative research.

Essentially, qualitative data analysis involves a search for meaning which defines characteristics of the phenomenon under observation (Hancock, Ockleford and Windridge, 2009; Braun and Clarke, 2019). To make sense out of data, textual materials must be organised, explored, and categorised into themes (Braun and Clarke, 2012; Clarke, Braun and Hayfield, 2015). Common analytical approaches for 'uncovering' meaning include grounded theory, narrative analysis, content analysis, interpretive phenomenological analysis, and thematic analysis (see Silverman, 2019; Braun and Clarke, 2019b, 2019a). Grounded theory (GT) which was first proposed in 1967 by Glaser and Strauss is the earliest attempt at systematic qualitative data analysis whose end goal is theory-building. GT and its underlying philosophy have influenced many of the later approaches to analysis (Silverman, 2019; Clarke and Braun, 2019b; Urquhart, 2013; Bryman and Burgess, 2002; Strauss and Corbin, 1998), but with some variations. For instance, rather than strictly applying it for

theory-building, some qualitative researchers have used GT for conceptualization- where there are deliberate efforts at "extracting concepts and theory out of data" (Byrman and Burgess 2002: 220). Similarly, researchers also use GT to inform specific "aspects of analysis" such as coding techniques and the importance of concept development" (ibid).

Analytical strategies must be philosophically compatible with the overall research design (Clark and Braun, 2019: 591), and the choices must distinguish between methodologies and methods. For instance, GT and the interpretive phenomenological approach are methodologies, meaning that they are theoretically informed frameworks with distinct ways of researching and analysing the related data. By contrast, analytical methods are "a set of theoretically independent tools for analysing qualitative data" (Clarke, Braun, and Hayfield (2015:225). For instance, thematic analysis methods provide tools for step-by-step methodical procedures which are not bound by restrictive theoretical frameworks like GT. This study utilised a thematic analysis (TA) method as the most suitable analytical approach.

5.5.1 Thematic analysis

TA is flexible and straightforward to implement, and the skills level required can be achieved by both research novices and experts alike, as argued by Clarke and Braun (2017). The authors also assert that thematic analysis (TA) "provides accessible and systematic procedures for generating codes and themes from qualitative data" (p.297). Data segments that are most relevant to the research questions are identified and labelled with clear names or codes, while important meanings that the data reveals are also identified and accordingly described, leading to the development of themes. The identified themes form the basis of the research report, providing "a framework for organising and reporting the researcher's analytical observations" (p. 297). Furthermore, TA is not paradigmatically or theoretically bounded which makes it adaptable to a variety of theoretical and epistemological frameworks, applicable across disciplines, and adapted for use with a wide range of research questions and sample sizes (Braun and Clarke, 2012, 2019a; Nowell *et al.* 2017).

More specifically, this study employed the reflexive approach to TA advanced by Braun and Clark (2006, 2009, 2019b) because its philosophical assumptions are adapted to a constructivist ontology about social reality as socially embedded and subjective (ibid). Generally, thematic analysis can be undertaken inductively or deductively, can have varying depths of data exploration (descriptive or surface of meaning), and can also attain varying analytical depth (manifest or interpretive). However, a reflexive TA approach goes beyond

merely choosing between the dichotomous approaches to data analysis- that is, inductive versus deductive options. Instead it espouses diversity in its data manipulation techniques. With a reflexive TA, both inductive and deductive coding can be used instead of choosing one over the other (see Braun and Clark, 2009, 2012). *Deductive coding ensures* themes and results remain close to the data while inductive coding allows for theory to prescribe concepts that influence how data is coded and explored (ibid). This study employed both inductive and deductive approaches which enables theoretical ideas of the Wellbeing in Development (WeD) to be utilised whilst also letting data determine the coding process. Because TA is systematic and iterative, it facilitated an extensive exploration of data for meanings or ideologies (Clarke, Braun and Hayfield, 2015). At the same time, Clarke, Braun and Hayfield, (2015) emphasise the central role of the situated and subjective qualitative researcher in the interpretive process. A reflexive TA process is “active and generative” which helps to unearth participants’ ‘stories’ through an analytical process that results from “prolonged immersion in the data, thoughtfulness, and reflection” (Braun and Clark, 2019a:591).

5.5.2 Steps in thematic analysis

Reflexive TA involves six interlinked stages which should not be followed religiously in a linear manner, but rather, they should be iterative as the analysis process can move between them to review, refine and re-classify codes or generate alternative themes (Braun and Clarke 2006, 2019b). The six stages include 1) Data familiarisation, 2) Initial coding, 3) Theme identification process, 4) Reviewing of an initial set of themes, 5) Labelling or naming the themes, and 6) Reporting the findings. The six are discussed in slightly more detail below.

Stage1: Data Familiarisation

This stage involves reading, re-reading, the data, including listening to audio recordings and becoming immersed in it. Good knowledge of data ensures accurate coding and increases understanding of the connections between various data sources. Part of the initial familiarisation included simple procedures that made the data accessible by sorting, dating, cataloguing by sources, transcribing, and typing field notes.

Stage 2: Coding

Coding is an important step in the early stages of analysis. The choice of codes depends on insights gained as the researcher interacts with the data, or explores relevant literature. The codes assigned must be relevant to the research question, simple and non-interpretive (Braun

and Clarke, 2012; Clarke, Braun and Hayfield, 2015). Codes can also be based on technical terms or theoretical concepts although Silverman (2019) cautions against the introduction of technical terms too early in the analysis. Such a premature move could inhibit further analytical insights that might otherwise have been achieved by openly exploring the data without the constraints of theoretical labels (ibid). It increased the likelihood of distancing the researcher from the data in terms of how they read and interpret it, as well as missing “the possibility of being surprised by the complexities of your data and the sophistication of participants' skills in doing whatever they are doing” (Silverman, 2019:126).

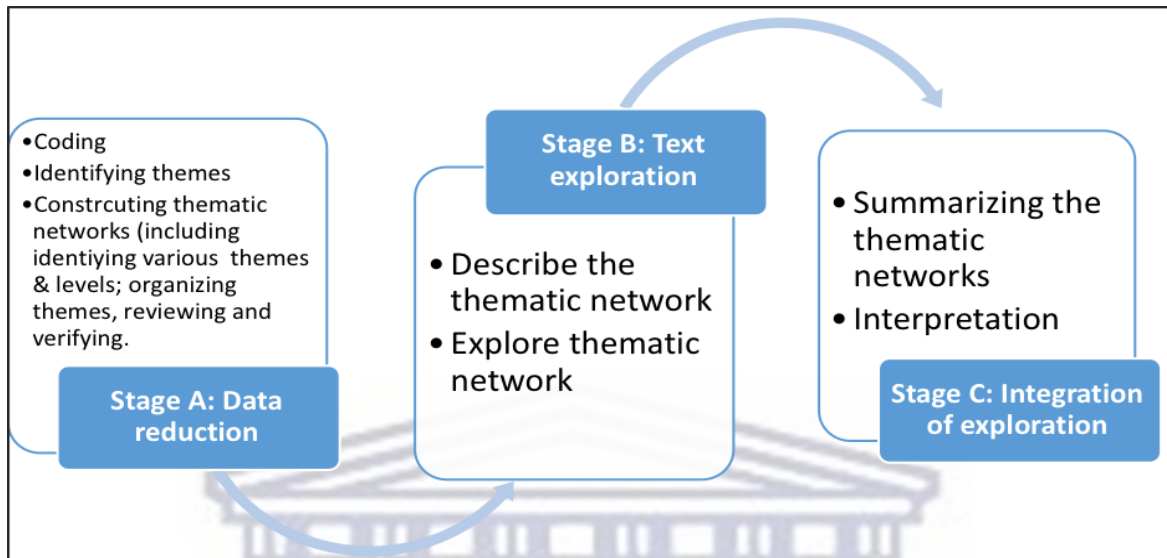
Stage 3: Searching for themes

Braun and Clarke (2012) liken this stage of TA to an archaeological excavation process where the researcher combs through the data to identify those segments that can help to answer their research questions. At this point, codes are reviewed and clustered together to generate broader meanings that constitute themes, and those that do not make much sense are discarded. Each theme is also distinguished from the other but the underlying connection that linked all the themes to the broad research questions should be established in order ensure coherence of research findings. Once the key features of themes are identified, analysis can be deepened using visual diagrams which Braun and Clarke call thematic maps. These maps show the relationships and connections between potential themes and codes or what Attride-Stirling's (2001) refers to as thematic networks.

Thematic networks are powerful web-like visual illustrations that show the building blocks of themes. As an analytical tool, network analysis has equally systematic data manoeuvre steps like reflexive TA. While TA remains the underlying approach, network analysis bolsters the process of identifying themes, delineating relationships among codes as the building blocks for themes and facilitating their presentation (Attride-Stirling, 2001:387). Network analysis uses the logic of augmentation theory which follows a three-stage basic structure of; stating a claim, presenting a clear argument that warrants such claims, and, presentation of evidence to support the claim (Attride-Stirling, 2001). This strategy enables qualitative researchers to powerfully demonstrate how findings and conclusions are arrived at. This study adopted a network analysis strategy to expand on stage three of reflexive TA by Braun and Clarke (2006) because Attride-Stirling, (2001) offers a detailed step by step process on how to identify themes, create thematic networks, summarise thematic issues and interpret the findings. These steps integrate well with Braun and Clarke's stages three and

four of reflexive TA. The key aspects of Attride-Stirling's (2001) process of creating thematic networks are summarised in the figure 4 below.

Figure 7: Summary of data analysis phases



Stage 4: Reviewing potential themes

This step is a quality check whose aim is to confirm if data extracts or segments fit with the identified themes and where this is not the case, a fresh review and re-assembling of codes has to be undertaken. This process is guided by research questions and care is taken to ensure there is sufficient data to explore the depth and breadth of the research subject. The process also helps to create distinct boundaries between themes, and acts as a second phase of confirmation of the themes and ensuring all data are explored (Braun and Clarke, 2012).

Stage 5: Defining and naming the themes

The discrete themes created at stage four are generated and their essence described, clearly delineating each from the other and ensuring coherence between themes. Like the codes, the descriptions need to be concise and realistic- not too abstracted and removed from the data (Braun and Clarke, 2012). Again, they must address the research questions. At this stage, a much deeper analysis occurs as the researcher also selects text extracts which are evidence of the character of each of the identified themes. Braun and Clarke (2012) advise that extracts should be drawn from a wide array of data sources rather than over-quoting and relying on a few interesting ones. Importantly, contrasting positions should also be highlighted and used effectively to tell a coherent story and to paint a vivid picture for the reader (ibid).

Stage 6: Producing the report

This stage entails putting together into a coherent the various themes and their supporting extracts to tell a coherent, logical and compelling story where findings are linked to the data, as well as disciplinary traditions (Braun and Clarke, 2012)

5.6 Reflexivity and positionality

Unlike in positivist studies where researchers ensure objectivity by distancing themselves from the study subjects and process through rigorous data collection procedures and control, qualitative research embraces subjectivity, creativity, and reflexivity. Subjectivity in qualitative research is “a resource [...] rather than a potential threat to knowledge production” (Braun and Clarke, 2019:591). Viewed this way, the researcher aims to make meaning of the lived experiences, narratives, and stories of research participants that are “context-bounded, positioned and situated” (ibid). An important axiological assumption in qualitative research is that research is not value-free. On the contrary, it is “value-laden and that biases are present concerning their role in the study context” (Creswell and Poth, 2018:55). Qualitative researchers must be reflexive in their work. This involves that they must be open about their positionality by showing how their gender, age, race, ethnicity, migrant status, professional orientation, political beliefs, religious biases, and training might impact on their research, and actively acknowledge and report about these influences (Ibid).

The researcher is integral to data collection processes as well as in the interpretive processes occurring throughout the study. The researcher’s subjective traits also influence interactions with study participants. These traits create preconceived notions about the other and are therefore useful devices for unconsciously filtering information during our daily interactions and can have serious consequences for research outcomes (Creswell and Poth, 2018; O’Leary, 2004). Their effects can be reduced through reflexive honesty which helps to deliberately minimise power differentials between the researcher and their subjects (Hammersely and Atkinson, 1997). For example, as a single, young Muslim woman Razavi (1997) found that researching in rural Iran (her native country) was difficult without a male companion. Similarly, Francis (1997) a single British female researcher conducting fieldwork in the 1970s in post-independent Kenya found it difficult dealing with older generations of men and women that experienced colonialism and showed ambivalent mistrust and deference towards white people. She mitigated the challenges by hiring a

female research assistant when she interviewed older women and a young male university student for interviews with elderly men.

Without prior research experience in South Africa, it was necessary to first establish trustful relationships by first understanding the new context and building sufficient rapport before undertaking any substantive interviews. This strategy minimises suspicion and unintended expectations. Participants may have different attitudes and relationships with institutions such as the state, NGOs, social class, or “other potentially threatening figures of authority” (Francis 1997:92) which, if the researcher is associated with could create pitfalls, suspicion, mistrust or raise unfulfilled expectations (see also Razavi 1997). Identifying as a university student has the potential to reduce expectations and perceived power to influence, though caution is also necessary. In some contexts, advanced university education, especially PhD studies in a foreign country, is considered a privilege and can also lead to social distancing. I, therefore, avoided mentioning I was a PhD researcher which might be intimidating and only divulged such details when explicitly requested for more details. At the same time, as an international student, though a Black African, I was perceived as a foreigner since I am not a native speaker of any of the 10 out of 11 South African languages. The consequence of this is that I might have missed important cultural nuances that affect sensibilities of how people interact and develop shared meanings about certain issues or some of the meanings attached to certain practices and phrases used by participants. I, therefore, recruited an *isiXhosa*-speaking field assistant who was also familiar with the field sites since he resides in the community. Being a Bantu speaker helped a great deal as I was able to quickly learn basic *isiXhosa* words and phrases like greetings, showing gratitude, and other basic conversational phrases that denote friendship and respect for other cultures.

5.6 Research ethics and ethical dilemmas

Researchers are expected to adhere to normative values and professional codes of ethics that guide interactions between researchers and participants as well as the management of research procedures to ensure credibility and positive outcomes. Truthfulness to the research process, avoiding behaviours that could adversely affect research participants, and doing justice to the subject by espousing rigour and accuracy are some of the critical concerns (Wilson, 1997). There is no “one size fits all” template for research ethics but researchers are called upon to uphold ethical practices whilst also being flexible as they take into account their unique philosophical stance- particularly their methodology (Murphy and Dingwall,

2001). Murphy and Dingwall (2001) posit two complementary theoretical approaches for determining if research adheres to the expected ethical standards. The consequence approach is concerned with research outcomes and the extent to which these affect the participants either through accrued benefits or harms (ibid). The deontological approach is concerned with the rights and moral obligations owed to research subjects and ensuring the same are upheld (ibid). Out of the two theoretical perspectives arise core ethical research principles of non-maleficence, beneficence, justice and Autonomy/Self-determination (Ibid). These four principles are widely recognized in humanities, social and behavioural sciences, and are foundational in institutional research guidelines and codes of ethics (see Hammersley, 2015; Skovdal and Abebe, 2012; Human Social Research Council, 2011; National Advisory Board on Research Ethics, 2009).

The principle of nonmaleficence requires that researchers do not harm participants (Murphy, 2001) and that at all times the researcher is committed to ensuring participants are "treated politely and with respect for their dignity" (National Advisory Board on Research Ethics, 2009:9). Participants must not suffer mental, physical, emotional, social or financial risks as a result of participating in a study (ibid). Equally, harm avoidance includes a commitment to communicate findings in a safe manner such that the published outcomes do not cause any adverse effects such as victimisation of respondents, especially where they are easily identified (Murphy and Dingwall, 2001). Closely related to this principle is privacy and data protection which the National Advisory Board on Research Ethics, (2009) identifies as a separate and additional ethical principle. This principle is concerned with storing data safely, and keeping data sources (participants) anonymous and confidential by ensuring they are not publicly disclosed or easily identifiable. However, there are limits to confidentiality- for instance, if the same information is in the public domain (ibid).

Beneficence, on the other hand, is about ensuring research is beneficial and that such benefits are shared and accrue to all involved in the study or the broader society and not just the researchers themselves (ibid). In addition, the principle of autonomy/self-determination demands that researchers respect the decisions of participants including their free will to participate in the study without coercion or manipulation (ibid). Participation in research should be voluntary and based on informed consent, which means that the researchers must provide accurate and truthful information to participants (Murphy and Dingwall, 2001). Finally, justice in research means that researchers and research processes treat all human beings equally regardless of their ethnic, gender, race and social backgrounds (Ibid).

Similarly, there should be balanced and unbiased representation so that both the villains and the heroes get fair representation (ibid). And equally, selection to participate in the study should be based on objective criteria.

5.7.1 Implications of ethics for the study

Adherence to established ethical standards ensures research processes, relationships and outcomes are well managed and are acceptable to the researcher and the community of practice. From the design stage, efforts were made to ensure this study was ethical. Ethical clearance for this study was granted by the Senate Research and Ethics Committee of the University of the Western Cape (HS18/1/16) which ensured that the study also complied with the 2012 guidelines issued by the Human Social Research Council (HSRC) of South Africa. The study was also approved by the Kenya National Commission for Science, Technology (NACOSTI) who issued a research permit to conduct the study in Kenya (NACOSTI/P/18/13885/23074). Additional institutional clearance was obtained from the Department of Children Services, Department of Probation and Aftercare Services, and the Non-Profit Organisation (NPO) in Khayelitsha respectively.

Where research involves children, greater caution is particularly required, to ensure children are not exploited due to their vulnerable developmental stage, induced or manipulated into participating in research (Skovdal and Abebe, 2012). Where children are concerned, non-maleficence means recognizing power differentials between children and adult researchers who wield greater physical, social and economic status power over children (Punch, 2002). It also demands providing children with the right information in a timely fashion using child-friendly means that enable children and their caregivers to make informed decisions whether to participate in the research or not (see appendices A-R for detailed information sheets shared with all participants). Besides, tools and information sheets should be translated and explained in detail to participants in the local language (in this case Kiswahili and IsiXhosa) before interviews commence. This study was carried out in either English, Kiswahili, or isiXhosa depending on the participant's preference to encourage deeper engagement and free-self-expression.

Regarding informed consent, children below the age of seven can only assent as they cannot consent, which is the responsibility of their caregivers (HSRC, 2012). Besides, most guidelines require children between 13-18 years to directly give their consent in writing, in addition to parental consent. For children below 12 years, parents must give consent but in

recognizing children's autonomy and rights as research subjects researchers are cautioned against assuming that parental consent is enough (Abebe, 2008). These children must still be consulted to reaffirm their willingness to participate, but if they choose to opt out, their wishes should be equally respected regardless of the parents' consent (Abebe and Skovdal, 2012; HSRC Guidelines, 2011). All participants should sign consent forms. At the same time, written consent notwithstanding, participants should also be verbally reassured that participation is voluntary, that they have the right to withdraw from the study at any point during the interview without recourse, and confirm consent before the recording of interviews or taking of photographs. Researchers need to frequently reiterate the purpose of their study and the need for data. Where data collection involves prolonged field stays, the researcher should hold regular meetings with participants either individually or collectively and explain their research aims and data requirements (Wilson, 1997:185).

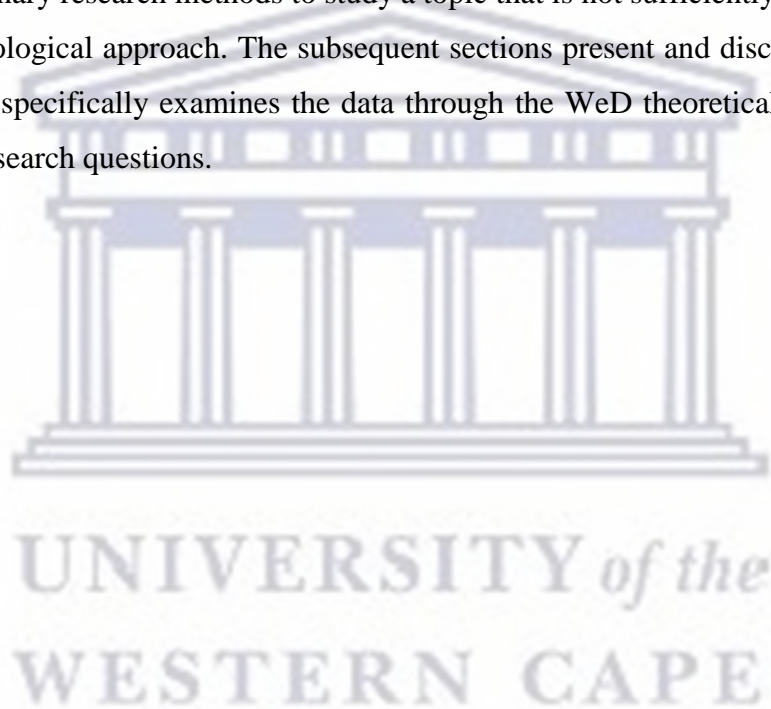
There were no risks associated with this study, though it acknowledged that talking about a painful past could trigger traumatic memories and reactions that might not have been properly managed through prior therapy. To mitigate this risk, the professional services of accredited child therapists in Kenya and South Africa were retained to provide counselling in case participants experienced any adverse effects as a result of participating in the study. Participants were duly informed about this support, but fortunately, none required it. Most had received sufficient therapy or were in the process of undergoing counselling during fieldwork. Also, where participants showed discomfort with difficult topics, further discussions were not pursued. As much as possible interviews with children were kept informal and conversational at the start but deepened progressively as trust and rapport developed gradually. This resonates with Wilson's (1997) advice that sensitive topics should initially be introduced in a general way to gauge cultural sensitivity before delving into more personal experiences.

No payments were offered to participants. However, where interviews were conducted in the participant's home, general conventions in line with the African culture were observed. Generally, it is considered rude for a visitor to show up empty-handed at the host's place. Presenting a bag of groceries to the host is a sign of good faith and is not considered as a payment. Similar conventions like reasonably compensating participants' transportation costs and for time spent in research projects are noted by Strydom (2011). However, such practices become unethical if large sums of money are offered to induce participation, which might compromise the research goals (ibid).

Confidentiality and anonymity were enhanced through the use of pseudonyms unless a participant expressly permitted their real identity to be used. Furthermore, to safeguard confidentiality, raw data collected during the fieldwork was safely stored in a non-open access storage site for hard copies of notebooks and password protected for electronic files.

5.8 Chapter conclusion

This chapter provides detailed discussions of the study's theoretical, epistemological, and methodological choices. It emphasised and justified the need for an interpretive research paradigm in line with the research questions that the study sought to answer using an ethnographic case study design. A unique feature of the study design is its combination of multi-disciplinary research methods to study a topic that is not sufficiently studied using an ethnomethodological approach. The subsequent sections present and discuss key findings. Chapter nine specifically examines the data through the WeD theoretical lens in order to answer the research questions.



CHAPTER SIX: ENCOUNTERING CHILD PROTECTION IN KENYA

6.0 Introduction

This is the first of the three chapters (six, seven and eight) that present empirical findings. Chapter six focuses on Kenya, while chapter seven is on South Africa. Jointly the two chapters address the first study objective and corresponding research questions. This chapter examines evidence that addresses the following three research questions;

- a. In pursuing the best interest of the child, how does the child protection system (in Kenya) respond to child abuse which involves parents and primary caregivers as ‘perpetrators’?
- b. In carrying out child protection work, how do key protection actors like social workers, judicial officers, children officers and NGO workers frame child abuse?
- c. How do children and families with a history of child abuse experience the child protection system (in Kenya)?

Data was collected through in-depth interviews, participant observations, extensive reviews of important secondary materials, as well as informal conversations with a wide range of child protection actors. Data analysis was carried out using thematic network analysis. The chapter starts with a brief summary of biographical information on the research participants followed by a discussion on the findings which are organised into five key themes and several sub-themes uncovered through the thematic network analysis process. A total of 21 family case histories were compiled and used to frame and thus, facilitate thematic organisation and discussion of the findings. The cases were developed from personal historical narratives by children, parents, social workers, children and probation officers who interfaced with the children and their families during the course of handling their matters within the child welfare and juvenile justice system. Bennett (2018:6) notes that idiographic representations of people’s lives based primarily on changes and life processes seen through the eye and accounts of the narrators may explain the current circumstances. The participants’ personal narratives were used to compile the case histories which provided critical insights into the personal experiences of child protection services in line with one of the study objectives.

The findings revealed the complex and multi-dimensional factors that drive child maltreatment and push families into involvement with child welfare services. They also expose the less acknowledged messiness surrounding the interpretations and

implementation of the *best interest* principle. There were also widely varying attitudes, perceptions and debates surrounding the choice of protection interventions, and more so the use of social grants. Three interventions stood out in the case of Kenya; the prosecution of parents, limited family-centred programs, and a high propensity for institutionalisation of children. The findings reveal the need for better ways of managing child maltreatment among low-income families in Kenya in line with the government's shifting policy towards de-institutionalisation.

6.1 Description of study participants and their demographic profiles

A total of 45 participants were interviewed, having been selected based on the predefined selection criteria discussed in the methodology section. The purposively selected sample led to a rich mix of actors in child protection including probation and After Care Officers (PACO), County Coordinators and Sub-county children officers (SCCO), judicial officers (JO), policy-makers, children, parents and guardians. Others included a remand home manager, a senior children officers with extensive experience in handling child abuse cases at the national and county levels. At the time, DCS was also piloting one-stop centres as an alternative model for providing integrated child protection services at decentralised community centres, and as a result one centre manager was also included. Furthermore, the study participants were spread across several low-income neighbourhoods within the city. The two photographs below provide visual images of one of the low-income neighbourhoods that was part of the study site.

Figure 8: Photograph showing the street view of Mukuru kwa Njenga slums in Nairobi



Source: The Photograph was taken by the researcher.

Figure 9: Inside a study participants' home in Mukuru kwa Njenga



This is the interior of the one-roomed house that Moses' family rents in Mukuru slums. The photo was taken with the owner's permission (July 2018).

Depending on each participant's preference, interviews were conducted at either their homes, the remand home, government offices, cafes, and other public settings like the chief's camp. Where permission was granted the interviews were recorded for accurate transcriptions. Selection of parents and children was informed by secondary data (mainly case records) as well as information provided by the case-workers. The table below summarises the main categories of study participants and the data collection techniques used for each category.

Table 6: Categories of study participants in Kenya

Category of participants	No. of participants	Data Collection techniques
Judiciary officers (a senior Judge and a magistrate)	2	Key informant in-depth interviews
DCS children officers (including 1 remand manager)	5	In-depth interviews, informal conversations and observations
Volunteer children's officers	2	Informal conversations
Children (10-17 years)	8	Informal conversations using participatory techniques as ice-breakers, interviews with older children and home visits to the selected cases.

Parents/ primary caregivers serving probation sentences	13	Case analysis combined with in-depth interviews, home visits where possible, and augmented by conversations with case-workers (probation officers).
Parents (not charged) whose children were at the remand or CCIs for truancy, crime, or protection	4	Case analysis, in-depth interviews, home visits and using that to compile comprehensive case histories when combined with the children's narratives.
Probation officers	6	Formal interviews and informal conversations
NGOs	3	In-depth group interviews
Policy-makers (Social protection & child welfare)	2	Key informant in-depth interviews
Total	45	

To qualify for inclusion, a child or parent must have interfaced, or had an active case with child welfare or child protection services between 2017 and 2018. Secondly, the family must have been residing in one of the low-income neighbourhoods in Langata, Embakasi West, or Dagoretti sub-counties, or an area within the jurisdiction of Kibera or Makadara magistrate's law courts. Thirdly, the parent or child must have been willing to voluntarily participate in the study and provide written consent or assent. Participating children had to be between eight and 18 years of age and under the care of a parent or primary caregiver. Finally, the selected cases had to be varied and represent different perspectives on child maltreatment, but excluded child sexual abuse cases. Based on this criteria, eight children and 17 parents formed a sub-set of the 25 participants. Narratives of the 25 participants helped to construct 21 family case histories around which frame the data presented here. Of the 17 parents, 12 were serving non-custodial sentences for various child-abuse related offences while one was awaiting sentencing. The remaining four were not 'offenders' but their children had been committed to statutory juvenile institutions either as CNCP or children in conflict with the law. The latter group includes children below 15 years with multiple incidences of truancy, drugs and substance abuse, or involvement in gangsterism, making it hard for parents to exercise parental control and supervision. In such cases, the parents are not charged unless children officers can prove that the parents failed to exercise their parental duties. These four parents' interviews were linked to their children and hence not treated as stand-alone cases, which yielded a total of 21 rather than 25 case histories.

Notably, only two out of the 21 case histories involved fathers as offenders and primary caregivers. This skewed figure suggested a gendered understanding of child care responsibilities. On average, most caregivers were under 40 years except for three who aged 54, 43, and 41 years respectively. Those serving probation sentences were even younger, the average age being 35 years with the youngest at 24 years. The four parents without charges were in their 30s, while the average number of children per family was four. The table below summarises the key characteristics of the 17 parents.

Table 7: Profiles of parents participating in the study

Variable	Characteristic description	Frequency
Age of parents	24-30 years	4
	31-35 years	8
	36-39	2
	41-45 years	2
	50 years and above	1
	Total	17
Marital status of parent(s)	Married (two-parent family)	7
	Single parent (Never married)	3
	Single parent (divorced or separated)	7
	Total	17
Level of education	Incomplete Primary education cycle (dropped put or did not take exams)	8
	Completed Primary but did not proceed with secondary education	2
	Secondary school (enrolled but did not complete/dropped out)	2
	Secondary School (completed-KCSE)	2
	Secondary (KCSE) plus tertiary level training (Certificate)	3
	Total	17
Number of children per parent	1-2	7
	3-4	7
	5-6	1
	7 and above	2

	Total	17
Key Livelihood activities	The majority were self-employed in small businesses selling foodstuffs like fruits, vegetables, cooked food, snacks, and dried fish; running small hair and beauty salons; tailoring and dressmaking; operating retail shops; entertainment/disco jockeying	8
	Casual labourers/ piece workers (washing clothes, road construction)	3
	Employed (sales & marketing/shop assistant)	1
	Small business + rental income from kiosk/extra room in the slums	1
	Urban farming + small business	1
	Stay-home mum/Housewife	3
	Total	17
Previous 'criminal' record or reported incidence	Yes: had a previous non-custodial or community service sentence	4
	No: Was a first-time offender	9
	Not prosecuted- child involved and designated as needing care and protection or in conflict with the law	4
	Total	17

All the eight child participants were in alternative care institutions. Half of them were first-time entrants, while the other half had a history of a previous involvement with child welfare services. Only one had completed the primary cycle of education, while the rest were still in various primary school grades, with grade two being the lowest, as the table below shows.

Table 8: Profiles of child participants

Child ¹⁶	Age	Education Level	Type of family	Child's circumstances	Previous involvement
Ngesa	Under 12 years	Primary-Grade 8	Single mother (separated)	She stole money from her mother and bought a smartphone	YES: She had also stolen money but was released under supervision
Omwenga	11 years	Primary-Grade 6	Step-family (father re-married)	Truancy: Running away from home (for street life)	YES: Had ran away a year earlier

¹⁶ In all cases, children and parents' names were changed to protect their identity

Mogaka	14 years	Grade 8	Single mother (separated)	Stealing a laptop from a neighbour	YES: He had two previous theft incidences
Moses	11 years	Grade 5	Two-parent family	Truancy: Running away from home (for street life)	YES- previously ran away at 8 years
Lizzie	17 years	Completed primary, did not proceed to secondary	Step-family (her father re-married)	Truancy: Running away from home to escape a poor relationship with the step-mother	NO
Amalla	10 years	Grade 2	Step-family (father re-married)	Physical assault by the father and cruelty by the step mother	NO
Sylvia	About 11-13 years	Grade 5	Two-parent home	Physical assault by her mother	NO
Atwoli	10 years	Grade 2	Step-family- (the mother had remarried)	Abandoned by his parents in their rented house	NO

A variety of techniques were used to build rapport with children including opening conversations with informal chats, and participatory games and related activities. This strategy worked best with younger children between 10 to 12 years. Informal conversations involved discussions about the games they enjoy, school subjects, and friends. Conversations also involved drawing each one's the family genealogy which would open the space to talk about our families. I deliberately did not initiate interviews with children until I had interacted with them informally at least two times. I familiarised myself with the daily routine at the remand home, held multiple informal conversations with the caregivers, and made observations on the kinds of activities the children were involved in. This also allowed children to get comfortable around me in a familiar environment prior to any interviews. Where a child expressed unwillingness to participate in the study, their wishes were respected and they were excluded from in-depth interviews and formal discussions.

Primary data collection methods were supplemented by detailed participant observations and personal reflections which were documented by keeping a field diary. The field diary was a useful tool for tracking important, mundane, as well as situations that appeared unusual, or which raised further questions for me. These reflections offered 'nuggets of

wisdom' and insights that proved important for contextualising the data. Observations provided first-hand experiences of how case-workers assessed risks and made decisions during case intakes, interview sessions with parents, case conferences, family tracing and re-unification processes missions, and other formal and informal procedures in the various departmental offices. The findings incorporate observations made during family tracing and reunification missions involving five children in Kibera, Mukuru kwa Njenga, and Kayole areas where I accompanied remand home social workers. Other observations were made at the offices of the Department of Probation and After Care Services and included the reporting process, interactions and how sessions with clients were documented and the information they provided was interpreted in the reports. These fieldwork activities along with transcribing the interviews allowed me to "immerse" myself in the research process (Hancock, Ockleford and Windridge, 2009) as expected of ethnographic researchers. It also offered moments to reflect on the applicability of my theoretical and methodological choices to the research topic. However, the more detailed data analysis began after completion of the fieldwork at both study sites.

Although focus group discussions (FGDs) had been originally planned for with parents and children, these were later excluded because of difficulties associated with mobilizing parents and children involved with child welfare services for joint meetings. Most were unwilling to openly talk about their experiences in group settings with strangers. In addition, the parents had different monthly appointment dates with probation officers. Also, since most were self-employed or casual labourers, they were reluctant to miss work for 'unofficial' meetings. Similarly, no group therapy sessions were observed. Although both departments had indicated that group parenting and counselling sessions were part of their support programs, none were offered during my fieldwork. It was reported that in Makadara there had existed a robust group therapy program that was supported by an NGO but once the NGO's funding ended the program ground to a halt, and soon after the only trained officer left the duty station¹⁷. Given these challenges, it was more feasible to pursue individual interviews with parents and the children. Where it was possible and necessary, more than one interview was carried out especially with the children, some of the parents and most of the case-workers.

¹⁷ Personal communication with one of the probation officers at Makadara.

6.2 Encountering child protection practices in Kenya

This section examines evidence that addresses the first study objective and its three corresponding research questions as stated below.

- a. In pursuing the best interest of the child, how does the child protection system respond to child abuse (with exception of sexual abuse) when it involves parents or other primary caregivers as the ‘perpetrators’?
- b. In carrying out child protection work, how do key protection actors like social workers, judicial officers, children officers and NGO workers frame child abuse in Kenya?
- c. How do children and families with a history of child abuse experience the child protection system in Kenya?

As a starting point, actors’ perspectives were analysed in order to understand how attitudes influenced their responses to different instances of maltreatment. Their perspectives were juxtaposed with the way parents and children encountered the system, with a more particular focus on the nuanced ways that children and parents who were repeat offenders were treated. Combined, the emerging issues articulate how low-income families experience child protection services in line with the first study objective. A total of 21 case histories are first presented and used to scaffold and contextualise the findings and discussions of the evidence. The case histories are organised into two sets and are highly summarised compilations from the extensive interviews with parents, children, case-workers and case file reviews. The full case histories are provided as annexes to the thesis. The first set presents parents’ narratives and perspectives which helped to tease out important drivers of child maltreatment at the family level. The second set represents children’s perspectives on their encounters with the child protection system. They foreground important pathways leading to children’s entry into the child welfare system as well as the additional pathways that their entry generates. Combined, all the above insights paint a picture that helps to deconstruct experiences of low-income groups of the child protection services in Kenya.

6.2.1 Drivers of child maltreatment and involvement of parents with the protection system

Of the 13 parents with child maltreatment charges, two were charged for attempted murder of minors (infanticide); six for child neglect, cruelty against a minor and endangering a child by failing to meet their needs; one for failure to protect a child against harm leading to the trafficking and sale of a minor; while another three were charged with cruelty and physical

assault (grievous bodily harm) of a child. In all the 13 cases parents blamed their troubles with the law on adversity at either the family or personal level. In contrast, the four parents who were not charged blamed their children for the negative behaviour and did not see any role in contributing to the problems. Surprisingly, very few parents (at least two) directly named poverty as a cause, even though in all their explanations they made critical links to a lack of economic opportunities, failed familial and social relationships, as well as other related forms of deprivation. The 17 cases illustrate complexities and inter-relatedness of the causal factors with parents' inability to meet the family's basic needs being most frequently mentioned, as well as mental health challenges, marital problems, dysfunctional or weak family relationships and support systems. While parents were more likely to talk about mental health problems, these were rarely acknowledged by state officers, yet these seem to be a growing concern among parents. Instead, state officers (judicial officers, probation officers, children officers) were more unanimous that child maltreatment was driven by poverty, domestic violence, negative and gender-biased cultural attitudes and practises which impact negatively on women and children, a poor parenting orientation and a general unpreparedness for parenthood due to teenage pregnancies, early marriage and early child-bearing. Three state officers also noted instances of unwillingness by parents to take responsibility for the care of their children and the expectation that the state should take over parental responsibility, particularly when the children were delinquent. In total nine factors were identified and each of these factors is discussed in detail with examples drawn from the experiences of the various parents in the study.

1. *Mental health and alcoholism*

Angela, Adiema, Dorothy and Ivy were all arrested and charged with child maltreatment between 2014 and 2017 and were all serving non-custodial sentences of varying lengths. At the time of committing the offences, each of these mothers was dealing with what they identified as distinct personal problems that led to stress and anxiety. Both Angela and Ivy had undergone painful separations after their failed marriages, while Adiema and Dorothy were still married but experiencing marital troubles. These situations pushed them towards harmful behaviours and lifestyles that included attempted infanticide, alcoholism, and suicidal tendencies (see details in the table below).

Table 9: Alcoholism and drug use as drivers of child maltreatment

Case	Presenting problem and the family situation
Parent Case#1 Angela	<p>Stress and anxiety: <i>Angela, a 31-year-old mother of five children was charged with cruelty and attempted murder of an infant. At the time of committing the crime, she was unemployed and was also dealing with a recent and painful separation from her husband. Soon after the separation Angela discovered she was pregnant with her fifth child and contemplated abortion. She was worried about her inability to care for five children as a single mother, and she already had a previous record of neglecting four of her older children. Though she decided to carry the pregnancy to full term, it was not an easy decision. She said “I was sick nearly all the time. I was constantly worried and anxious about my ability to care for five children on my own”. In her distress, she gave birth at home and immediately threw her day-old infant in a pit latrine, leading to her arrest and prosecution after neighbours reported her to the police. It is likely that Angela had developed severe pre-and post-partum depression which caused her unusual behaviour but which was not addressed early enough. After a short stint in prison (remand), Angela was lucky to be enrolled on an NGO program that supports formerly imprisoned mothers. The program provides short-term cash transfers so Angela was able to save and start a street food vending business in Kawangware slums.</i></p>
Parent Case#2 Adiema	<p>Alcoholism and poor family relationships: <i>Adiema, a 43-year-old mother of seven who works as a casual labourer (laundress) was charged with child neglect and cruelty against her six-month-old son Carlton, whom she endangered after falling into and sleeping in a ditch after a heavy drinking episode. This was after a previous conviction for a similar offence for which she served a one-day community service order. Adiema associates her drinking with a difficult relationship with her mother-in-law as well as her husband’s failure to formalise their marriage of 18 years. She says her husband has never visited her parents nor paid any dowry to them, making Adiema’s position in the marriage precarious.</i></p>
Parent Case#3 Ivy Wambui	<p>Alcoholism: <i>39-year-old Ivy is a single mother of four who was charged with child neglect. She abandoned her four children at her mother’s house and disappeared for nearly five months. Her mother had reported several other incidents to the police and the local chief. Ivy was frustrated because her husband abandoned her and refused to support their four children, yet she did not have a job. This is what drove her to alcohol abuse. Ivy’s mother informed the probation officer that Ivy has become a responsible daughter although she tends to forget her children whenever she drinks heavily.</i></p>
Parent Case#4 Dorothy	<p>Anxiety and the fear of rejection: <i>Dorothy, a 34-year-old mother of seven children is a second wife in her second marriage to an elderly man with grown children from his first marriage. Dorothy too had four children of her own from a previous marriage whom she had left under the care of her mother in Western Kenya when she moved to Nairobi to look for work and later met and married her current husband. Dorothy was charged with attempted suicide and endangering a child. She had lived with her husband until his son moved in with him to attend college, forcing Dorothy to move out of the house she had come to consider as her matrimonial home. The husband rented a shack for her in a low-income neighbourhood close by but she was unhappy with this change. On the day she committed the crime, Dorothy says she was frustrated because she had run out of food for her children and the</i></p>

<p><i>husband had stopped answering her phone calls. She also accused the husband of not honouring his promise to buy land and build a permanent home for her and her children. She, therefore, felt unwanted and ignored. After being put out of her home. After her prosecution, Dorothy was advised by her probation officer to find a way to become economically independent. She joined a women's self-help group and got some credit for her dried fish and second-hand clothing businesses, which she says are thriving.</i></p>

Both Angela and Dorothy felt unable to meet their children's needs without the support of a spouse despite being in difficult or abusive intimate partner relationships. Dorothy was unemployed and wholly dependent on her husband but her situation was complicated by the need to also compete for resources with her co-wife whose children's education needs strained her husband's capacity to provide for his big family. Her attempted suicide was an effort to gain her husband's attention to her needs and insecurities. On the other hand, for Adiema from Kangemi slums on the western side of Nairobi the problem noted by the children protection actors and the court was alcoholism which, they said, denied her children proper care and a nurturing environment. A lengthy conversation with Adiema revealed a myriad of other subjective issues which underpin her drinking problem. She feels stressed because;

The landlord was always threatening to lock up our house, we had money problems, some children had dropped out of school, and I did not have a steady job. On top of everything, my husband has refused to go and see my parents to formalise our marriage even though we have been married for 18 years now. (Angela, Parent Case#1).

The burden of caring for seven children, as well as a sickly and unemployed husband was compounded by a history of poor family relationships. Adiema rarely visits her biological parents in Northern Kenya (Turkana) nor her in-law's village in Western Kenya due to conflicts with her mother-in-law. Her two eldest daughters live there with their paternal grandmother but Adiema has not seen them in the last six years. In 2015 when she travelled upcountry to visit them her in-laws hid the children from Adiema who had to return to Nairobi without seeing them. Both girls should have completed high school by 2018, but one dropped out before completing the primary school cycle. The second one proceeded to secondary school but her progression through the grades has been slow. Upon completing primary education, her son had to wait a full year before joining high school due to lack of school fees, despite Adiema's desperate efforts to access government bursaries through her legislative representatives (the member of parliament [MP] and member of county assembly [MCA]). To cope with the parenting demands, Adiema says she relies a lot on the help of her

fourth-born daughter in class six to care for her three younger children who are all under five years (two are in pre-school while the youngest is yet to join the school). At some point, all the children had dropped out of school but have since been re-enrolled since she came under the scrutiny of the local chief and DCS. After the arrest of his mother, Carlton the youngest child was admitted into a private children’s home for 12 months due to severe malnutrition and neglect.

2. Poverty, leading to unmet family needs and child neglect

For many parents, inability to meet their children’s basic needs is what contributes to child neglect and in some instances, the consequence is the commercial exploitation of their children in order to raise additional household income. One of the judicial officers noted that poverty is a major concern in her courts’ catchment area. It serves eight of Nairobi’s major slums and has 26 of the busiest police stations in the city. Hence, cases of child neglect are fairly common. The magistrate recounted handling a case where “*a young mother committed infanticide by smothering a five-month-old baby with a pillow because she felt she could not take care of the child adequately*” (KENJO#2, July 2018). Nearly half (six) of the 13 parents were charged with child neglect or a combination of neglect and cruelty against a minor contrary to sections 127 (a) and (b) of the Children Act of 2001. In some of the cases parents associated lack of support by a spouse or other family members with their adversity as the cases summarised in the table below show.

Table 10: Linking poverty at the household level with child maltreatment and neglect

Case	Presenting problem and the family situation
Parent Case#5 Mercy	<i>Mercy, a 30-year-old single mother of two young boys, was charged with neglecting Bryan, her 10-year-old son, by failing to provide him with shelter and medical care. Bryan started using drugs at the age of eight and by age 10 was heavily addicted to glue and heroin. He left home and started living on the streets where he survived by begging and petty theft. However, when he broke an arm after falling from a moving lorry Bryan decided to go back home for care but Mercy chased him away because she was fed up with his delinquency and drug problem. Mercy says her efforts to discipline Byran and get him off drugs have failed. Moreover, Mercy’s younger son suffered from a hernia and required corrective surgery but as a casual worker with an unstable income and no medical insurance so she could not afford the cost of medical services needed for the treatments. She tried getting assistance from her extended family but was not successful, leading to her arrest for neglect. Eventually, the boys got medical care at a government hospital after social workers intervened and the hospital waived the bills. The children are now at different children’s homes as Mercy makes efforts to reach their fathers for support.</i>

Parent Case#6 Caroline Nanjala	<i>The 31-year-old mother of two who hawks cooked food around her neighbourhood streets was accused of abandoning a minor and causing them unnecessary suffering. The child was rescued by a children's officer and placed in a children's home after Caroline dumped her infant at an open motorcycle taxi (boda-boda) terminus where her partner works. The next day when she came to collect the child she was arrested and taken to court. Caroline says she was angry with her partner because he had refused to support her and the children financially.</i>
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The two cases above demonstrate the immense pressure on parents to meet children's basic needs. It also demonstrates the great lengths parents are willing to go to, in order to protect their children. However, Mercy's case was worsened by the poor relationship and mistrust that exists between her and her relatives. Mercy comes from a polygamous family of 11 half-siblings and is an orphan. After the death of her parents her half-siblings and stepmother became hostile towards her and chased her away from the family home. She claims they also denied her a rightful share of the inheritance, ostensibly because Mercy's mother was second wife to her father who had not completed the required customary marriage rites. As such, the union was not legally recognised upon his demise. At the same time, the first wife's family wanted nothing to do with Mercy's sons because among the Luhya ethnic group children belong to their father and hence (see Human Rights Watch and FIDA, 2020), and the boys had no place in the maternal family. Mercy's relatives remained adamant that she must find her children's fathers for support and eventually hand them over to their paternal families. Unfortunately, Mercy does not know the whereabouts of Bryan's father and although she is in touch with her second son's father, he is unwilling to assume parental responsibility. This is despite several summonses and a signed parental agreement between the two parents which was facilitated by a children's officer.

Rather than being an isolated occurrence, Mercy's case is one among the numerous incidences of child neglect in Kenya. A lot of women are left to fend for their children as single mothers without the support of the fathers even where the union might have legal recognition. There is no reliable data on how many single women seek support services on maintenance from the Department of Children's Services. Some emerging evidence suggests that the challenges of single motherhood are growing and that the phenomenon is more common in urban centres, and is attributed to rural-urban migration and changing social and family structures, for example the study by Meda (2013). Nearly all the child protection actors interviewed agreed that child neglect is the most frequently occurring form of abuse, followed by physical and emotional abuse. Although sexual abuse cases tend to be fewer, there are more intense efforts directed at responding to this form of abuse.

However, there was a considerable variance between the number of neglect cases handled by children's officers and those handled by one of the courts. One of the judges (KENJO#2) indicated that her court hears between three to four children's cases per day, giving an estimated monthly total of at least 60 cases, of which only about five are cases of neglect. This translates to less than 10% of the monthly caseload. On the other hand, sub-county children officers estimated that neglect and physical abuse cases constitute between 37-75% of their monthly caseloads. But there are notable fluctuations during school holidays and at the start of a new school term when most mothers go to "complain that a father has refused to pay school fees" (SCCO#1, June 2018). The difference between the two estimates suggests that a large proportion of cases are settled out of court, at the sub-county children's office level. This points to the crucial role played by the children officers. At the same time, it calls for closer scrutiny of the actions of children officers in resolving family cases, the amount of discretion they exercise, and the extent to which they are able provide permanent and preventive solutions. An equally useful important question to examine will be what criteria the children officers apply in deciding which cases require court intervention and which ones do not.

Data from the Dagoretti sub-county office which serves the poorer southern neighbourhoods of Dagoretti and Kawangware, as well as the northern and more affluent area of Lavington provided useful insights into the nature and patterns of child maltreatment patterns in low and high-income neighbourhoods. In 2017/2018, its annual caseload of 1,798 cases (920 males and 877 females) included 665 (37%) child neglect cases, 400 parent-initiated child abduction and custody battles, and a further 250 cases involving children reported as missing or found loitering in the streets. Indeed, the sub-county coordinator's view was that there are notable differences in maltreatment trends between the north and south as illustrated in the table below.

Table 11: Child maltreatment occurrence in high and low-income neighbourhoods

The child maltreatment landscape in Dagoretti South Area (rural, low income neighbourhoods)	The child maltreatment landscape in Dagoretti North (urban, affluent areas of Lavington)
<ul style="list-style-type: none"> - Arbitration between spouses regarding child custody are often complicated by the fact that most couples are not formally married. They tend to favour ‘come-we stay’ unions (cohabitation). -Child neglect and abandonment are very common -Child labour (employment of underage girls as domestic workers) and child exploitation -Child defilement (sexual abuse). There are a lot of cases being reported mostly within the family or people known to the child. 	<ul style="list-style-type: none"> -Child custody due to divorce and family separation - Child maintenance cases-most of which end up in court since the parties involved can afford and want a permanent solution. -Enforcement of court orders - Fewer cases of child abuse (maltreatment) especially from the affluent neighbourhoods -The serious abuse cases come from Kawangware slums bordering Lavington and has a high population of low-income social groups supplying labour to the affluent areas and the city.

Source: Author’s construction based on an in-depth interview with SCCO#2 (August 2018).

Although with this small sample it is difficult to gauge the meaning and implications of the variance, it is nevertheless indicative of interesting child maltreatment trends between low- and high-income neighbourhoods. It might warrant further investigations to understand if this variance is real, or represents biases in the way rich and poor families are perceived by child protection actors.

3. Domestic violence and dysfunctional family relationships

Marital problems play a significant role in creating conditions for child abuse within the family. When intimate partners fight, they tend to become less supportive of each other, and may withdraw their support to the children especially if they feel they have lost child custody. That lack of care may reflect in the quality of care given to children by the main parent as Mary’s and Eva’s family cases demonstrate. While Mary was charged with poisoning her child, Eva’s abusive relationship began to define how she disciplined her child-often preferring corporal punishment that eventually landed her in trouble with the law. Reflecting on her vast experience with numerous children’s matters, the second judicial officer is adamant that neglect results from the pervasive culture of silence and denial of unresolved family problems until they explode. Her argument is;

We are a society that does not invest in solving issues until they get out of hand. So your husband beats you, and your mother and friends tell you “yumilia” (persevere or bear with it) because as a woman you should know that marriages are endured and guarded. Unfortunately, there is always a breaking point and by that time, it’s too late-the domestic

violence has become so serious to the point of the killing of a spouse or even the children (KENJO#2).

Ironically, this is the same statement that Adiema used to explain why she still remains in her marriage. She summarised her situation to me this way: “I was not happy with that situation but I’ve now told myself “*wacha nivumilie nilee watoto*” (let me persevere and just stay on to raise my children). Even though she is upset with her husband for not making any effort to formalise their marriage nearly 18 years later, she is willing to still sacrifice her happiness for the sake of her children.

Table 12: Domestic violence and child maltreatment

Case	Presenting problem and the family situation
Parent Case#7 Mary Kerubo	<i>Mary is a 31-year-old mother of two who was convicted in March 2018 for the attempted murder of a minor (her daughter aged four) by giving her poison. She lost her job as a casual worker at a construction site during her trial because the company could not afford to give her too many days off work to attend court. At the time, she and her husband were embroiled in a bitter marital fight which ultimately endangered their children and denied them the right to education. The husband alleged that Mary had fallen pregnant with their second child against his wishes but Mary believes this was just an excuse he gave because he wanted to leave her for another woman. Mary believes her husband framed her for poisoning their daughter and bribed the police to her arrest on trumped up charges. While her case was going on the husband hid the children and withheld their birth certificates to prevent Mary from enrolling them in school until her probation officer intervened. After a long battle, Mary eventually got custody but has struggled to meet their basic needs because she does not have a stable job and receives no support from their father. She is however happy that her mother and siblings are very supportive.</i>
Parent Case#8 Eva Ngina	<i>The 24-year-old mother of two is separated and ekes out a living as a retail shopkeeper. She was charged with cruelty against a child under three years. Her oldest child had bite marks on his entire body. Her neighbours told the children’s officer that the boy was constantly punished for the slightest mistakes. Eva says she was in a difficult and abusive marriage which made her very stressed. Her husband, who is a domestic worker, lived with his employer and only came to visit the family on weekends in their rented house in another part of the city. Eva accuses him of not supporting her and the children financially but he also did not want her to work which led to constant fights before they eventually separated. She does not wish to be reconciled with her husband and is confident she can take care of her children as a single mum.</i>

Four out of five children officers agree that the levels of domestic violence in Kenya are unacceptable. Moreover, they argued that domestic violence is one of the main drivers of a high demand for their services. However, two of the officers were adamant that the role of

children officers is not to resolve marital problems but rather to protect and safeguard the interests of the child even though they are still forced to confront the problem very often.

Mostly it's because of a lot of marital conflicts and children get caught up in the crossfire. If the parents cannot reconcile, then sometimes we intervene and commit children to a CCI while waiting for the tempers to cool. If the parents cannot agree then we advise that they go to court. [...]. But our role is to keep the child safe and counsel the child, counsel the parents and then also let other arms of government do their work (CO#3).

Making a clear distinction between children and their parents, a sub-county children officer expressed misgivings about dealing with family disputes which she says have nothing to do with children, except that parents use the children to get the officers to listen to their marital problems.

Ideally, this is supposed to be a children's office for matters about the welfare of the child; like adoption issues, foster care, and maintenance. But you find that most clients when they come here, come for their family issues- the husband and wife issues [...]. Mostly they are using a child as bait so that you can reconcile them [...]. You're not supposed to listen to adults. You're not supposed to reconcile anyone but now they use that as bait so that they can get together. So a man for example would take a child from the woman-maybe a baby, a seven-month-old, you know that is a breastfeeding child. They keep the child away from the mother, denying the child their rights- the right to food. But they are doing that so they can make the mother come

Despite such reservations, and without an official state-funded family strengthening program children officers are forced to offer advice to warring couples in the best way they can. They also facilitate negotiated parental agreements even though they do so reluctantly because these are never legally binding. Instead, they prefer that the couple seek redress through courts or court-ordered mediation. Unfortunately, access to justice through courts is not only expensive but is also an extremely slow process in Kenya. Most low-income people fear court processes and hardly bother to follow through their court cases, which means they may end up in worse situations. The judiciary is more progressive than it was two decades ago and the family court has been encouraging alternative dispute resolution mechanisms. It is however not certain the extent to which children officers and their clients utilise this option. This might be an area for future research.

6. *Cultural practices and gender-biased customs that encourage child abandonment and the violation of the rights of children and women*

There are a number of prevailing cultural practices whose observance can be deleterious to the safety and wellbeing of children where mothers or women are the primary caregivers. These customs render mothers more vulnerable by either limiting women's choices and ability to exercise their parental responsibilities, or rendering them powerless within their

marriage. Others make any legitimate claims to parental support by children impossible as is the case with *oluswa*. Analysis suggests that women in marriage unions established under African customary laws might be more disadvantaged in the event of non-performance of the prescribed cultural obligations which recognize and legitimise such unions. By nature, custom is fluid, and the practice of it varies by place and time and by family and individual circumstances. Yet when it comes to proof of a customary marriage in court or some other disputing forum, strict proof of compliance with rigidly defined formalities is expected. Women are rendered vulnerable in the event of a dispute because the very people who possess the evidence of any ceremony or gift exchanges that might have taken place -namely her in-laws- are the very same people who now have the highest incentive to deny existence or validity of the marriage (Musembi *et al.*, 2010:31-32). The field data identified four customary practices at the heart of the disputes: payment of dowry (cases #4 and #5), attitudes and consequences of women's childbearing capacity (case #10), the treatment of children from incestuous relationships (case #9); and the belief in patrilineal ownership of children which made it difficult for Mercy's sons to be accepted in her family among the Luhya people.

The significance of dowry payment can be both positive and negative. Non-payment of dowry meant that both Dorothy (case#4) and Mercy (case#5) could not assert their inheritance rights as wife and daughter respectively. Besides the denial of her inheritance, the death of Mercy's father while she was still in high school already upended her educational aspirations, reducing her future chances, and those of her children as well. Mercy's half-siblings and step-mother used the issue of unpaid dowry for her mother as an excuse to exclude Mercy from any share of the inheritance. Similarly, the legitimacy of Dorothy's first marriage as a third wife was brought to question when she attempted to stake her claim to her late husband's estate. Dorothy fled the matrimonial home due to domestic violence before later re-marrying her current husband. However, when she demanded her children's share of the former husbands' land, she was informed that they did not formally recognize her as a wife because firstly, she did not attend his funeral, and secondly, the deceased never paid dowry for her despite having produced four children with him.

On the positive side, in the event of a separation or divorce, as long as dowry payment is not disputed, most African communities recognize children born out of the union as legitimate dependents and beneficiaries for purposes of claiming inheritance from paternal relations. Similarly, if a marriage breaks down but dowry is not refunded, the estranged wife has the

right to a share of the deceased husbands' property (especially ancestral land) for the benefit of her children. Denial of ownership and access to such land for cultivation and establishment of a permanent dwelling can expose the family to increased poverty and vulnerability and is often the subject of many inheritance battles. Dorothy wanted to avoid this problem by insisting that her current husband establish a permanent home for her. Without access to land, and with limited education opportunities, the cycle of vulnerability is likely to repeat in successive generations of the family. Already, Dorothy's first-born son and daughter had dropped out of school and the others were also not guaranteed of successful completion.

A lot of emphasis is placed on the bearing of children in a marriage. Child bearing by married women secures their own and their children's claim to family resources. In polygamous unions, bearing more children especially sons strengthen a wife's bargaining position and improves her social standing and security. A wife without children or with only daughters risks a weak bargaining position, as was the case for Janet (Case#10). Commenting on the overbearing influence of social-cultural practices on children's lives, the senior judge lamented:

*A woman can only be recognized because of the way she can reproduce. If she is with a man, she is only known to belong to the man if she bears children for him (*akimzalia*), you know? And notwithstanding that, she may not even be able to feed and take care of that man, leave alone the child! So, I think we have to have a paradigm shift. [...] you must ask yourself am I able to care for myself before I get another one (child)? (KENJO#).*

Regarding children born out of incestuous relationships, in traditional African societies sex was considered sacred and sexual offences such as adultery, rape, and incest when discovered were punished severely (Mbiti, 1969:148). Mbiti notes that "Africans peoples are very sensitive to any departures from the accepted norm concerning all aspects of sex. [...]. For that reason, many offences must be followed by a ritual cleansing whether or not the offenders are physically punished, otherwise a misfortune may ensue". The deep fear of curses and omens drove the need for Jack to give away her baby. Similar events are recorded by Deche, Kinyanjui and Mwaura (2019b) who cite a court case in one of the family courts in Kenya involving a child who was given up for adoption by her 15-year-old mother. The child's mother had been sexually abused by a relative. Being a Luhya, the young mother was forced by societal and cultural norms to give up the child to be raised by a stranger since the infant was not accepted within the family, similar to Jacky's case (Parent case#9).

Table 13: Cultural Practices and child wellbeing

Case	Presenting problem and the family situation
Parent Case#9 Jacky K.	<p><i>Jacky, a 26-year-old married mother of four is unemployed. Nearly five years ago Jacky was charged with failure to protect a child leading to its trafficking and sale. The child was the result of an incestuous relationship with a close maternal relative. Among the Luhya, an ‘oluswa’ or taboo child is cursed and must not be allowed to live or come into contact with other blood relatives to avoid bad omens upon them. Jacky was therefore forced to get rid of the child and soon after cleanse herself by having another legitimate child soon after. Since she could not bring herself to carry out an abortion which is also illegal in Kenya, she decided to carry the pregnancy to full term and give the child away immediately after birth. Her aunt arranged for a woman from another tribe (Kikuyu) to take the child and raise it. A stranger is assumed to be immune to potential curses since they have no blood ties. However, her neighbour found out about the plan and reported it to the police. The child was placed in a children’s home and Jacky has never gone to visit him. She believes if she sees or comes into contact with him something terrible will happen in her family.</i></p>
Parent Case#10 (Janet N.)	<p><i>The 54-year-old former secretary at a state corporation was retrenched in 2007 after 18 years of service. Janet had saved up for retirement and, jointly with her husband, invested in some properties. In the same year that she was retrenched, Janet and her husband separated after almost 20 years of marriage. She had been a second wife in a polygamous union. Unfortunately, she had not given birth to any children during their marriage but her husband had adult children from the first wife. Janet decided to adopt a little girl after her marriage fell apart, but the adoption process was cancelled when she was charged with assault and grievous bodily harm of the minor who later died. Janet says her troubles began shortly after she was retrenched. Conflicts with her husband and his children led to a painful separation. But in the process, she lost most of what she and her husband jointly owned including her retrenchment benefits. She attributes part of the problems to the fact that she did not have any children of her own during the marriage, which made it easier to lose her share of the matrimonial property to her stepsons. Janet developed depression, asthma, and high blood pressure. She also became very harsh towards the child she was in the process of adopting, saying that the child had acquired a habit of begging for money from strangers. In the cause of disciplining her, Janet knocked the child’s head against a table causing her fatal injuries.</i></p>

7. Uncaring and disengaged parents

The children’s law now requires parents- whether married or not, to care for their child, and this responsibility is joint. However, this assumption is grossly challenged where one or both parents show no sense of duty and are unconcerned about their child’s welfare. Some parents in difficult circumstances also feel that their children should be the responsibility of the state which the senior judge defines as the attitude of “*serikali chukua*”, which literally means ‘government, take!’. The attitude is that it is up to the government to deal with the situation as it deems fit. She says such parents simply abdicate their responsibility.

So the child is taken in for care and protection [...] for roaming around the streets and taken to court. When the parents are called, they say the child is delinquent, this child is not going to school [...]. But when you follow up really, you find that there is no support for the child [...]. When the child finds no food at home, when the child is expected to go to school and they have not had breakfast will they go? They go and roam, fetch water for other people and get some money and then they go buy a mandazi [popular deep-fried sweet pastries] (KENJOI#1).

Cases like Salome’s and Mama Sylvia are useful illustrations of the senior judge’s views. Though a mother of four children, Salome has not lived with any of them consistently except for her last-born child whom she was now accused of neglecting. She feels that her life must go on regardless of whether or not she is able to care for her children. On the other hand, Mama Sylvia was not accustomed to living with a child with behavioural issues and has her own free will, and thus seemed unprepared for her new parenting role. While on the other hand, Omwenga’s father (Child case#2) clearly exemplifies the same uncaring attitude, he also demonstrates deeper complexities of parenting. He argued that his son Omwenga needed to be admitted into a state juvenile rehabilitation facility so that he could reform, because as a parent he had reached his limit. In this case the parent had resigned to fate not because he could not provide for the child. Rather, he felt the problem was with the child who, despite having his needs, still preferred to run away. Parenting challenges such as not knowing how to discipline, nurture and provide guidance to children can contribute to neglect as one probation officer noted.

This failure is not because parents cannot afford to buy food for their children. Sometimes it is because the parents are drinking a lot and this happens a lot if both the mother and the father are involved in alcohol and drug abuse. They use their money on alcohol and are not able to pay for their house rent, they don’t come home to cook for the children and the children are frequently left alone (PACO#1).

The cases presented in the table below summarise some of the parenting challenges that caregivers faced.

Table 14: Indiscipline and other parenting difficulties

Parent & Case#	Presenting problem and the family situation
Parent Case#11: Salome	<i>The 36-year-old single mother of four owns a small hair salon business in Kibera but also washes clothes at a fee (laundress) when business is low. She also collects some rental income from a few shacks in Kibera that she inherited from her grandmother. Her eldest child is deceased while two others are being raised by their paternal relatives. Salome was accused of neglecting her 12-month-old child by locking him up and leaving him unattended overnight. Salome has a poor relationship with her mother, and does not know her father since her parents separated when she was an infant. She was raised by her grandmother in Kibera. Although she has three older siblings, she does not keep in touch with them and she is bitter towards the mother for abandoning her at infancy to start a new</i>

	<i>family. After the intervention by DCS, Salome temporarily lost custody of her child who was placed at a children's home.</i>
Parent Case#12 Mama Sylvia	<i>The 29-year-old married mother of three is unemployed though she had worked as a school cook in a small low-cost private school before she sustained an injury in a motorbike taxi accident. She was charged with physically assaulting her daughter Sylvia by burning her with a hot iron. Sylvia had turned up in school with visible burns on her forehead. This prompted her teacher to call the police because severally the child had gone to school with unexplained injuries. Mama Sylvia expressed shock at being arrested because of disciplining her daughter. She felt she had a right to do that after Sylvia purportedly misused the money her mother gave her to buy a school book and then lied about it. Her mother says she did not know that excessive punishment could land a parent into trouble as she did. Notably, Sylvia who was now 12 years old was raised by a maternal uncle and his wife and only came to live with the mother less than four years prior to the incident.</i>
Parent Case#13 Emma W.	<i>The 41-year-old married mother of four does urban farming (raises pigs and chickens) and also sells bananas in the local market. She was charged with neglect and cruelty against her step-daughter. Emma had raised her step-daughter since she was six months old after the biological mother abandoned the child at her father's place before he and Emma got married. Emma says after the birth of her youngest child she was sickly most of the time and stressed due to marital problems including being infected with HIV. She enlisted her step-daughter's help with household chores since she could not do heavy work, but her neighbours said she was abusing the child and denying her an opportunity to be in school and reported her at the children's office.</i>

There are a number of practices which, according to probation officers, indicate abdication of parental responsibilities. These include failure to provide adequate shelter to children such that they end up living on or loitering in the streets; failure to provide adequate and nutritious food and care to children so that they end up stealing; exposure to extreme forms of discipline; and failure to take children for health care or to school despite the free education policy. The officer however hastened to qualify that failure to provide proper parental care and nurturing was not always deliberate. Rather, some parents lack, or cannot afford paid child care and are forced to lock up their child in the house in order to attend to casual work (*vibarua*):

This kind of behaviour is disturbing to the neighbours. You can't be comfortable if you know a child is locked up in the house and is alone. So they call the police who then pick up and charge such parents. For many of them, when they are charged, they plead "not guilty" but most of the time the courts find them guilty. And they will say 'ooh! I did not intend to hurt my child. I was busy looking for employment [so as to provide] for them'. But you see they end up exposing their children to dangers. A child can even set the house on fire [...] or they try to cook for themselves. These are some of the risks they do not see (PACO#1, 2018).

8. Weakening kinship ties and limited state support

In some cases, parents said not having much support from other family members contributed to their being in trouble regarding the care of their children. Where they expected material assistance from family members, they got none or very little of it, which pushed them to the brink. This was the case for Mercy (case#5) and Dorothy (case #4) with her two sons. Similarly, one probation officer expressed surprise when none of his father's six siblings was willing to foster 10-year-old Atwoli (child case#8) who had been temporarily placed at the remand home for alternative care after suffering severe physical abuse by the father.

Culturally, it was understood that your siblings' children were like your own, and it was therefore taken for granted that you would assume responsibility for such children in the event of their parents' death or inability to care for them or provide for their needs. However, with the hard-economic times, many families are finding themselves in the difficult position of having to decline requests for support to struggling relatives, especially in urban areas. Such tensions and struggles with kinship support are captured in the statement that was made by the magistrate.

In one case I had a mother of six who was accused of neglecting her children. When they came to court the first time, the relatives were very supportive of her and the children. One of the accused person's sisters agreed to take responsibility for the children so I issued orders for the children to be placed with her. But after some time, they are back to my court and the children's auntie said to me "Your honour, please take back the children, I can't take care of the six children plus my own three (nine children in total). She said she was struggling to feed them and care for them (time constraints). Even then, she was still willing to try and assist the sister [...]. She offered to keep the children as long as the sister was willing to buy food (KENJO#2).

Similarly, while Dorothy's husband appeared less concerned about the welfare of their children, her biological mother was more than willing to care for all of Dorothy's children in the village, affording Dorothy a chance to work in Nairobi without the burden of child care. Already, the mother was caring for all of Dorothy's children from the first marriage. Her probation officer observed;

I called the husband to come so we could talk but he has never come. He says he does not get permission from work. I hope he will come since I need to talk to him. I talk to her mother more often and she is very happy to be taking care of her grandchildren (PACO#5, 2018).

These examples represent a weakening kinship care system with increasing levels of poverty. With increasing shifts to a more urban life which is more expensive to sustain, attention needs to be paid to child protection concerns in low income families. Child protection actors may need to more closely interrogate assumptions and expectations of the

kinship care arrangements in urban settings. It may no longer be feasible for families already constrained materially to take on additional costs of caring for its members without external support. All the same, as the magistrate's story shows, there is a glimmer of hope that with the right kind of support, some family members are still willing to do whatever they can to help a relative's children. Such opportunities need to be strengthened in order to sustain a vital traditional mechanism that has protected children for centuries.

9. Unplanned and unwanted pregnancies in the context of poverty

Most mothers attributed their hardships to their failure to attain higher levels of education which in turn compromised their future earnings and livelihood opportunities. At least 10 out of 17 parents had their first child in their teenage years, with one being only 13 years of age at the time. The rest, except two, got married or had their children in their early 20s before they had established a career or income. Though the sample is not representative, and equally, the study did not aim to establish correlations, experiences of the interviewed caregivers suggest that teenage pregnancies and early motherhood might be an important predictor of the likelihood of a parent's future involvement with child welfare services. This area may need further research especially in light of the strong association already noted between educational attainment, child survival rates, and earnings. For instance, Behrman *et al.* (2013) found that higher parental education attainment (at least up to nine completed grades) decreased the incidence of poverty and inequality in the parents' generation, and improved per capita consumption among their children, though it did not necessarily interrupt transmission of poverty to the next generation. But the World Bank (2018) insists that what matters is the acquisition of skills at the end of the education program that matters for poverty reduction (at least income poverty), and not simply the number of years of schooling. Moreover, Global data from 48 countries revealed that every additional year in school for girls is "associated with roughly six fewer deaths per 1,000 live births, but the effect is about two-thirds larger in the countries where schooling delivers the most learning" (World Bank, 2018: 47). Overall, higher levels of literacy and numeracy skills matter for hourly earnings, health, financial behaviours, and socioemotional skills (*ibid.*)

Table 15: Teenage Pregnancies and child maltreatment

Parent & Case#	Teenage mother [Yes/No]
Parent Case#1 Angela	Yes: She had her first child at the age of 15 years, married at 19 years.
Parent Case#2 Adiema	Yes: She dropped out of primary school and started working as a charcoal seller
Parent Case#3 Ivy Wambui	No: She completed high school before marriage
Parent Case#4 Dorothy	Yes, became a mother at 13 years, by 17 years she was a mother of 2 and by 18 she was married.
Parent Case#5 Mercy	Yes: She had her first child at age 16.
Parent Case#6 Caroline N.	Yes. Got pregnant while still in primary school, forced to drop out of school
Parent Case#7 Mary K.	No-completed high school before getting married
Parent Case#8 Eva N	Yes: She was also the youngest parent at 24 years and with two children.
Parent Case#9 Jacky K	Yes: She dropped out of primary school at age 15 due to pregnancy
Parent Case#10 Janet N.	No: She got married after college
Parent Case#11: Salome	Yes: She dropped out of primary school at grade three and a few years later had her first child
Parent Case#12 Mama Sylvia	Yes: She had Sylvia at 16, but went back and completed high school
Parent Case#13 Emma Wangari	No: Completed high school first
Parent Case #14 Mama Moses	No: Got married at 23
Parent case#15 Mama Mogaka	Yes: Got married early but for only a brief period of five years.
Parent case#16 Baba Omwenga	No: Married in his 20s
Parent case#17 Annie (Mama Ngesa)	No: She was in her 30s when she became a mother

6.2.2 Drivers of entry and children's experiences of child protection services

Children's narratives indicated involvement in crime in search of a better life. Excessive punishment, inability to meet children's basic needs and aspirations for education, conflicts with parents, cultural beliefs about parental responsibility, and truancy are key factors fuelling children's involvement with child welfare services. At the same time, the

experiences of Ngesa, Omwenga, Mogaka, Lizzie, Moses, Amalla, Sylvia and Atwoli also mirror some of the issues expressed by the 17 parents. But these children's narratives foregrounded more nuanced factors driving their involvement with child protection services, which most parents did not acknowledge. For instance, the intensity with which family separation drives children to destitution and life on the streets, lack of emotional support from parents, and a search for identity by children seeking to connect with biological parents they never knew, or last had contact with in their infancy. Parents who are unable to exercise parental control and manage behavioural challenges among their adolescent and teenage children also risk exposing children to vices like drug and substance abuse, and increase their likelihood of being recruited into gangs and criminality. The latter was the case for Omwenga, Ngesa, Lizzie, Moses and Mogaka. The eight life stories illustrated below represent important factors that drive children's involvement with the child protection system. They also provide glimpses into the trajectories that these encounters produce.

Child case#1: Ngesa: Theft, a desire for luxury goods, and violence within the child protection system

Ngesa is barely 12 but she could easily pass for a 15-year-old. She lives with her single mother in a rented one-room mud house in the sprawling Kibera informal settlement. Her mother Annie, who is originally from Western Kenya owns a small dress-making business that she operates from her house. She supplements her income by selling roasted maize and washing clothes in the affluent neighbourhoods bordering Kibera. Ngesa's parents separated when she was a toddler so she has no recollection of her father. Ngesa has lived in Kibera all her life except for a brief period when she was taken to a boarding school in Mount Elgon near the Kenya-Uganda border., but soon moved back to Nairobi. Ngesa says the transfer was occasioned by security concerns resulting from inter-tribal clashes in the region in 2017, but the mother says the move was associated with truancy. Until the time of her arrest for theft, Ngesa was attending a day school in Kibera before being remanded at the Nairobi Children's Home. When I asked her why she was at the remand home she responded "nilikuwa nasumbua mama yangu [...]. Nilikuwa namuibia pesa" (I was giving my mother a hard time and stealing her money).

"Nilianza pole pole halafu nikapata tamaa nikaanza kumuambia pesa mingi mingi-kama 500 na hata zaidi. Nilitamani simu ya touch" (I started slowly but with time my desire for more increased and I started taking larger amounts- like Kshs.500 and more. I desired a smartphone). She soon extended the vice to her neighbours and the amounts involved also gradually increased. Ngesa was driven by the desire to own a smartphone like many of her friends. She explained that "when I stole enough money from her (mum) I went and bought myself a smartphone". When her mother found out, she beat her up badly before taking her to the police station where she was locked up in a police cell and received another severe beating before being released back to her mother. She was ordered to report to the Kibera children's officer for periodic supervision though this was not based on a court order. Soon after, Ngesa was 'caught' with a touch phone that she admitted to having stolen from her neighbour. Fearing her mother's reaction, took Shilling 10,000 from her mother's bag and ran away to their rural home. Her mother brought her back to Nairobi and had her arrested and charged for theft whereupon she was sent to the juvenile remand home.

Child case#2: Omwenga: Local customs and blended family complexities

Omwenga is an 11-year-old boy who had just recently dropped out of school (primary grade 6). He was remanded at a government children's remand home (mid-2018) as a child in need of care and protection. Omwenga lives with his father, three half-siblings, and stepmother in Kibera informal settlements. His father Ben is a DJ and runs an entertainment business. He hires out his public address equipment for social events like parties, burial meetings and night funeral vigils (disco matanga). Since he works most nights, Ben has minimal interactions with his children, but says he makes an effort to be home when he can. Ben and Omwenga's biological mother separated when Omwenga was six months old. The mother took him away but soon after abandoned him at the maternal grandmother's home and got re-married. After some time, the father also remarried his current wife who is a seamstress and a vendor of chapati- a popular flat bread. Eventually, Omwenga's grandmother took him back to his father, claiming that she was unable to care for him due to Luhya customs that require the paternal family ('the fathers') to take care of their children whether or not the child resulted from a marriage. However, Omwenga's relationship with the step-mother deteriorated significantly such that Omwenga preferred to live with his biological mother though he had never met her, nor knew where to find her. He argues that whenever he demands to know the identity and whereabouts of his mother the father gets very angry and becomes physically abusive. This, together with a poor relationship with his stepmother is said to have precipitated Omwenga's truant behaviour.

Omwenga's father (Ben) believes that his son's behavioural problems began in 2011 when he started running away from home to live in the streets-so he takes no personal responsibility for it. At various points since then, Omwenga was enrolled in four different schools but reportedly dropped out and ran away. Omwenga has also been admitted to various street children's rehabilitation centres including two previous admissions to the same remand home he is currently at. The father says Omwenga ran away to Mombasa after the former governor of Nairobi Hon. Mike Mbuvi (Sonko) issued orders to rid Nairobi of "street urchins" but when life became too hard in Mombasa Omwenga and his street friends decided to return to Nairobi, a distance of almost 500 kilometres. Without any cash, they hitchhiked until one truck driver who offered to give them a ride took them instead to a Police Station. The police then called Ben to fetch the boys, but staying for only one night at home, Omwenga ran away again. He was 'arrested' for loitering and placed at the remand home for the third time. The father laments that the boy has given him a hard time. He explained "the first time he disappeared I put up posters all over the neighbourhood thinking he was lost. I spent over 20,000/- shillings trying to find him. But after it happened the second time, I realised he has the habit of running away from home. I told him to feel free to go out and play with his friends but he must come back home, but he has given me a lot of grief!" Ben's resolve was "Sasa nataka mumchukue mumweke mahali tuone kama ata change. Baada ya two to three years kama ame change, ako tofauti nitamchukua nimsomeshe. Kwa sasa sitakubali akae kwa nyumba na wale wengine sababu hao wanaendelea na shule" (It would be better if you [the remand home] can take him somewhere to see if he can change. If after two to three years he has changed, I will take him back and educate him. For now, I can't agree with him staying in the house with the other children who are still in school). His statement suggests that Omwenga might corrupt the other children (his half-siblings), something he hopes to pre-empt.

Child case #3: Mogaka and his mother plea for protection from a public lynching

Mogaka is a lanky 14-year-old who despite aspiring to become an engineer dropped out of school when he was still in primary school (grade 8). He was initially remanded at Nairobi Remand Home pending his trial for stealing a laptop worth Kshs 40,000, which he sold at a

paltry price of Kshs 5000. Though the case was dropped, Mogaka remains at the juvenile centre pending a final decision on what to do with him. He is the last born in a family of three boys who are being raised by a single mother in Kibera slums. His eldest brother is in college on a church-funded scholarship, while the other one is still in high school. His parents separated after a brief marriage and the father is currently in jail for an unspecified crime. Mogaka's mother Kerubo erected a tin shack at Kshs.10,0000 is this right? on government land which she was temporarily allocated by the area chief. The shack is partitioned into three rooms. One serves as her family's dwelling area. On the second she operates a grocery kiosk which earns her about Kshs 1000/- per month, while the third one is a small kiosk that she rents out for Kshs 1,500/- per month. Following the laptop robbery, Mogaka disappeared for a while but when community members finally caught up with him one night, they decided to lynch him. Fortunately, the mother was informed and rushed to the scene only to find that angry members of the public had placed an old tire around Mogaka's neck ready to set him on fire. It was his mother's quick intervention with the help of several police officers that saved him. The mob made it clear to the police that should they release him, they would certainly kill Mogaka. One of them shouted "roundi hii hautaponyoka! Omba Mungu" (the next time around you will not get away. You better pray to God).

Upon intense interrogation, Mogaka disclosed the identity and whereabouts of the buyer, so the laptop was retrieved and returned to the owner. The laptop owner decided not to press charges, which left the police with no option but to release Mogaka. His mother worried for his safety because some community members wanted the boy dead for 'terrorising' them for too long. She says "I begged the OCS and told him kama mnamfungulia wacha akae hapa kwa police station akufanyie usafi nimuone tu ako hai" (If you must release him, please just keep him within the precincts of the police station so he can be your cleaner. That way at least he can stay alive and I get to see him). His mother says "the boy started running away from home at the age of 10 when he was in grade four. Every time he ran away the brothers and I would look for him and take him back to school. [...]. One time after he got for a very long time a village elder advised 'enda forest utafute mifupa upeleke Kisii uzike sababu mtoto ameshaa kufa' ('go to the forest and collect whatever bones you can find so that you can bury them because that boy must be dead').

Child case #4: Moses and his fear of harsh punishment

Moses is a typical adolescent boy who loves football and music. He is in grade 5 at a low cost private primary school in Mukuru Kwa Njenga informal settlement located on the eastern side of Nairobi where he lives with his parents and three-year-old sister. The 11-year-old was admitted to the Nairobi Remand home in June 2018. He spent a month at the centre before finally disclosing to the social worker that contrary to the report he had given the police he was not a lost child- he knew his parents and could find his way back home. Moses told the police that he got lost after being separated from his mother while attending an open-air church meeting (crusade) held in the city one Sunday morning. After living on the streets for a few days Moses met a stranger who took him to Central Police Station after he found the child loitering in the city during school hours dressed in school uniform. The children's court committed Moses to the remand home as a Child in Need of Care and Protection (CNCP). The centre was to trace his parents and facilitate family reunification. On the day I accompanied the social worker to Moses's home for the family tracing, his mother Annie tearfully hugged him thanking God for the child's safe return. Soon after she started haranguing Moses with questions on why he ran away from home lamenting "My child, what made you run away like that? Is it that you are not getting enough food in this house? The day you disappeared did I not give you 3 slices of bread with margarine? When

you finished, I added two more and you finished everything. Can you say that we do not feed you? What is it you were scared of my boy?" Annie informed the social worker that Moses has run away from home before and that the last episode was triggered when she scolded and beat Moses for losing his school sweater and not doing his homework. On his part, Moses says every time he makes a mistake, he is punished severely by his mother so he started running away from home. The mother does not understand the child's behaviour because, in her view, she makes every effort to meet his needs. On several occasions, she has taken Moses to church for prayers because she believes something is wrong with him and that prayers could cure him.

Child case #5: Lizzie's shattered dreams for a better future

Lizzie A. a 17-year-old girl from Mathare North, a low-income settlement in north-eastern Nairobi. Lizzie lives with her father, step-mother and four of her siblings (aged 19, 8, 6 and 3 respectively). Her biological mother died when Lizzie was only a year and a half old, so for most of her life she was raised by her stepmother. The father works as a tailor while the stepmother is a casual labourer who earns a daily wage packing sweets at a nearby factory. She also augments her income by supplying mandazi to neighbourhood shops. By the time Lizzie completed her Kenya Certificate of Primary Education (KCPE) examination in 2017, her father had been unwell for a long time, which illness significantly affected the family's income and shattered Lizzie's educational aspirations. She scored 223 points out of the possible 500. The Ministry of Education's (MOE) pass mark is 240 marks, but they still advice that all children should transition to high school even with scores of less than 200 points. Lizzie got placement in four different secondary schools but could not enrol into any of them as her father kept telling her "tulia tu nitakupeleka" (just be patient I will take you to school). After waiting for over 12 months, she got impatient. She lamented "nilikuwa namuelewa kama mzazi wangu but sasa amepona na haniambii mpango wa shule" (I chose to be understanding of him as my parent when he was unwell, but now his health is better but he says nothing of plans for my schooling). Her older sister also dropped out of school in Form Two in the same year as Lizzie. Lizzie says she realized the parents were not bothered because "my father makes promises which he does not keep, and when he finally decided to act, it was too late. [...] My mother does not want to hear anything about my schooling. When I try telling her that I want to go back to school she keeps saying "go tell your father". Lizzie finally ran away from home out of anger (hasira tu) and frustration. She says her actions were provoked by a misunderstanding between her and the step-mother during which the step-mother slapped Lizzie. She says "what made me angry was that I had asked her for permission to go somewhere and I even explained to her why I was late but she still quarrelled and slapped me".

Child case #6: Amalla and the uncertainty of his future

In early April 2018, Amalla, a 10-year-old boy lived in Kibera before being admitted at the juvenile remand home as a child in need of care and protection (CNCP). He is a grade 2 pupil at a low-cost private school in Kibera slums. Ideally, Amalla should be in grade 4 like most of his age mates but his school attendance has been irregular, in addition to frequent school transfers which have caused him to lag. He lives with his father, stepmother and five of his seven siblings (four brothers and three sisters). Two other siblings live in their rural home (it is unclear why and with whom). The father is a water vendor and occasionally washes cars, while the stepmother washes clothes and does other casual jobs around Kibera. Amalla was removed from his family home due to frequently reported incidents of cruelty, physical and emotional abuse by his parents. Staff at the remand home explained that at admission, Amalla looked sickly and did not talk to anybody at the centre for nearly

two weeks. Amalla says he was taken to the police station by three of his neighbours who reported an abuse case on 2/04/2018. The neighbours 'rescued' the child from his family home as a result of a severe physical assault by his father who used a spanner to beat Amalla. They also indicated that there had been ongoing emotional cruelty by his stepmother which was often reported by neighbours.

The father was arrested and charged before the Magistrate at Kibera Law Courts then remanded at Industrial Area Prison awaiting trial. He remained in custody during his trial because he could not raise the required cash bail. Amalla's mother left her marital home with the child but abandoned him at his aunt's home when she decided to remarry. After sometime the auntie took the child to his (Amalla's) father. The father told a probation officer that the child was playing truant by refusing to go to school and spending his time in the video game dens that have mushroomed in Kibera, luring children to play video games and watch movies at a small fee. Amalla says this is not true. He says his friends lied about him and "Dad was very angry and he started beating me with a spanner on my knees and hands until I was swollen. It was Uncle S who took me to hospital and reported to the police station". Amalla was abandoned by his biological mother and has lived with his father and step-mother since he was almost two years old. The remand manager indicated that he did not know what to do with Amalla because his stepmother wanted nothing to do with him and never bothered to visit him at the remand home. At the same time, none of the other paternal relatives was willing to take responsibility for raising him after the arrest and detention of his father. Amalla was expected to also testify at his father's trial, which risked further complicating the family relationships and his future care.

Child case#7: Sylvia and her mother's uncontrolled anger

A teacher at a low-cost private school in Embakasi East reported Sylvia's case to the children's helpline and referred the case to the DCOs who took the matter up with the police in February 2018. The teacher reported that the child was generally unhappy and frequently came to school with various injuries and bruises but in February Sylvia had a very conspicuous burn on her left cheek and neck. On interrogation, the child said the injuries were inflicted by her mother who used a hot iron box to punish her. Sylvia told me "My mother gave me some money to buy a 120- page exercise book. When I went to the shop, I found that the shop did not have that size of books so I bought an 80-page one which cost less by Kshs 10. I returned the change but my mother asked me how much I spent on the book. When I told her, she insisted the book was cheaper and that I should have brought more change. She said I was lying and wanted to know what I did with the rest of the money. I told her that was all, but she was very angry with me. She took a hot iron and burnt me here" (pointing to a black scar on her face and neck). [...] If I did something wrong at the end of the day mama "anakumbuka makosa ya asubuhi" (mother remembers my morning mistakes) and I will be punished for that one and all the previous ones". The Sub-county children coordinator "rescued" the child and placed her in a 'safe house' Sylvia Otieno is between 11-12 years of age (conflicting information) and is a primary grade 5 pupil. In her report to the court in March 2018, the children officer indicated that firstly, the child was psychologically traumatised and required professional counselling to enable her to embrace her family again. Secondly, that the mother was remorseful for her actions and prays for the courts' forgiveness since it was not her intention to harm the child. Thirdly, that the child needed to be separated from her mother for her safety; and finally, she recommended that the court assign the mother legal counsel for her defence. She was undergoing trial during the time of the study.

Child case #8: Atwoli: Abandoned and forced to live on the streets

Atwoli is about 10 years old and was admitted to the Nairobi Remand Home around April 2018. When I met him, he had already spent about three months at the centre. Although nobody is certain exactly how long, Atwoli says he lived in the streets for a very long time after his parents abandoned him in their formerly rented house in Kangemi area, a sprawling slum on the western side of Nairobi City. His biological father died when the child was still very young. After a while his biological mother abandoned him with his aunt once she decided to re-marry. The aunt Maureen is the only relative that Atwoli knew as his mother. The auntie later married a person that Atwoli refers to as “baba mwingine” (‘another father’), but she continued caring for Atwoli even after establishing her own family (she had two children). Hence, Atwoli was living with his aunt and her husband- who was like a father to Atwoli. Atwoli was enrolled in a local private school run by an NGO where he had been identified as a needy child and allocated sponsorship funding based on the assessed needs of the family.

One-night Atwoli heard the ‘parents’ quarrelling and the ‘step-father’ left in the night for an unknown destination. The following morning Atwoli went to school accompanied by his aunt (Maureen) and her two younger children. She informed Atwoli she was going upcountry to visit the grandmother for a while. When Atwoli got back from school the aunt and her children were not home and did not return. Atwoli stayed in the house by himself for a whole week surviving on food from neighbours. After several days of waiting, Atwoli stopped attending school and went to live on the streets. He said “Nilikuwa naishi mtaa kwa muda mrefu sana nikiwa na marafiki zangu [...] Tulikuwa tunaomba omba pesa. Tukipata tunanunua ugali mix, chapati na chai, na nikikosa nalala njaa” (I lived on the streets for a very long time, hanging out with my friends. We would beg for money from people and use it to buy ugali mixed with meat and green vegetables or chapati [flat bread] with tea. If I am unlucky and don’t get any money that day, then I would sleep hungry). From time to time he would go home to check if anyone had returned but eventually a neighbour reported the matter to the police. The police rounded up Atwoli and his friends in their hideout, and placed them at the remand home. Expressing his disappointment Atwoli is very upset whenever he remembers how his family abandoned him (“nakasirikanga sana nikiwakumbuka wazazi na vile waliniwacha”). But he also worries about his ‘mother’s’ safety because one of his neighbours told him that if she ever finds his ‘mother’ she will strangle her, beat her up and put her in prison. He says he did not like (“alisema akimpata mamangu atamnyonga, ampige na amuweke gerezani. Hiyo sikupenda”).

In all cases, both direct and indirect roles of caregivers and the family in exacerbating the push into the system is notable. This takes the form of actions, living circumstances, or inaction. In a handful of cases that role was surprisingly intentional. For instance, Omwenga’s father felt that after exposure to street life, Omwenga had become morally corrupted and the father was adamant against allowing him to move back home under the same roof as his younger children. He feared that Omwenga would ‘contaminate’ them and insisted that Omwenga first undergoes rehabilitation before he could be allowed back home. Similarly, Ngesa’s mum had reached her wits’ end. Not knowing what else to do to save her daughter, she readily supplied evidence to the police in the hope that Ngesa would end up in a juvenile detention centre where she could undergo behavioural transformation at the

state's expense. Mogaka's mother on the other hand was concerned for her son's safety in an extremely dangerous and precarious neighbourhood. She preferred that Mogaka lives in the precincts of a police station to protect him against the threat of a public lynching due to his thieving habits which put him at loggerheads with members of his community. For Amalla, permanent entry into the child welfare system became inevitable once his father was arrested. It damaged his relationship with the stepmother and other relatives who were unwilling to take him in. These instances point to the significant role that family relationships play in enabling or constraining children's wellbeing in addition to the materiality of their living conditions. This theme is discussed further in a later chapter which examines child wellbeing and child protection work in low-income contexts.

6.3 Responding to child neglect and maltreatment

Members of the public are encouraged to report suspicious behaviours and what they judge to be harmful practices against children to the relevant state authorities for action. Key state officers in child protection include the police, children officers, and local administrators like chiefs and village elders. In turn, these officers are obligated to act immediately upon receipt of a formal report or complaint. Ideally, all reported incidents should be investigated but this is not always the case. Some cases fall through the cracks on account of failure to accurately assess the risk and act with urgency. Sometimes failure results from corruption, or failure by officers to take children's matters seriously until tragedy strikes, attracting public outcry. Whatever the case, the decisions of these officers determine whether or not a child enters into the child welfare system, what treatment they will receive -depending on the type of abuse the child experienced-, the assessed levels of risk to the child, and what state actors will judge to be the root problem. It is therefore important to understand what informs the intervention decisions of child protection actors, such as probation and aftercare officers (PACO), children officers (CO), and judicial officers (JO). Analyses of the experiences of parents, children, and various child protection actors revealed two sets of interventions; those targeted at parents and those targeted at children.

6.3.1 Interventions targeting children

Notable among interventions targeted at children are removals (commonly known as child rescues), court-ordered placement in out-of-home alternative care centres after designation as children in need of care and protection, as well as rehabilitative care in a juvenile correctional facility. The starting point is usually an investigation to establish whether abuse occurred or not. Where it is substantiated, child survivors of maltreatment or those at risk

enter the system and trigger different pathways depending on the decisions of state officers handling the case. First, a child might be 'rescued' through their removal from the home to minimise the risk of further harm or to facilitate specialised care, treatment or rehabilitation. The most cited reasons for removal were gross neglect, abandonment (e.g. Atwoli's case#8), chronic emotional abuse and cruelty (e.g Sylvia's case#7 and Mose's case#4), physical assault (Amalla's case#6) and situations that threaten a child's life (e.g Mogaka's case#3), besides sexual abuse.

Child removals create and sustain demand for alternative charitable care institutions (CCIs), many of which are run by charitable organisations. CCIs accommodate children in need of care and protection (CNCP) pending determination of their cases, but their continued existence and demand perpetuates a historical practice rooted in colonial times, which linked child protection to the juvenile justice system. Historically, the colonial administration criminalised juvenile delinquents and children found loitering in the streets of urban centres, and blamed economically struggling families for failing to care for their children (Nyamu and Wamahiu, 2022). Odongo (2017) notes that in dealing with children's matters Kenya's juvenile justice system takes both a welfare and crime-control approach. This dualistic approach makes use of distinct institutions that are part of the child protection system. On one hand are CCIs which mainly care for vulnerable groups of children in need of care and protection such as orphans, children removed from the streets and children without parental care. On the other hand, there are juvenile correctional institutions which deal with children in conflict with the law and include remand homes and rehabilitation schools, borstal institutions and probation hostels. However, due to a limited capacity, children may be placed in either of the institutions without regard for these boundaries (see National Council on Administration of Justice Taskforce on Children's Matters-NCAJ, 2019 and 16; Nyamu and Wamahiu, 2022).

Ideally, while in detention at either of the institutions, children are expected to continue with their formal education but this has been a problem since most remand homes do not have formal schools established and rely on volunteer teachers who are few and therefore do not pay attention to grades nor the learning needs of these children (NCAJ, 2019, DCS, 2021). A high proportion of these children will already have fallen behind their peers in educational attainment and their detention only worsens their schooling opportunities. Borstal centres are in a slightly better position to offer education but they are also accused of cherry-picking

the most academically gifted detainees for formal education opportunities. Those who stay long enough are also likely to benefit from vocational training which improves their employability skills once discharged at the age of 18. Boys can enrol for carpentry, masonry, painting, tailoring and electrical wiring. Girls can take courses in catering, pastry (bread-making), cosmetology and dressmaking. In institutions where the managers are proactive, additional services may be provided such as periodic family conferences, building better parenting skills, limited family economic empowerment, and education scholarships to the most vulnerable families. A remand manager remarked that “*our mandate should ideally be confined to the institution but sometimes we find ourselves having to go out of our way- for the sake of the child. But our role is to keep the child safe*” (CO#3, 2018).

Once it is established that the child is no longer at risk of further abuse or neglect, or that there are other family members with capacity to care for the child, then a family reunification process is encouraged and facilitated. For lost children and runaways, family tracing is integral to the family reintegration process, relying heavily on information provided by the committed child and additional family interviews which are carried out once contact with their families is established. This was the case with Moses (Child case #4). But having observed the interview before re-unification, a lot of the interview sessions involved the social worker issuing orders and threats to the mother to be more caring and responsible. He told her if Moses was arrested again, she would be prosecuted. When I went back for the individual interview with her, she confided in me that she was scared when she appeared in court to confirm that she was the parent before Moses was released by the magistrate. The risk of children relapsing is high since not much support is offered at the remand homes beyond counselling. During admission, Moses had told the social workers he did not know where his parents lived and continued to be designated as a “lost child”. Lost and found children are ‘rescued’ from the streets by the police or city council *askaris* (security guards) who detain them and obtain court orders to commit them to government remand homes as charges of the state. It was only a month later that he volunteered to take the social worker to his parent's house because he wanted to go back home. He told me he was missing out on school and missed his younger sister a lot.

There are times when the reunification process fails or is sabotaged by the child’s family if they do not want to take up their care responsibilities. One probation officer narrated an

account involving a colleague's case where the family of a girl committed at a probation hostel in Siaya refused to reintegrate her when her sentence ended.

She was so shocked when she contacted her grandmother to inform her that the child would be brought home. They were to meet the officer at the Kiambu Probation office to collect the girl. Unfortunately, the grandmother switched off her phone [...] she could not be traced. None of the girl's relatives could be reached either. After several attempts [...]. We realised the family did not want the child to be taken back home. We have seen that some parents do not want to take over their responsibility when we try to hand back children after their release. They will ask us "huyu mtoto ni wa serikali, mbona mnamrudisha na hajafikisha 18, yeye sio adult?" (This child now belongs to the government-she is the government's responsibility. Why are you bringing her back and she is not yet 18 years old, she is not yet an adult! (PACO#1).

Where family reunification is thwarted, or where if it is established that parental control has failed and the child is below 15, remand managers might be persuaded to facilitate admission to a rehabilitation school. Rehabilitation schools cater for children between 12-15 years of age who have behavioural challenges (delinquency). Often, a good proportion of children falling within this age bracket in remand homes end up in rehabilitation schools. Illustrative examples are Ngesa, Omwenga and Mogaka (child cases #1, #2 and #3). Admission to the schools requires court orders and the need must be assessed to determine the degree of child vulnerability, family circumstances, and other factors predisposing children to increased vulnerability to abuse, delinquency or crime. Social inquiries are carried out by order of courts or by remand home social workers in order to inform the development of final court decisions and care plans. Children also undergo counselling (individually and with parents if they are cooperative) to deal with behavioural, psychological and emotional challenges, drug and other substance abuse rehabilitation programs. The same approach is also taken with delinquents like Moses and Omwenga. Multiple admissions into remand homes or in NGO funded rehabilitation centres as street children might suggest that previous reform programs have failed. Such children might require long term admission into a state owned-rehabilitation school (formerly called approved schools).

Unfortunately, if the offence is serious and the child is above 15, they are tried as juvenile offenders, and if found guilty, are incarcerated in juvenile detention centres for a maximum sentence of three years. That period is presumed to be sufficient for a child to reform. This is what the parents of Omwenga, Mogaka, and Ngesa wanted for their children. Similarly, when family members refuse to take responsibility, completely leaving the child at the mercy of the state, such a child may be enrolled at a rehabilitation school. Alternatively, the child could end up in a CCI on a long-term basis until they turn 18. Both Amalla (Child case

#6) and Atwoli (child case#8) might well end up in this situation. For Amalla, having to testify against his father put him in direct conflict with his stepmother who refused to visit him at the remand home and wanted nothing more to do with the child. He was unable to return home because none of his father's siblings wanted anything to do with their brother and his family, including raising his bail. This protracted situation is likely to render Amalla homeless and in need of institutional care well beyond the father's incarceration period.

6.3.2 Interventions targeting parents

Nearly all state officers started by stating that they try as much as possible to resolve most cases the first time they are reported to them by summoning the parents and talking to them in order to understand the problem, and then offering guidance and suggestions on possible solutions. In a few cases, warnings to the parents will suffice. A probation officer explained the lowest intervention level:

The chief then calls the parents to talk to them and orders them to take their children to school. The chief may also call the children's officer to intervene if the family proves to be non-compliant with the chief's order. If the behaviour persists then the DCS officer may take action against the parents by taking them to court and charging them with neglect. The court might issue a court order to Probation Department to investigate the family circumstances to inform its judgement (PACO#1, 2018)

The above excerpt suggests existence of a clear linear escalation procedure along a continuum of solutions that culminates in the arrest and prosecution of non-compliant parents. Initial interventions involve guiding and providing basic counselling to parents, referring them to specialised counselling service providers (privately or through non-profit organisations), and linking parents to non-profit organisations for business skills training and business capital. In extremely rare cases the state office may directly provide some business start-up capital in an effort to ensure steady income flows that secure children's welfare. Unfortunately, in the last 10 years whatever government support was available for business capital was severely curtailed by the budget constraints at the exchequer. Prior to this, the Probation and After Care Department used to give start-up grants of between Kshs. 3,000 and 10,000 (about US\$ 30-100). This was combined with basic training in a chosen vocational area as well as *“working tools like a salon hairdressing or barber kit to open a barbershop/salon business, tailoring machine, carpentry tools, and such” (PACO#1).*

The linear response process also suggests that parental arrests only occur in severe cases of abuse, and involve parents who have severally failed to heed warnings to reform. A probation officer explained that by the time a parent was charged, *“the case would most likely have gone to the children's officer who then gives a lot of guidance on the matter but*

the parents fail to act as advised, so the matter then ends up in court” (PACO#1). While this approach gives parents a chance to reform their behaviour or remedy their situation, it is potentially problematic if the root causes of child maltreatment or neglect are not addressed-more so if they are linked to structural causes. For instance, in the case of gross neglect where a parent is warned for not finding work for her children and advised to find work, yet she cannot find employment, then chances of re-offending are high. In the long run, it is likely that a significant proportion of parental prosecutions do little to resolve the underlying problems. Surprisingly, social inquiries and home visits which are the core of social work practice and the backbone of child protection work appear to take place only when ordered by the courts. Even then, utilisation of the ensuing reports is at the discretion of judicial officers. One judicial officer said that generally, it is routine practice to ask for social inquiry reports, but the magistrate makes the final determination, and such reports only serve as a guide.

They are not the main basis upon which decisions regarding a case are made. Before sentencing, we also listen to the parents. We may then decide instead of a custodial sentence to opt for conditional release such as the parent being free as long as he/she enrolls the child in school and provides the court with school reports that show the child is attending school, and the school gives a positive report about the child and parent (KENJO#2).

Most parents charged for child maltreatment and other non-violent or minor crimes are likely to receive supervised non-custodial probation or community service orders, although custodial sentences are also issued in a few cases. The prescribed length of non-custodial sentences is between 18 and 36 months. It can be granted or denied depending on the severity of the crime or the circumstances surrounding the case. The length of the sentence depends on the severity of the offence in the judge’s view, previous similar convictions, and recommendations made by probation officers based on their social assessments. Parents profiled as repeat offenders like Angela (case#1) or Adiema (Case#2) get the maximum sentence. Angela had been reported to the chief (the local administrator) for neglecting her children and at one point the chief, together with the area children officer, had placed three of her older children in a CCI for several months. Arresting the primary caregivers produces new risks such as their children becoming destitute, especially if their care cannot be entrusted to another responsible adult within the family or household. Through court orders, children officers may commit such children to a children’s home (CCI) until the parents are released from prison. In fact, Angelas’ attempted murder happened shortly after she had been reunited with her other children. They were immediately removed once again after this

incident. One wonders if this second incident was preventable, had Angela received the right attention in the first instance.

6.4 Deconstructing the best interest of the child in responses

In all cases, officers indicated that “the best interest of the child” (BIC) was an overarching principle that guides their actions. The officers cited Article 4(2) of the Children’s Act of 2001 which prescribes that “in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration”. Furthermore, Article 4(3) reiterates that in exercising their mandates, officers of the institutions listed in Article 4(2) must give the BIC principle paramount consideration to uphold children’s rights and safeguard their welfare. Officers were unanimously emphatic on the primacy of the BIC principle as the statements below illustrated.

We use the law, depending on what the matter is. So, for example there are things like counselling. We don’t need the law to tell someone to go for counselling. If it’s something that is within the law, then it will inform our decisions. [...] with the Children’s Act, it has worked perfectly because if something is in the law it’s easier to deal with. Either I will refer to the court or the relevant authorities [...]. I will involve the police and the hospital and other stakeholders dealing with the matter (SCCO#1, June 2018).

We work within the government framework on child protection and most importantly, the law-the Children’s Act of 2001, the Constitution of Kenya. Whichever interventions we do must be guided by these two statutes. The Children’s Act in particular is critical [...]. It even provides guidelines on the period that children could be held in remand, the kind of care needed and other related procedures [...]. No action should be taken that could harm a child and all the rights of a child must be upheld [...]. I can’t take any action outside these guidelines and the law. (Children officer#2).

As children officers, we are informed first and foremost by the law- and in this case, the constitution, the Children’s Act of 2001 and other laws that touch on children’s matters. But we need to look at the law more openly. (SCCO#5).

Furthermore, officers also cited Article 53 of the Constitution of Kenya (2010) and the Probation of Offenders Act Chapter 64 in the case of Probation and Aftercare Services officers. All the above laws draw from Article 3 of the UNCRC, which urges state parties to ensure the best interest of the child is given primary consideration in all actions involving the child whether undertaken by public or private social welfare institutions, courts of law, administrative or legislative authorities (UNCRC, 1989). In addition, the *Guidebook on the Operations of Children’s Court* (UNDP and The Judiciary, 2016) lists three criteria for determining whether court decisions adhere to the BIC principle. First is the need to protect the child from harm, second is the protection of the child’s rights, and the third is the need

to promote the child's development taking into account their age, stage of development, culture and gender.

Given the central role of the BIC principle in determining interventions, it was necessary to establish how state officers interpreted and applied the BIC principle. Four out of five children officers maintained that the meaning is self-evident when one acted within the law, upheld children's rights, and did no harm to the child. On the other hand, one children officer as well as both judicial officers felt strongly that its interpretation depended a lot on each child and their family's unique circumstances. This one children officer averred that there are times when one is confronted with contradictions between the realities of a child's situation and what the law says, creating complexity in the interpretations. In her view;

There's what is legally sanctioned as a right of the child and then there is what you know a child needs [...], honestly, that depends on the situation. [...]. I handled a case where a child was abandoned by the mother immediately after birth and the child has been living with the father. But because the father travels a lot for work outside town, he took the child to his brother's house here in Nairobi. Whenever he is around, he visits the child at his brother's place. Now, after five years, the mother of this child appeared at my office and demanded to be given custody of her child, accusing her husband of neglecting the child [...] because the child is not staying with his biological father [...]. When I summoned the child's father, he told me the mother of the child had not been in touch for the last five years. I also interviewed the child and the child told me "I have two daddies" [...]. He has no relationship with the mother at all! So, I asked the woman 'where have you been for the last five years'. [...] sometimes you find that there are conflicts and you have to put the law aside, think clearly and act like a parent (SCCO#5).

Similarly, both judicial officers invoked an expansive and pragmatic approach to the interpretation, perhaps because of their professional expertise on legal matters as well as several years of involvement with matters of children. The senior judge has practised law in Kenya for over 32 years, 17 of which were in private family law practice and human rights activism. The second judicial officer (KENJO#2) had been a children's magistrate and hence had received extensive training on children's rights and implementation of the Children's Act of 2001. Until early 2016, children's matters could only be presided over by a small number of gazetted children's magistrates, and heard in child-friendly children's courts in compliance with Section 188 of the Children's Act 2001 on children's courts. Where the courts were not compliant, children's magistrates were at liberty to convert normal open courts into special and child-friendly courts by restricting access by the general public and media, and creating physical barriers between child witnesses and the accused person to minimise the likelihood of intimidation and fear. Alternatively, they could hold court in their private chambers which were less threatening to children and protective of children's

identity. Now all magistrates are expected to competently handle children's matters in addition to the other matters in their courts (UNDP and The Judiciary, 2016). This strategy, together with other administrative changes, fast-tracked the resolution of children's matters that had dragged on for years (NCAJ, 2019). However, some child protection actors doubt the commitment of some magistrates to children's rights and also lament the malady of corruption as a barrier to access to justice.

That system of only a few judges handling children's matters was a bottleneck. There were problems with the administration of justice. [...]. But of course, those trained through JJS are in a much better position to handle children's matters. Having interacted with some of them, you can see they are well versed on children's matters [...]. They use the law to make sound decisions in the best interest of the child. [...] they are well versed with the Children's Act [...]. Of course, I cannot deny that sometimes things can be very thick even for them especially where the perpetrators have deep pockets and engage very strong lawyers and the child victim does not even have legal representation (CO#3, June 2018).

The senior judge conceded that legal understanding, as well as the expansive interpretation of the BIC principle remains low among most child protection practitioners, including her colleagues in the judiciary. She attributes this partly to historical pessimism expressed by several members of the bench when the Children's Act was first introduced. They felt that the new child law (Children's Act No. 8 of 2001) would be declared unconstitutional because there was no explicit recognition of the rights of the child in the constitution at the time and hence were not supportive of it. In her view the new law was quite progressive:

In declaring certain rights which were really far-reaching at the time, and challenging the status quo. So, I found myself prodding the other judges, telling them that the worst we can do is to allow any provisions in that law to be declared unconstitutional because that would be a serious setback [...] All it was seeking to do was to uphold the best interest of the child (KENJO#1).

Perhaps due to her background in human rights activism the judge takes a very broad approach to interpreting the BIC principle, arguing that

when it comes to the best interest of the child, other interests are sub-servient, so it doesn't matter what one would be feeling [...]. It is making sure that the child can eat, the child can go to school; the child can have shelter, and clothing basically (KENJO#1).

The judge further elaborated that it means any adult with custody or entrusted with care of a child at any given time takes responsibility for ensuring their safety and welfare regardless of the setting. Similarly, the second judicial officer also took a pragmatic approach, though she also admitted that she found the interpretation of the BIC principle to be quite elusive. She used evocative imagery to elaborate that complexity.

The best interest of the child is like a monkey. It keeps hopping from one tree to another. What is good for child X might not be good for child Y. It all depends on the particular or

peculiar circumstances of each case- and none is the same as the other. In some cases, it might require placing the child with the father even though the law may require that a child of tender age be in the care of the mother- but the mother might be the problem (KENJO#2).

6.5. Chapter summary and conclusion

This chapter presented empirical findings on child protection practices among low-income families in Kenya and the findings are specific to the first study objective. The data focuses on 21 family case histories that scaffold the discussions. Findings revealed complex and multi-dimensional factors that drive child maltreatment and push families into involvement with child welfare. They also exposed the less acknowledged messiness around interpreting and implementing the best interest principle, widely varying attitudes and perceptions surrounding distinct interventions such as parental prosecution, kinship fostering and institutionalisation of children in Kenya. In response to the question of how the child protection system responds to child abuse where the primary caregivers are the main ‘perpetrators’, the evidence presented here suggests there is a strict interpretation of the breach of children’s rights for which a punitive approach seems to take precedence. Findings also expose the need to rethink some of the prevailing cultural practices and their impact on children’s lives, particularly issues around customary marriage arrangements and the care of children when such fluid unions unravel. Furthermore, these findings have highlighted the need for better ways of managing child maltreatment among low-income families in Kenya whose involvement with the welfare and justice system seem to stem from less than adequate living conditions. In particular, interventions such as child removals and parental arrest promote institutionalisation of children whilst also perpetuating historical and problematic linkages between child protection and a juvenile justice system where struggling parents and ‘juvenile delinquents’ are criminalised and prosecuted.

CHAPTER SEVEN: ENCOUNTERING CHILD PROTECTION IN SOUTH AFRICA

7.0 Introduction

This is the second empirical chapter. It presents data on child protection practices in South Africa, and like the previous chapter, findings are organised into various themes and sub-themes in response to the first study objective and its three corresponding research questions. The chapter has five sections including an introduction. Subsequent sections cover a brief biographical information on the study participants; a compilation of family case histories which are organised into emerging issues identified by children and caregivers; the main child protection responses in South Africa; debates on the best interest principle; and a final section which offers the chapter summary and conclusion.

The data represents in-depth interviews, observations, and informal conversations with 32 study participants. The participants included parents/primary caregivers, children, social workers, Non-Profit Organisation (NPO) managers and founders as well as two judicial officers (a children's magistrate and a senior judge). The interviews were enriched by an extensive review of secondary materials including case files and reports, numerous participant observations of various child protection procedures undertaken by the child protection actors, which generated detailed field notes. One of the observations involved an after-school group activity with 11 children, two group interviews with five children (siblings), and in-depth individual interviews with seven children. Overall, a careful and thorough process of distilling materials from the interviews, case files, and the numerous conversations, generated eight children's case histories that met the criteria for inclusion. In addition, 13 caregivers to children who were involved with child welfare services were interviewed. Except in four children's cases, the rest of the parents' cases were not directly tied to the children who participated in the study. In addition, for children placed under safety parents for alternative care over extended periods their case histories were compiled based on their biological family history as well as information provided by the safety parents which further enriched understanding of complexities involved in the child's life. Combined the 13 parent cases and eight child cases (21 in total) which frame the entire chapter reflect the composite experiences of families involved with the child protection services in a South African context.

7.1 Summary of the profiles of study participants

Participants were purposively selected to represent a rich mix of perspectives from both users of child welfare services as well as actors with varying responsibilities in the child protection workforce. The purposive selection also ensured representation with respect to different forms of child maltreatment and corresponding child protection responses. However, in line with the study design, these cases excluded reported instances of child sexual abuse. The identification of cases occurred during observations of case intake sessions. Extensive review of cases was undertaken before I approached the specific children and families who met the set case selection criteria with a request to participate in the study. Only those willing to participate voluntarily were included, and all gave written consent or assent in the case of younger children. Children that took part in the study were between eight and over 18 years of age. There were two unique cases of young people who were over 18 that were included because their cases were initiated when the children were minors. In one of the cases the matter is still unresolved though the lady is now 19 years old, and technically, not a child. In both cases the young people are still dependants. The state recognises young people who are still in school or undergoing professional training as dependants in terms of child welfare services and foster care support.

All participants were based in Khayelitsha, either as residents or professionals with designated service provision mandates, except one senior judicial officer based at the Wynberg Children's Court which has a broader jurisdiction. The other judicial officer serves at the Khayelitsha district magistrate's court. The district court is considered a lower court which can hear children's matters that are not of a criminal nature. The senior judge was included because of the broader mandate of her court and extensive experience handling children's matters in a higher court. Besides handling children's court matters, the officer is also responsible for hearing maintenance (child and spousal support) cases which are pertinent to child protection and welfare. Table 16 summarise the composition of study participants as well as the key tools that were used to collect data on each category of participants.

Table 16: Categories of study participants in South Africa

Category of participants	Number of Participants	Data Collection techniques
Judiciary officers (Senior magistrates & Judges)	2	Key informant in-depth interviews
Social workers (3 from the NPO and one from DSD)	4	In-depth interviews, numerous informal conversations and observations
Children (only those interviewed for the 8 case histories, the group activity was an observation).	11	Informal conversations using participatory techniques as ice-breakers, group as well as one-on one in-depth interviews with older children, and observations during home visits.
Parents & caregivers	13	In-depth interviews combined with case analysis, conversations with case worker/social worker, and home visits where possible.
Non-Profit Organizations (NPOs)	3	Key informant in-depth interviews
Total	33	

None of the children were designated as offenders or children in conflict with the law since South Africa's policy and practice discourages prosecution of children and only contemplates it as the very last resort. Even then, such matters are handled in child justice courts and are not part of the statutory child protection work once it is reported to the police. For the same reasons, I did not encounter any case of a parent prosecuted for child abuse. Most of the NPO cases involved neglect, orphanhood, physical and emotional abuse, as well as parenting problems due to behavioural challenges with children. Of the 11 young people in the study only two were boys. Three children (one boy and two girls) were not attending school due to truancy (the boy) and lack of proper identification documents. Detailed profiles of the children who took part in the study are summarized in table 17 below.

In addition, 13 parents and primary caregivers participated in the study. Characteristically, over 50% of them were grandparents raising their grandchildren or elderly relatives caring for their deceased sibling's or nieces' children. The average age was 49 years, while the youngest was a 22-year-old youth caring for her three teenage siblings and her four year-old son. The oldest was an 87-year-old grandmother who was caring for four grandchildren aged between 10-18 years.

Table 17: Profiles of children who participated in the study

Child¹⁸	Age & Gender	Educational Level	Type of family	Child's circumstances	Previous history?
Nomzamo's sibling #1	17-Boy	Grade 10	Partial orphans being raised by an older sibling in youth-headed household	Extreme domestic violence leading to the murder of one parent by the other	No
Nomzamo's sibling #2	18-Girl	Grade 12	Partial orphan being raised by an older sibling in a youth-headed household	Extreme domestic violence leading to the murder of one parent (mother) by the other	No
Nomzamo's sibling #3	15- Girl	Grade 8	Partial orphan raised by an older sibling in a youth-headed household	Extreme domestic violence leading to the murder of one parent	No
Lelethu	12- Girl	Stopped at grade 5	Kinship care arrangement with a maternal aunt	Contested child custody for access to a foster care grant	No
Anovuyo	16- Girl	Grade 11	Partial orphan in foster care after a kinship care plan fell through	Cruelty, physical and emotional abuse by the maternal uncle	No
Afeziwe	16- Girl	Grade 10	Partial orphan in foster care	Emotional abuse and rejection (by both paternal and maternal grandmothers), leading to truancy	No
Zhikona	13-Boy	Dropped out at grade 6	Mixed family of two-parents (step-father)	Truancy-running away from home leading to physical and emotional abuse by the mother	Yes
Aseza	19- Girl	Dropped out at grade 11	Single parent (mother) family	Lack of documentation which limited access to education and led to alcoholism at 17 years	Yes
Yonela	15- Girl	Grade 8	Total orphan in foster care	Drug-related truancy and a failed fostering plan.	No
October sibling #1	13- Girl	Grade 7	Partial orphan in kinship care (under a maternal auntie)	A protracted foster care process because of a living but absent parent (mother)	No
October Sibling #2	10- Girl	Grade 5	Partial orphans in kinship care (maternal auntie)	A protracted foster care process because of a living but absent parent (mother)	No

¹⁸ In all cases, children and parents' names were changed to protect their identity

Only three out of the 13 caregivers were the biological parents of the children in question, five were grandparents, and two were safety parents. The other three were extended family members (mostly maternal aunts) who had assumed primary caregiving responsibilities of a deceased relative's child willingly or reluctantly, and had either been appointed as the legal foster parent or were in the process of applying for the same. As table 18 shows, over 90% of the caregivers were living precariously as unemployed, involved in unskilled part-time work (domestic or construction site workers), dependent on relatives for upkeep, or social assistance grants. Only one caregiver with a high school certificate (matric level) was formally employed by a clearing and forwarding company.

Table 18: Profiles of caregivers who participated in the study

Variable	Characteristic description	Frequency
Age of primary caregiver	24-30 years	2
	31-35 years	1
	36-49	4
	50-59	3
	60 years and above	3
	Total	13
Marital status of parent(s)	Married (two-parent family)	2
	Single parent (Never married)	5
	Single parent (divorced/separated/widowed)	6
	Total	13
Level of education	Primary level education (6 and below)	3
	Has high level of education but did not matriculate (grades 7-9)	6
	Senior secondary (grades 10-12)	2
	Matriculated and has post-high school training	2
	Total	13
Key Livelihood activities	Formally Employed	1
	Unemployed/retrenched/doing informal casual or part time work (domestic or construction) and not on any social grant	5
	Student- supported by relatives & foster care grant	1

	Self-employed: Owns a small business (e.g selling 'amagwinya' ¹⁹ at the taxi rank, selling hand-made bags, running an ECD centre)	3
	Living mainly on social grant (pension) or combines pension with part time domestic work	3
	Total	13
Has previous record of encounters with child welfare?	Yes: Has been reported before for child neglect	0
	No: This was the first reported incidence	13
	Total	13

7.2 Encountering the child protection system in South Africa

Similar to chapter six, this section examines evidence that addresses the first study objective and its three corresponding research questions as stated below.

- a) In pursuing the best interest of the child, how does the child protection system respond to child abuse (with exception of sexual abuse) when it involves parents or other primary caregivers as the 'perpetrators'?
- b) In carrying out child protection work, how do key protection actors like social workers, judicial officers, children officers and NGO workers frame child abuse in South Africa?
- c) How do children and families with a history of child abuse experience the child protection system in South Africa?

Case analyses and field observations showed that the bulk of statutory work that NPO handled involved facilitating access to child social grants especially foster care and child support grants. Hence most of the children and parents' cases reflect this bias, which is not surprising given the high rates of unemployment among the study participants. However, there were instances where parents and caregivers sought assistance due to difficult parenting situations such as the management of teenagers with a history of alcohol, substance and drug-related problems, as well as caring for children with disabilities. This section explores these themes in depth by presenting 21 life histories of that show

¹⁹ This is a 'fat-cook', deep fried puffy pastry with roots in the Dutch culinary, but now popular among Black South Africans

perspectives of either the parents or children. Their narratives were augmented by information provided by social workers, NPO managers and judicial officers.

7.2.1 Factors driving children’s involvement with child protection services

Myriad reason could drive children and families to require child welfare and protection services. In this case, five factors were identified as important drivers causing children to require care and protection in line with the Children Act of 2005. These included familial violence, cruelty and mistreatment of children; loss of parental care due to terminal illnesses (mainly AIDS), death, separation, or divorce; parental alcoholism and drug abuse; difficult caregiver-child relationship due to behavioural challenges. In addition, neglect and inability of caregivers to meet children’s material needs were closely connected to the first four drivers which added complexities to an already difficult situation. For instance, alcoholic parents neglected their children and failed to meet their basic needs, while the lack of income meant that parents could not secure proper identification documents for their children, leaving those children’s futures in limbo. Moreover, parents dealing with difficult teenage behaviours attributed the young persons’ negative behaviour to the enormous challenges of raising children, and growing up in low-income neighbourhoods where they have limited future opportunities and are exposed to crime and drugs. The six factors are discussed below along with the eight children’s case histories.

1. Domestic violence, emotional abuse and cruelty against children

The case of three siblings -Bongile, Abongile and Avethanda, and that of Lelethu are classic depictions of how familial violence and cruelty can create serious crises and completely upend the lives of children.

Table 19: Domestic violence and family conflicts contribute to loss of quality care

Case#	Presenting problem and the family situation
Child case#1 Bongile, Abongile and Avethanda, (Nomzamo’s siblings)	<i>Abongile (18.5 years), Bongile (17), and Avethanda (13) are siblings under the care of their older sister who is a 22-year-old university student and a mother of a four-year-old boy. The older sister took over their care at the tender age of 16 following the brutal murder of her mother by the father. The father has since been sentenced to 15 years of imprisonment, leaving the children without an adult carer at the time. There were real threats of the four siblings being separated and placed in alternative care in 2013 had their big sister Nomzamo not fiercely opposed the move. She implored one of their maternal aunts to move in with them as a foster parent until she was of age and legally able to care for her siblings. This living arrangement provided the stability needed for continuity, allowing the children to stay in school despite being suddenly plunged into a major crisis in their lives. Having a loving and nurturing extended maternal family support system also helped the children to meet their basic needs and stay connected to their roots. In 2018 at the age of 21 Nomzamo</i>

	<i>was finally approved as a foster parent to the siblings and the family benefits from three foster care grants. The three siblings are very proud of their sister for being able to keep them all together.</i>
Child case#2 Lelethu	<i>Lelethu is 12 years old, an only child and an orphan who was forced to temporarily drop out of school in 2019 after relocating from Eastern Cape in December of 2018 to live with her aunt Fundiswa in Site C, Khayelitshashe. The move was Lelethu's way of escaping a cruel and difficult family situation. Since the age of five months Lelethu was raised by her maternal grandmother while her mother worked in Cape Town and sent remittances to the grandmother. She had promised to bring Lelethu to the city once her financial situation improved, but died before she ever did. The mother passed away in 2013 when Lelethu was six years of age and a custody battle broke out among her maternal family members. Her great aunt (the grandmother's oldest sister) alleged that Lelethu's mother had appointed her (informally) as Lelethu's guardian before she died, while the grandmother insisted, she always had custody of Lelethu. This created conflicts in the family, but while the conflict played out between 2013-2015 Lelethu continued to live with her maternal grandmother until 2016 when the great auntie managed to take over custody. However, her maternal aunts (the mother's sisters) and grandmother were unhappy with the change and fought to have the child back, which they accomplished at the end of 2018 but by then a negative environment had been created such that her maternal grandmother and aunts refused to meet her basic needs. They would often remind Lelethu that her great-aunt was the one enjoying her child support grant so she should not claim anything from them. According to Lelethu, one of her aunts who lived in the maternal grandmother's homestead would frequently deny her food, allowing her only one meal per day while her cousins had three meals a day. In January 2019, Lelethu could no longer continue living with her maternal family in Eastern Cape because of their cruelty. She begged her aunt (the youngest of her mother's sisters) to intervene, prompting Fundiswa to bring her to Cape Town. Unfortunately, Fundiswa was unable to enrol her into school due to lack of the necessary school transfer documents. Her former school principal in Eastern Cape refused to clear her due to unpaid school levies.</i>

In the first case, despite the tragic loss of their mother and imprisonment of their father, additional crises were averted by tapping into the still valuable kinship care system which helped to keep the siblings together. Though married and with her own family, the sibling's auntie was willing to relocate from Eastern Cape to ensure her sister's children were not separated. Lelethu (case#2) was equally lucky to have a relative willing to take her in, but this came at a cost. The move to the city created yet another precarious situation for her as she could not attend school with her cousin as the child had wanted. The aunt needed to settle a debt with her former school in Eastern Cape before the head teacher could issue the transfer letter that would enable her enrol into a public school in Khayeltisha. The aunt who lived in a small shack with her niece and daughter told the social worker she needed time to save the money needed. During our interview she reported being worried that the child was not in school and her missed nearly a whole term (three months), but that her immediate

concern was to ensure that the children were fed and cared for from the income she made selling foodstuff at the Site C Taxi Rank.

2. Loss of parental care through death and separation

As the first two cases already show, for children who lose their parents early in life, a trajectory of an uncertain future is created. The situation is worsened by a failure to resolve foster care arrangements for such children, which might leave children in a state of limbo. Siya and Aviwe (October siblings-child case #4) had their application case at DSD pending for over two years mainly as a result of an incompetent case worker, but lucky for them the aunt who wanted to foster them was working and had some income so she did not have to rely on the foster care grant at immediately she took custody of the children.

Table 20: Death, separation and loss of parental care

Case#	Presenting problem and the family situation
Child case #3 Anovuyo	<i>Aoavuyo, a 16-year-old teenager is in grade 11 at one of the prestigious high schools in Khayelitsha and lives in a children's centre. She is an active member of the children's radio club and hopes to pursue a career in journalism after matriculating. Though she stays optimistic, she is doubtful about how the future will unfold because of what she has had to endure in her young life. Her mother died in 2007 when she was four. Her father soon remarried, abandoned her and moved to Mpumalanga with his new family. He maintained no contact with Anovuyo until 2017 when she reconnected with a step-sister through Facebook. Anovuyo was raised by her maternal grandparents in Eastern Cape and had a relatively comfortable life until her grandmother died in 2013 and her maternal uncle and his wife took over her care. They moved her to Cape Town and enrolled her into one of the best schools in Khayelitsha. However, the couple were physically and emotionally abusive towards Anovuyo. She says they turned her into their personal maid, would not buy her nice clothes and shoes like her teenage friends even though they were receiving a foster care grant on her behalf, and mistreated her, causing her emotional distress. Initially she did not disclose the abuse to her grandfather because he was sickly and she preferred not to worry him. However, when the abuse became too much, she confided in her school friend who reported to her teachers. A medical review ordered by a social worker found evidence of repeated physical abuse. Anovuyo was removed from the uncle's home in 2017 and placed under the care of a safety parent. When her father was contacted, he promised to support her but has since become elusive. Anovuyo says she is torn between suing him and turning her back on him because the only time she visited him in Mpumalanga in 2018 she did not like what she saw. She is doubtful of his capacity support her because of his current family situation which she assessed to be challenging. Efforts to find Anovuyo permanent placement are hampered by the slow pace of her social worker, but the safety parent believes it might be the result of hesitation among potential foster parents to take in teenagers.</i>
Child Case#4 October siblings	<i>Siya and Aviwe October are sisters aged 13 and 10 years. They are in grades seven and five respectively. Their parents were in a brief love relationship but never got married legally. They separated when the girls were two and five years old so the girls have almost no recollection of their mother who abandoned them in 2010 after briefly trying to raise them on her own. She</i>

later brought the children to their father and disappeared, so none of the relatives know her whereabouts. The father took the children to his parents claiming that he was not competent to raise such young children on his own. The grandparents agreed to raise the children but they soon retired and relocated to Eastern Cape in 2015 and soon after, the children's father was murdered. In 2016, the only surviving paternal aunt Charlotte took over their care and moved them back Cape Town (Khayelitsha) where she and her husband live in a two-bedroom RDP house. Charlotte applied to become the foster parent to her nieces but the application stalled because the children did not have birth certificates, their parents' marriage was not official, and their mother had not been declared dead (no death certificate). Since the mother was assumed to be alive, Charlotte's application could not be completed without the surviving parent's consent. The first caseworker was unsure how to proceed with the case so she delayed the matter unnecessarily from 2016 to 2018. Charlotte complained of the long legal process but was glad that the children were already living with her. It was only after a new caseworker took over the girls' case did Charlotte see some progress. She feels the second caseworker is more competent and the matter was expedited. The new caseworker had put out a public notice in the local newspapers (Vukani and The City Vision) requesting for any information on the children's mother. The law provides that after 90 days without any information is sufficient to proceed with the application, hence Charlotte's legal application was finally granted on 2nd May 2019, following which approval she could access the foster care grant. Before granting the application, the magistrate interviewed the children to ensure they were happy with the living arrangements at the aunt's place. I met the girls and their aunt on the day the magistrate finalised the foster care orders which was exciting for all parties involved.

For caregivers willing to take in a child who has lost parental care but has limited means, a foster care grant can make a huge difference, but to do so, it needs to be processed in a timely fashion otherwise it could lead to the circulation of children from one relative's home to another in a bid to distribute the burden of care. It also risks secondary abandonment of children if a relative realises the state might not provide additional support which is essential in easing the burden of care. The two cases also expose a gap in the supervision of caseworkers to ensure timely resolution of cases which would guarantee that children did not fall through the cracks in the system. The increased risk of secondary abuse and further neglect of children due to systemic failures is a long-standing concern within child welfare and social work globally. The case of Baby Peter and Victoria Climbié mentioned in chapter one attest to this worrying global phenomenon (see Featherstone and Gupta, 2017).

3. Parental alcoholism and drug abuse

The study noted a direct link between alcoholism, drug and substance abuse among parents and neglect, as Yonela's life story (case#5) illustrates below.

Table 21: Alcoholism, drug abuse and child care

Case#	Presenting problem and the family situation
<p>Child case#5 Yonela</p>	<p><i>Yonela is a 15-year-old teenager currently living in a children’s home under the care of a safety parent. By the time she was nine, she had experienced the death of her mother who was the only parent she knew, been separated from her only sibling, and changed foster homes twice. Her single mother was addicted to drugs and alcohol and died from drug-related complications. Immediately, Yonela who was in grade 3 and her brother in grade 7 (about 15 years) were temporarily placed under the care of a safety parent before being moved to a children’s home. Their stay at the children’s home was equally short because the brother started using drugs and was immediately moved to a Youth Care Centre, while Yonela was placed in a new foster care family in Khayelitsha. After four years in foster care Yonela says she did something that caused her foster mother to request her removal from their home. Yonela found herself under the care of yet another safety parent. These frequent changes have caused Yonela to feel uncertain about her future, but she insists that she needs to behave herself in order to continue staying with her current caregiver (Sis Phumza) who she says she is very fond of. The safety parent Sis Phumza is a DSD designated safety and foster parent and has cared for Yonela for the past two years at her children’s centre. Yonela says she is quite happy there, but faces an uncertain future because one month after my last interview with her the safety parent died suddenly, forcing Yonela’s caseworker to move Yonela and the other children from the centre.</i></p>

Yonela’s mother was addicted to drugs which caused the young mother’s untimely death and although Yonela could not say for sure, the brother who was a teenager at the time is likely to have been exposed to drugs during that time and soon became a user as well. The family appears to have lived in isolation or, had little contact with other family members. Yonela could not recall ever meeting or seeing any of her mother’s relatives and neither did their mother talk about any other family members. Consequently, upon her death the children had no one to care for them besides the state. As a teenager, Yonela admits that she has also developed some behavioural problems which caused her previous foster parents to expel her from their home, so she ended up at the safety parent’s place on temporary care arrangement. Although she was unwilling to disclose exactly what happened, she did admit that “I did something bad”. In the American context, Jedwab, Xu and Shaw (2020) found that children with behavioural problems were likely to be placed with non-kin relations and that they were more likely to experience multiple moves within the formal care system.

4. Teenage related behavioural challenges

In South Africa generally, a lot of children are raised by grandparents, and more specifically the maternal grandparents, which Seekings (2008) argues has shifted ‘householding’ and kinship care claims towards a matrilineal pattern. It is thus not uncommon to find three

generations living under the same roof in urban areas or in close proximity to the matriarch who raises several of her adult children's offspring (ibid). This study noted similar patterns. Child rearing by grandparents is a commonly accepted norm among Black South Africans. Patel *et al.* (2019:14) explains that "South Africa's history of apartheid and separation of families due to migrant labour and influx control policies, among other forms of institutionalised separation of families, resulted in severe disruption of family life and changing family structures". Historically, migrating parents made remittances for the care of their children such that households with an adult migrant were better off compared to those who did not have able-bodied members (particularly men) who had migrated (Seekings, 2008). However, this has changed considerably in the last decade such that more elderly parents are living in urban areas with their adult children who are mostly unemployed being typically dependant on the elderly parent's pension. Consequently, Seekings (2008) also argues that social pension has replaced remittance in terms of supporting families, and in fact, many women pensioners claimed that state pensions had replaced the role of husbands as providers.

Unfortunately, the sociocultural environment in which these children are being raised in the low-income settlements is quite different from the rural life that their grandparents and some of their parents grew up in. The varied generational childhood experiences are a source of frequent conflicts between the three generations. At least five out of the 8 children's cases profiled here involved care by a maternal grandmother at some point in the children's lives. Similarly, nearly all 13 parents' cases involved grandmothers as the primary or secondary caregiver. Some of the urban life challenges that the grannies grapple with include their grandchildren's involvement in gangsterism, drug and substance abuse/addiction, criminal activities, money-related clashes as young people pressurise caregivers to purchase expensive material goods such as designer clothes and mobile phones. Consequently, the study noted a higher propensity by grannies to seek state interventions by social workers on matters involving their grandchildren's behaviours.

In some cases, the behavioural problems were with their adult children who had subsequently abandoned their children with the grandparents or grossly neglected them. Some of the issues that the adult children faced included alcoholism, illness, divorce and separation, and lost income or employment. These situations forced grandparents to step in, and hence they advise from social workers on how to access social grants for the grandchildren under their care. There were far more grandparents struggling to parent their

teenage grandchildren as a result of neglect compared to middle-aged parents. In some instances, the caregivers feel helpless and simply give up on the children while others take the last option of having the children committed in CYCCs as charges of the state. One grandmother (SA Parent case#5) shared her experience of long-drawn-out struggles with her orphaned grand-nephew who was abusing drugs. She sought help from DSD on numerous occasions hoping to have him placed at a Children and Youth Care Centre (CYCC) but unfortunately her attempts were unsuccessful. Eventually she relocated the boy to their rural home in Eastern Cape and enlisted the help of her brothers to discipline, mentor and prevent the boy from returning to the city until he had reformed. Admission to CYCCs takes years due to limited slots in such facilities. For instance, at the NPO there was a long waiting list of children awaiting admission to CYCCs and social workers are forced to beg managers for help if they feel the situation is dire. Zikona's case below shows just how serious the situation can get.

Table 22: Truancy and behavioural challenges among teenagers and adolescents

Case#	Presenting problem and the family situation
<p>Child case#6 Afeziwe</p>	<p><i>Afeziwe is a 16-year-old teenager. She is the second born in a family of five girls. Afeziwe's mother died in 2014 when she was 11 years and for a while the five children were cared for by their paternal grandmother in Eastern Cape. A few months later Afeziwe was separated from her siblings, and ended up under the care of her maternal grandmother for a while before being placed under the care of a safety parent in a children's home in 2017. Afeziwe attributes what she calls a troubled life to the rejection by both her grandpa, the extended family and separation from her siblings. Before being separated from her siblings her paternal grandmother told her she was not the biological child of the only person she grew up calling "Tata" (father) and the only surviving parent after her mother's death. Initially the paternal grandmother asked Afeziwe's maternal grandmother to share in the burden of raising their grandchildren by taking care of Afeziwe. The maternal grandmother agreed and moved her to Khayeltisha in Cape Town but once she was in Cape Town the story changed to claims that Afeziwe was not her son's biological child. This rejection and separation from her siblings affected Afeziwe to the extent that once in Cape Town she says she developed serious behavioural problems which made it difficult for her maternal grandmother to cope with her. The issue was so severe that the grandmother developed stress-related health problems and could not care for herself nor Afeziwe. Eventually social workers intervened and placed the grandmother in an old people's home and Afeziwe was taken to a safety parent. Although she feels that most of her basic needs are met, Afeziwe feels stuck at the safety parent's home. She has no family anymore, misses her siblings terribly, and has not seen them since she was moved from Eastern Cape in December of 2016. She is worried that they too may be at risk of being mistreated but because she is not allowed to call or visit, she feels very frustrated. In addition, her paternal grandmother applied for her foster grant and refuses to remit the funds to her. When she asked about it the grandmother insulted her and blocked her number so that Afeziwe can longer contact her or the siblings. The safety parent intimated that there are complexities with the family situation. Afeziwe is said to have been sexually abused by her paternal uncle (father's brother) and the extended family chased her away to try and protect themselves by blaming her and accusing her of bad behaviour.</i></p>

<p>Child case#7</p> <p>Zikhona</p>	<p><i>Zikhona is a 13-year-old teenager who dropped out of school in grade 6. Until March 2019, Zikhona was living with his mother and step-father in a three-roomed backyard shack in Site C Khayeltisha. However, through the intervention of a social worker, Zikhona was placed under the care of a protective safety parent for 90 days while awaiting a vacancy to open up in one of the CYCCs in Western Cape. In February 2019 a neighbour reported Zikhona's mother for abuse and neglect. The family lives in a three- roomed backyard shack in Khayelitsha. The neighbour indicated that the child's mother is emotionally and verbally abusive. She keeps insulting the child telling him she does not love him at all and that she loves her other children. Zikhona is epileptic, but the neighbour says he has "a strange disease" because he occasionally convulses and foams in the mouth. Zikhona has a brother who is 15 years old and another who is 8, but both live with the maternal grandmother in Eastern Cape. According to the mother, Zikhona was raised by his maternal grandmother but in 2017 she brought him to Cape Town so he could get better care and treatment for his epilepsy. The mother also reported that the child attempted to commit suicide in January 2019 following an alleged sexual assault by a stranger in a nearby 'bush/forest' where he used to spend time with his friends after running away from home. A neighbour described Zikhona as a trouble-maker gifted with the ability to easily trick even adults. After an extensive review of the case the social worker's opinion was that the child was exposed to, or living under circumstances which may seriously harm his physical, mental or social development and wellbeing and should be removed from home.</i></p>
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One of the social workers admitted that CYCC placements are the most stressful cases they deal with, along with placement of children with disabilities in special schools, specialised care facilities, or finding relatives willing to care for such children. Unsurprising, two of the safety parents had several children with disabilities under their care, suggesting that some parents may be unwilling, or feel ill-prepared or unwilling to take care of such children. Out of the six children under her care, Sis Phumza had two special needs children. One three year- old was paralyzed as a result of an accident she suffered as an infant, while the second had developed physical disabilities as a result of fetal alcoholic syndrome. Safety parents lamented the lack of preparation before such children are placed in their homes, with one parent complaining that "Social Development gives me all the time children who are not normal" (Mama Ngelese, NPO Founder).

Whereas Zhikona was removed from home due to serious conflicts with his mother and step-father, due to lack of CYCC slots he was placed under the case of a safety parents. However, the safety parent said she worried about his sexual behaviour and the likelihood of him abusing other children placed with her. Though only 13 and 16 years respectively, both Zhikona and Afeziwe have been exposed to early sexual activity and are reportedly acting out some of the activities on other children. Their behaviour was causing concern among

their adult caregivers who fear for the other children's safety. In Afeziwe's case there is more than the over-sexualised behaviour that is of concern. Her safety parent also says the child steals by shoplifting and tricking people into trusting her, then she takes advantage of their trust to steal things from them which she later sells. Sis Phumza complained that she was not properly briefed about the child's social behaviour until the grandmother came to visit.

They didn't tell me anything about her. Nothing! Until her grandmother talked to me. She said she is tired and 'I don't want her in my house. In my wishes, I wish they gonna take her to like those safe places like boarding school so that she gonna not go out because in Makaza she can go to u-Shoprite because she's stealing there. She's one of those kids there like outside of the Shoprite. She's stealing whatever!' They (DSD) are supposed to remove her from here this last month but those places they don't want them- because of this thing (stealing). They say they are full but all these kids (the teenagers) they are destroyers. Yoooooh! {whistling} they are destroyers! I don't know whether it is mental or what! (Sis Phumza, Safety Parent &NPO founder).

After several unsuccessful attempts to find a permanent solution for Afeziwe, her social worker asked Sis Phumza the safety parent to consider fostering her permanently, which request Sis Phumza immediately declined. She explained that;

I am very worried about Afeziwe's behavior and I ask myself what her future is gonna look like but I can't stay with her. She is teaching other children how to kiss and things like that". She feels that Afeziwe is morally overexposed, was dangerous but pretended to be good even though in reality she is an "ikinza"²⁰ (Sis Phumza, Safety parent).

Children with behavioural problems can be easily misunderstood, get punished excessively, and risk being neglected or having their needs unmet once they are labelled as trouble makers. Furthermore, negative attitudes towards such children might considerably limit intervention options and strategies available to social workers. Afeziwe is likely to be kept at the temporary children's centre until Sis Phumza decides otherwise, or the girl turns 18 years, at which point she has to exit from the child welfare system. Being very aware of her precarious situation, Afeziwe worries about what will happen to her when she turns 18 and cannot continue living at the children's centre. While she feels confused about her living arrangements, she is also baffled by her family's rejection of her.

I just feel confusion [my father says he wanted me to go to Eastern Cape, but the family said no. [...]. He's living in the house of the family and then the family said to him if I went to Eastern Cape, he must find a place to stay with me because they're

²⁰ *Ikinza* is an isiXhosa word that describes people who present themselves as innocent and harmless but in reality, they are dangerous. He [she?] gave the example of people from the 'township' who are thieves but they pretend to be well behaved so that no one would tell they are *skolies* (Afrikaans word for thieves).

gonna throw him out of that house. I don't know why. They say they don't want me there in Eastern Cape cause I'm not theirs, am not his child [...] my grandmother didn't want me" (Afeziwe, 2019)

Her rejection by the family seem to have exacerbated her behavioural problems and incidences of truancy as she explained.

I didn't even cope like last year. Sometimes I bounce (skip) school and then I feel like I'm not going to school because I can't manage this. [...] when other students are talking about their parents [...] and then I don't have a father and my mother [...]. Around December this girl [...], she is my classmate... she was like they say he is not your father and you know what you know-that he's your father. So why do you get too much anger? And then I was like you know what, she's right. Why should I get angry about something that I don't really know for sure about it. And then I was just feeling okay I'm gonna forget about it. And then the problem with my sisters, I had tried to look for them on Facebook but the one I found is the older one. And then she said that, my other sisters are still in Eastern Cape and then she tried to contact them but their phones all go straight to voicemail.

It seems that circumstances similar to those of Afeziwe and Zhikona's are common in many welfare jurisdictions. In one study which relied on extensive literature review of foster care cases in the United States, Jedwab, Xu and Shaw (2020) found that children with behavioural problems as well as those of colour were more likely to be placed in non-kin arrangements. Furthermore, the study also found that the main triggers for removal of children from home included parental substance abuse, mental health and parental incarceration, and that children in institutional care, were more likely to be from families already living in poverty (ibid).

5. Poverty, child neglect and children's future aspirations

Parents without a formal education and stable income face serious challenges of raising children. Not only do they struggle to meet their children's basic needs, but they also confront structural impediments that are likely to impact the next generation in far-reaching ways. For instance, the failure to register marriage unions, births and deaths impacts on the family's ability to claim important entitlements from the state such as education and social assistance as Aseza's case shows.

Table 23: Poverty and children's aspirations

Case#	Presenting problem and the family situation
<p>Child case#8 Aseza</p>	<p><i>Aseza is just over 18 years and is the last born in a family of four siblings (two older brothers and a sister). Since her brothers are married, they live elsewhere while Aseza, her sister and mother live in a two-roomed shack in Khayelitsha, Site C together with her sister's two children. The shack is built on an undeveloped patch of land which her mother claims was 'inherited' from her parents when they moved to Eastern Cape. The family moved here after her mother's second marriage ended five years ago. The mother is a freelance domestic worker, cleaning houses and clothes at a small fee of between R.50 to R.100 per day. Aseza's sister supplements this meagre amount through a small hairdressing business which she runs from a street corner in the neighbourhood. Aseza dropped out of school in 2017 and regularly uses drugs and alcohol. After grade 6, she was admitted to a high school in Site B, but the school demanded for a birth certificate which she did not have and thus was unable to continue with schooling. She spends her time hanging out with friends in the neighbourhood streets and malls. To sustain her drug and alcohol habit she started begging for money from people. Though she admits she is now highly dependent on alcohol, her greatest desire is to complete school, find a job and buy a house for herself and her family. Her dream to become a pilot seems to be fading away as she struggles to get re-enrolled back in school. Her efforts to re-enrol have not been successful due to a mismatch between Aseza's surname and her mother's which makes it difficult to obtain a birth certificate and ID. In the course of her two marriages, her mother changed her surname three times. Although her ID card now bears her maiden name, her two daughters bear her first husband's surname. Unfortunately, his whereabouts are unknown, and because their marriage was not registered, she has no supporting documents to help her daughters to get legally registered as South African citizens. On 13th April 2017 the Ministry of Home Affairs issued the family a letter referring them to the National Health Laboratory Services for DNA testing before they could issue them with IDs and birth certificates. This was the only way to confirm that the girls are related to the mother who holds legal SA citizenship documents. But DNA tests cost R.900 per person (totalling to R2700) which the family does not have. Their efforts to get help from NPOs like Philani and the local newspaper did not result in the expected results they had hoped for- which is to raise the money or have it waived. Aseza says "I just feel bad because if you leave school at 17 years and have not got matric, what can you do with your life? Maybe I can do the same work like my mother-domestic cleaning of houses and clothes".</i></p>

At only 19, Aseza is already heavily reliant on alcohol and drugs because she feels frustrated about her life. Her mother feels that meeting her child's aspirations is beyond her means and keeps hoping a well-wisher would come to their rescue. Similar expressions of failure, resignation and extreme material need were expressed by many parents whose narratives are summarised in the next section.

7.2.2 Parental circumstance and involvement with child welfare services

Informed by narratives of 13 caregivers, this section explores how parents' experience the child protection system, their circumstances and the outcomes of their involvement. From the exploration five themes emerged. These include: violence and family conflicts;

alcoholism, drugs and substance abuse; gendered child care practices and patriarchy; ambiguous intimate relationships and changing African family structures; poverty and its impact on the quality of care.

1. Violence and family conflicts as risks to child wellbeing

At 22 years, Nomzamo is a confident young lady, mother to a four-year-old boy, and the primary caregiver to her three siblings aged 13, 16 and 18 years (see child case#1). Nomzamo took over the responsibility of caring for her siblings in late 2012 at the age of 16, after her mother’s brutal murder by their father. The father is currently serving a 15 years sentence. There was a threat of the sibling being separated in 2013 but Nomzamo successfully opposed the move despite being barely a child herself. Nomzamo had to take on new responsibilities which took a toll on her, forcing her to eventually give up her dream of becoming a lawyer despite having successfully completed the first year of studies. Legal training and qualification are lengthy and demanding and Nomzamo struggled to balance studies with the need to work in order to augment the family’s income. She hopes to eventually become a teacher. She was planning to enrol for a long- distance degree program that gives her flexibility to work part time and pursue her studies in a less demanding field which also requires a shorter training period.

Table 24: Family violence and children's mental and emotional wellbeing

Parental case	Case summary
Parental case#1 Nomzamo, the young caregiver	<i>As a minor at 16, Nomzamo could not become the legal guardian to her siblings, but with the support of the maternal family, Nomzamo and her siblings avoided institutionalisation and could access the foster care grant. Kinship support gave the family stability, continuity and forestalled the risk of dropping out of school which happens with many orphans following demise of their parents and with limited alternative care options. Eventually, at the age of 21 Nomzamo successfully applied to become a foster parent to her siblings and has since been playing that role, taking on informal work and also relying on the foster care grant which is supplemented by support from their maternal uncle. While she succeeded in matriculating and getting admitted for a law degree in one of the public universities, Nomzamo has had to drop out due to funding challenges but hopes to pursue a shorter degree course that will still give her stable employment. For now, her main priority is to make sure her two sisters and brother are well cared for to complete their high school education in a stable and nurturing home environment.</i>

2. Alcoholism, drugs and the loss of parental care

Both judicial officers believe that alcoholism and drug use are the biggest drivers of child neglect and children’s exposure to harm.

Drugs, and sometimes alcohol-but mainly drugs. To the point that I have come to believe that if there was a magic wand that would remove drug addiction, we would reduce the CP program by probably 90% (SAJO#2)

The officer said she uses a drawing of two houses with a thick red line between the two houses to illustrate to parents the need to separate drugs from places where their children live. Charlotte (SA parentcase#2) is painfully aware of the consequences of parent's abusing alcohol and drugs because she had to take care of her two nieces after the death of their parents and her own aging parents could not shoulder the burden for long. Luckily, Charlotte was employed and was able and willing to care for the children even though she did not have access to a foster care grant. She came into contact with child welfare in the process of applying for the grant and was extremely frustrated by the challenges she faced as her narrative below shows.

Table 25:Table 23: Family violence, separation, alcoholism, and children's wellbeing

Parent case	Case summary
Parent case #2 Charlotte	<i>Charlotte, a 37-year-old lady is the last born in a family of four siblings and the only surviving child of her parents. She and her husband do not have children of their own though Charlotte has a 13-year-old daughter from a previous relationship but she lives with her paternal family in Gauteng Province. Charlotte was born and raised in Cape Town (Khayelitsha) but her parents later retired and relocated to Eastern Cape in 2015. Charlotte studied financial management and is among the lucky few South Africans with formal employment. She worked in a public school before moving to a clearing agency that pays her R.3700 per month without medical insurance which she pays for herself. She and her husband live in a two-bedroomed RDP house with running water and electricity. She is fostering her deceased brother's daughters aged 13 and 10 years. The brother dropped out of school in grade 7 allegedly because "he was too lazy to study" and started abusing drugs. The brother was in a short relationship with the girls' mother before they separated. Initially their mother tried to raise the children alone because the husband was unsupportive, but when the task proved tough, she brought the children to their father. She claimed she wanted to go back to school, but disappeared completely. The youngest was two years old while the eldest was five and in grade R. The father took the children to his parents arguing that he was unable to provide them with the constant care required by children at that tender age. He would visit them on weekends, but the visits were less frequent after he relocated to Eastern Cape in 2014. Soon, his parents retired and also relocated to Eastern Cape in 2015, the same year their father was murdered (2015). The aging grandparents passed the responsibility of caring for the two children. In 2016 Charlotte brought the children to Cape Town and applied for formal fostering in order to also access the foster care grant for her nieces. She was informed of the technicality involving the girls' surviving parent (their mother) whose whereabouts are unknown. She needed her consent before she could be appointed as their foster parent because in the nascence of a death certificate, she was assumed to be still alive.</i>
Parent case#3 Granny Fani	<i>Fani, an 87 years old granny lives in Eastern Cape and is currently caring for grandchildren aged 13 and 10 years. The boys were born and raised by their parents in Khayelitsha until 2013 when they parents separated and the boys' mother did not want the responsibility of raising them anymore. The young couple's neighbours reported that</i>

	<p><i>the children were often neglected, because the parents were heavy drinkers who quarrelled frequently and, on several occasions, locked the children up or left them unattended for days. The children's school attendance was irregular. After the separation the father re-married and stopped providing any material support to his children. He also became contracted TB, and none of his family members -including his mother seem to know what kind of work he does. Similarly, the children's mother also got into a same-sex relationship with a new partner which upset the children's grandmother. These circumstances led to Fani becoming the default caregiver to the boys who were then relocated to Eastern Cape. Fani supports the children from her pension which in 2019 was about R. 1,700 per month and augments this with the boys' child support grant cash as her only source of income. When the daughter-in-law had handed over the children, she also gave away their SASSA cards but in 2018 SASSA changed the system and she stopped receiving the child support grant payments. The new cards make it impossible for Fani to access the children's grant with the old cards while in Eastern Cape. She needed to come to Cape Town to renew the cards as the official caregiver. In the meantime, the mother had renewed the cards in Cape Town and started receiving the child support grant directly even though she did not have custody of the children not did she make any remittances to the grandmother. Despite the granny's lengthy and frantic efforts, the boys' mother was unwilling to surrender the SASSA cards, which forced the granny to seek the help of the social worker. After attempts to summon the mother failed, the social worker finally applied for cancellation of the grant and recommended the grandmother be appointed as the primary.</i></p>
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The legal technicality requiring that a surviving parent consents to the alternative care of their children by others whether kin or non-kin ensures that children are not deliberately denied a chance to grow up with their parents. However, the technicality can be a drawback in instances where the surviving parent has abdicated their responsibility and does not wish to be responsible, yet wants to enjoy the grant money. The risk is that children could be left in an ambiguous state for years, denying them state support, with the likelihood of becoming destitute if the relatives caring for them do not have the means to continue support them. It took an *innovative social worker who also understood the tools at her disposal under the law to resolve the case which had been pending for years and been passed on from one social worker to another as an open case*. To prove that the mother could not be traced, a more experienced NPO social worker finally placed an advertisement in the local newspaper which circulates widely in Khayelitsha as her last known location. After 90 days without any new information, the court finally approved Charlotte's request.

3. Patriarchy and gendered cultural norms and practices make women the default caregivers

Similar to children's case histories, analysis of parents' cases concurs with regard to the childcare duties of grandparents. It seems that this responsibility is not only obligatory but is also an extremely gendered social practice. The cultural attitudes of most caregivers in

the study and those of social workers reinforce the role of women as home-makers and caregivers. The idea of a Black father caring for his young children singlehandedly or without the assistance of a woman seems to be unusual to some women and even frowned upon. So strong is the belief among some Black South African fathers to the extent that they are not only accepting of this cultural attitude but expect to be excused and treated with understanding if they cannot perform the role of a father. Indeed, I found that female social workers were also quite understanding of fathers in only two cases where fathers were involved in the study show below.

Table 26: Grandmothers and female relatives as default alternative caregivers

Case ID	Case Summary
Parent Case#4 Siyavuyo	<p><i>Siyavuyo is a 43-year father of four children. He dropped out of school in grade four after impregnating his then girlfriend, and later wife. The two later married at (him at 19 and her at 15) and migrated to Cape Town in 2003 to look for work. However, since moving to Cape Town, Siyavuyo has never been successful at finding full-time formal employment. He works as a low-wage, short-term labourer at construction sites. They never formalised their union but after the birth of their last-born child in 2009, they performed a traditional customary marriage ceremony but Siya says that soon after the ceremony the wife started abusing alcohol, which eventually led to their separation. He too begun to abuse alcohol but he told the social worker his drinking was not as bad his wife's. Initially, the mother went with the children but later she took them to the father and abandoned them. Since November 2016 the children have never seen their mother and her whereabouts is unknown. The two older children live with other relatives while the younger ones (12.5 and 10 years) are cared for by the father. In 2017 the children dropped out of school and have not been attending school so concerned neighbours reported the father to DSD saying that they spent most of their days loitering in the streets. A social worker made a home visit on 14th February and established that the children were supposed to be under the care of their father but had been grossly neglected. When he was summoned to the office, the father told the social worker that he had tried his best to care for the children since their mother left them at his place but he is unable to make ends meet since he does not have a stable job. He said that since the National Department of Education became strict about admitting only those children with the right identification documents (birth certificate), he did his best to get them registered but had been unsuccessful. Siyavuyo and his wife had never registered their children they could not go back to school. Late registration beyond one month attracts penalties, and if registration is made after a year and before the child is 15 years additional documents such as a baptism card, clinic attendance, and birth notifications are required. The parents did not have most of these documents which complicated the process of registering their children. Being an extremely late registration and the fact that he could not produce most of the required document he was asked to provide paternity tests which would cost him 2700, but he too did not have it. In her report the social worker had indicated that that "the living situation was very bad for the children. The condition is not conducive for them. There is no food, no plates, and no stove. It is just suffering as the family is very poor". The caseworker also noted that there was need for urgent intervention which should include removal of the children from the family home as well as support to process the birth certificates. In order to allow the children to continue with their education.</i></p>

	<i>Within 90 days the children had been handed over to a foster parent and a foster grant subsequently applied for and approved by the courts.</i>
SA Parent case#5 Yanga	<i>Yanga is a 34-year-old father of twins- a boy and girl aged a year and a half. He and the mother of the twins are not married and live separately. In March 2019 Yanga sought the intervention of a social worker regarding the custody and care of their children. When he came to meet the social worker, he brought the twins along, with the assistance a female neighbour who had been helping Yanga care for the children since the mother left them. Their mother took the twins to Yanga's house and "dumped" them there. She lives in Straand with her mother while Yanga lives in Khayelitsha. The mother does not have a contact telephone number at the moment so all communication between them is through her mother who occasionally also cares for the twins at her place in Straand. Yanga worked as a security guard before he was laid off in late 2018. He used to send the children's mother R.1000 per child for grocery shopping every month (total of R.2000 per month), but after the lay-off he was unable to send the same amount to support his children. Despite being unemployed currently he still offered to support his children by sending R. 500 per month for child but his girlfriend refused and instead decided to dump the children at the father's shack. She was upset with the reduced amount. Yanga told the social worker that two weeks earlier the children's maternal grandmother had alleged that he was neglecting the care of his children. She was equally upset because her daughter had started leaving the twins with the mother and disappearing over the weekends. The maternal grandmother demanded that the children's father take responsibility for his children and had earlier threatened to also dump the children at his house the next time her daughter absconded her duty. The father implored the social worker to give the children back to their mother and if that was not possible then she should place them in foster care for a while because he had no means to care for the children as a single and unemployed father.</i>
SA Parentcase#6 Isipho	<i>Isipho is a 55-year Xhosa lady from Eastern Cape who has never been married but is a mother of two grown children who live in the same Khayelitsha neighbourhood as Isipho. Isipho owns an RDP house and is retired. Before retiring she worked for 10 years at a restaurant in the City of Cape Town. Despite retirement, Isipho fostering seven nieces, nephews (her deceased sisters' children) and five grandchildren. Her household is made up of 12 people. In here retirement, Isipho has opted to still work one day a week as a domestic worker on a weekly wage in order to augment her pension. Occasionally, two of her nieces contribution towards household expenses but Isipho has been caring for the seven nieces and nephews since the death of their parents when the children were very young (one sister died during child birth). Though the nieces and nephews are now grown up and have their own children, responsibility for raising their children has fallen largely on Isipho as the only living grandparent, caregiver and breadwinner. One of her nephews is addicted to drugs (tik) and has serious behavioural problems which the auntie attributes to being raised in a different culture during his formative years (his deceased father was colored). This has created a cultural conflict between the two since the boy became a teenager. Being a single mother and not having a father figure for the child Isipho, is extremely concerned about the nephew's behaviour. After several attempts to discipline him failed Isipho decided to send him to Eastern Cape so that her brother and other male relatives could help her 'straighten him'. She prays that he will change to become a better man through the rural experience.</i>

In parentcase#4, because of the urgency of the situation the caseworker immediately placed the children under the care of a safe parent in order to prevent further harm. However, in what appears to be informed by cultural biases in a patriarchal society, her report seemed to absolve the father of parental responsibility by suggesting that a man should not have to care

for such young children. Without providing or recommending any rehabilitative care alternatives, she recommended that the father be granted visitation rights because he “is not a bad person. He just has a very poor background and cannot care for his children because he does not have a stable job” (Observation on the Social worker’s report of February, 2019). The caseworker further noted that; the father has struggled on his own to get the birth certificates; the family does not benefit from the child support grant due to the lack of the right documentation; the mother does not have an ID and is alcoholic; the father has been unsuccessful at obtaining the children’s birth certificates and also abuses alcohol; the children are willing to go back to school if they are re-admitted; and that the children’s level of risk was severe as they appeared to be emotionally deprived of affection, withdrawn and hungry (NPO Social worker’s report, February, 2019). Within 90 days the social worker took the matter to court and applied for long term foster care under a safety parent which was granted, and on the strength of that court order she also facilitated the application of a foster care grant which was also granted on 29th April 2019. The entire case took less than four months to resolve, which was impressive.

As a father, Yanga’s case (#5) seemed quite overwhelmed at having his twins thrust at him to the point that he had to enlist the help of a female neighbour who said she had been assisting him since the children were left at his shack. Yanga told the social worker he needed time to look for employment but was unable to focus with the children under his care without the help of their mother. He requested of the children to be placed in foster care for a temporary period until he was able to get back on his feet again. Before leaving the NPO office the social worker called the maternal grandmother and the children’s mother and asked them “what were you thinking dumping such young children with the father. You know he is a man?” She proceeded to quarrel them for being reckless and living such tender children under the care of a man. The social worker’s question implies that the two women ought to have known from a cultural standpoint that their behaviour was unacceptable and that the children would be in danger. Hence, they should know better than to live children with a man- never mind he is the father! The incidence also illustrated the social worker’s cultural influences on her professional work. In a later private interview with Yanga, I asked him why he would give away his children to be raised by strangers and he said he loved his children;

But now I was ‘die Kof!’ (Afrikaans word for madness or being out of your mind). It was a very difficult time for me trying to go get a job because I could not get a job

for either day or night because I could not leave the children alone. And all that time I knew my girlfriend was just going around up and down. Nobody was helping me at the time, the maternal grandmother refused to help. She wanted nothing to do with the children. She said she wanted to be free to do her own things. But I had not tried to talk to a social worker before that day when I came to the office. The social worker also told me if they take my children away and I am gonna loose them for the rest of my life. My girlfriend and me will never see the children again. She asked if that is what we wanted. The social worker also called my girlfriend and told her to come to the office and sign papers agreeing that she will never see her children again and that the child will belong to the father's side only. That is when the relatives came to speak to me. It was the sister to her mother and the mother. She said don't go there again because we are scared. It is bad to expect you as a man to take care of the child. It is unfair to expect you to care for the children. Your girlfriend must take the children". (Yanga, SA Parentcse#5)

Yanga feels that he has done very well as a father because even on the days he was working, he had 3 days off duty, during which time his girlfriend would bring the children to his place so that he could spend time with them. Besides, Yanga also takes pride in the fact that he has always provided for the children financially despite their mother also getting R.420 as child support grant for each child. He felt that whatever he was able to give should supplement the grant. However, after losing his job and could not as much cash he says the girlfriend to him;

'Don't waste your money. I am going to come to your place and dump the children. I will not leave any milk and that's what she did-no milk, no feeding bottles, no nappies, no clothes. Every day I have to buy 3 single nappies for the children- so I need 6 per day. And when they finally took the children back, they asked for that money they had refused and I told them I had used it to but their food and nappies when the children were at my place for several days. Now I have decided I am not phoning them until I have some money. But they must understand that half a loaf is better than nothing".

Both of the cases#4 and #5 above raise some questions on the best way to support and encourage the fulfilment of parental responsibility particularly in difficult circumstances as the ones above and what the role of social work really ought to be. While the social-cultural context is important, the influence of patriarchy and negative social norms in instances like this ought to be challenged. Rather than being seen to perpetuate patriarchy, social workers should play the role of social change agents as an influential group of professionals. The role of men as fathers is crucial and they should be encouraged to be proactive parents particularly in troubling modern times for boys who need father figures as models. The attitude of Black South African men towards parenting should be understood from a historical and political context. Former migrant labour laws removed men from the family

space and created an expectation of them as financial providers only, without any need for direct involvement in their children's care. Despite times having changed and there being limited labour migration and restrictions, Black men's lack of involvement in child care still continues, creating what Seekings (2008:21) calls the paternal responsibility crisis. Of the eight children's cases analysed, none lived with their biological father. The fathers were either in prison at the time (Child Case#1 of the three siblings), deceased (child case#4), did not want to be directly involved in the life of the child (child case#3 and #6), or his whereabouts were unknown to the caregivers. In addition, even those who knew fathers had strained relationships with them, as was the case for Anovuyo who considered suing the father for child care. Absence of father figures in children's lives was thought to carry an additional risk of involvement in gangsterism. One of the judicial officers is worried that many boys are being recruited at a very young age.

What is the reason for that? I think absent fathers. [...]. I feel that where the father is not around, the mother is struggling on her own. And they live in this block of flats, [...], these little tiny houses with several generations living together inside. So, the children can only play outside and then they get into mischief and into all this nonsense because nobody is watching them (SAJO#2).

Living in violent neighbourhoods under the care of young single mothers or elderly grandmothers who are equally vulnerable to gendered forms of direct violence (sexual and physical violence), as well as structural violence through societal norms and practices that are discriminatory puts these caregivers in a difficult situation. Feelings of being vulnerable may force young boys to seek protection by joining gangs, or being part of one in order to earn money through crime.

4. Ambiguous intimate partner relationships and changing African families

Despite many black men not being involved in raising their children (Seekings, 2008) many South African women still value and covet men's financial support which often puts women at a disadvantage in terms of their agency ability to negotiate their position in relationships. The challenge seems to be greater among single mothers raising children on their own as they tend to have limited resources. Constance, a single grandmother used this strategy along with putting the children in a children's home.

Table 27: Love relations for survival

Case ID	Case Summary
SA parentcase#7	<i>Constance is a 46 years and already a grandmother of three (all under 10 years) and a mother of three adult children aged between 28 and 21 years. She lives with one of her grandsons, her mother, a niece and occasionally, her 25-year-old son comes live with them on-and off.</i>

Constance	<p><i>Constance is also responsible for two of her other grandchildren who had been placed at a children's centre under the care of a Sis Phumza, a safety parent. Constance was forced to marry at the age of 16.5 in 1989. After 22 years she eventually divorced in 2012 and he says it was a painfully and difficult marriage which made her attempt suicide several times. However, she did not want leave the marriage because of the fear of having to raise children on her own as single mother. She was also afraid that as a single mother she might end up in another unhappy relationship in order to meet her needs. At worst, as she explained in Xhosa she feared that "ndandingafuni ukuba nabantwana abano tata abohlukeneyo" (I didn't want to end up giving birth to more children with multiple fathers). For most of her married life Constance worked as a domestic worker. At the time she was renting her own place in Makaza. She noticed that soon after her divorce her first born daughter who is unmarried started drinking heavily, using 'tik' and started neglecting her children. She told her mother she drank heavily out of frustrations. She wanted to know her real father because one of her relatives had told her the person she always knew as her father was not the biological father. Because of drug addiction her daughter severely neglected the children and Constance was forced to take up the role of raising her three grandchildren. However, she soon lost her job and had to move back to her 64-year-old mother's house where she still struggled to raise her grandchildren on her mother's pension. Conflicts and competition for resources with other relatives in her mother's house eventually forced Constance to forge a survival relationship with a Zimbabwe immigrant male with who she started cohabiting. She asked for help from social workers who placed two of her three grandchildren under the case of a safety patent as a last result. The social worker gave her three months to sort herself out by whatever means, after which the children were returned to her despite being in the same difficult economic situation and unable to feed the children adequately, just as before. She begged Sis Phumza to admit the children at her centre while she determined what to do. She called each of her grandchildren's fathers to take their children, leading to all three children living in different homes under the care the different paternal relatives. Her daughter sunk deeper into drugs and started stealing in order to satisfy her addiction which led to her arrest. At that point Constance requested for cancellation of the child support grant which her daughter was receiving citing misuse. This led to a bitter quarrel between her and the daughter. Constance does not know where the daughter is at the moment because they are not in talking terms, even though Constance is the one who visits the children at the centre. The mother does not care.</i></p>
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With heterosexual marriages on the decline, single women are raising children from multiple fathers. Equally, the study also found examples of multiple generations of single parents living in a one household. At the same time, field observations suggested that African families were also changing in fundamental ways due to the different types of unions found mainly in urban locales. Not only are there more single parents raising children but also parents from same-sex unions are increasingly a common feature among Black South Africans (for example SA parentcase#3). So far, field observations suggest that social workers might not be well prepared to deal with non-normative family structures in terms of essential skills and attitudes required to offer services demanded by the new family forms. One case that was challenging involved surrogacy and custody of a child belonging to a same-sex couple. Siphso, a 32-year-old Xhosa factory worker and 34-year-old Precious, a policewoman were married and during their union Precious paid for In-vitro fertilization (IVF) treatment which enabled Siphso to conceive and give birth to their only child in

December 2016. Unfortunately, the relationship ended in November 2018 when her daughter was two years of age and a bitter custody battle started soon after. Precious felt entitled to the child having paid for the pregnancy procedure while Siphon on the other hand felt she was the legitimate mother since she had carried the pregnancy to term and gave birth to the child.

Eventually being a police woman Precious forcefully took the child and begun intimidating Siphon such that she could not see the child anymore, at which point Siphon requested for a social worker's intervention. After Siphon left the social workers' office they started giggling and exclaiming in Xhosa about the way society was changing. For nearly 30 minutes the social worker, auxiliary social worker and a social work intern animatedly discussed about the complexities of dealing with this new set of cases because of the kind of marriage unions in question, which to say the least, they found quite unusual from a moral point of view. Eventually the social worker decided to organise a family conference to discuss the child's custody with both partners present-if she could succeed in summoning the police officer. But this case was not the only same-sex marriage that I observed where the social workers vacillated.

Fani the 87-year-old grandmother (SA parentcase#3) was upset that her former daughter in-law got into a same-sex union. She did not hide her disdain when she came to see the social worker about retrieving her grandchildren's new SASSA cards from their estranged mother. During the home visit to the mother's house, her neighbours went to great lengths to explain what they saw as a 'strange' marriage between the two women. The social worker conducting the visit kept shaking her head and exclaiming "*Yooh! Yooh, no man!*" Her actions suggested she was uncomfortable even though her job demands that she deal with all issues professionally. South Africa's constitution prohibits the discrimination of persons on account of sexual orientation, and the Civil Union Act of 2006 also recognizes same sex unions. The two observations show a dilemma faced by social workers in the face of changing African family structures particularly in the urban spaces. Many Black South Africans are said to be homophobic and violent towards such unions for cultural reasons (Yarbrough, 2018). However, Yarbrough disputes this singular narrative, adding that the African marriage has been a site for on-going struggles in South Africa, and that in the same way other forms of marriage like the same-sex are also facing challenges. This does not mean that such unions are not pervasive in the Black community. To the contrary, they are

becoming widespread as those who identify as homosexual struggle for equal recognition against a backdrop of continued exaltation of heterosexual unions and a kinship defined relationships rather the basis of companionship and love (ibid). Yarbrough, (2018) notes that this resistance is despite gradual changes to the traditional family and kinship system which have weakened since establishment of colonial and apartheid states. Nevertheless, the author is adamant that Black South African unions have shifted to “more ambiguously defined romances, often with multiple partners” (Yarbrough, 2018:1097). Often, many of these ambiguous unions are predicated on ‘provider love’ or a male partner’s ability to provide material support, which is believed to be the consequence of urbanisation, widespread unemployment and poverty (ibid).

5. Poverty and child neglect

Just like in Kenya, several parents in South Africa felt that their lack of income affected their children considerably, with the lack of proper medical care for instance actually costing the lives of either the children or parents. Besides several personal narratives of the study participants, I also encountered three separate events during my fieldwork which illustrated how ingrained and palpable poverty is in Khayelitsha. The first was Nonhle’s case (parentcase#9) who volunteered to participate in the study after I took part in her case intake at the NPO. Separately we had brief telephone and face-to-face conversations but our substantive interview appointment never materialised because her grandchild became very ill and died due to poor medical care a few weeks later. Though our conversations were brief, they left a strong impression on just how serious survival threats are to poor families in the neighbourhood. A second incident involved Sis Phumza (parent case#8) the safety parent to Yonela, Afeziwe and Anovuyo. Cases 10 and 11 also illustrate some of the causes and effects of income poverty on children’s lives in low-income neighbourhoods, and in case 11, the effects are inter-generational.

Table 28: Navigating a difficult existence in Khayelitsha without a stable income

Case ID	Case Summary
Parentcase#8 Sis Phumza	<i>Phumza is a middle-aged lady in her mid-40s who is currently unemployed and only attained a primary level education. She is a DSD designated safety parent, and runs a children’s centre which she founded in 2017 to support children of imprisoned parents but was advised to take in children facing other forms of adversities. In addition to the children at the centre, Phumza has three adult children of her own. Her youngest is a 24-year-old university student while the rest are employed. I visited her three times in the course of my fieldwork. DSD registered her as a safety parent and placed several children under her care at various times between late 2017 and March 2019. The ages of the children at the centre vary from infancy to just below 18 years. DSD allocates R.27 per child per day for the care of these children until permanent</i>

	<p>care plans are made for those children. Some stay only for a few weeks and once a relative is identified they are moved from the centre. There are a few cases where relatives refuse to take responsibility for a child and they end up staying for longer than the three months allowed with a safety parents as was the case with three teenage girls that I met at the centre. Anovuyo has been at the centre since November 2017 and by April 2019, the social workers had still not determined a permanent care plan for her. Her case was pending in the system for a very long time because there was no vacancy in CYCCS. To sustain the centre SIS Phumza relied on well-wishers and also tried to fundraise for extra resources because DSD does not provide enough resources to meet all the needs of the children at the centre.</p>
<p>SA parentcase#9 Nonhle</p>	<p>In December 2018, Nonhle took over the care of her three grandchildren after her daughter dropped them at her mother's shack and left for Eastern Cape (Mount Fletcher). She switched off her mobile phone and remained out of communication Nonhle/s daughter is alcoholic, does not work, but receives her two children's child support grants but does not contribute towards the children's upkeep. The children's grandmother requested for the grants to be cancelled and for her appointment as the legal guardian since she was the fulltime caregiver now. Upon confirmation that Nonhle had custody of all the three children, the social worker recommended that SASSA cancel's the grant under the mother and issues the same to the grandmother. Unfortunately, before the process could be completed the youngest child contracted severe diarrhoea and vomiting and died not too long after. The grandmother had tried to manage the situation in the best way possible from home (she gave an oral rehydration solution) but the child did not improve. By the time he was rushed to hospital his condition had deteriorated so badly that he died shortly after. At the time of the child's death the grandmother's request had been approved by SASSA and she was due to receive her first child support grant payment on 1st of May but the child died in later April-it was a case of too little too late. Until the time of planning the funeral the children's mother had still not resurfaced and the grandmother was left to deal with the funeral expenses on top of losing her precious grandchild.</p>
<p>SA Parent case#10 Fundiswa</p>	<p>Fundiswa who is Lelethu's aunt (childcase#2) lives in a backyard shack in Site C, Khayelitsha with her youngest daughter and niece Lelethu. Fundiswa owns the shack that she is currently living in, having spent R.4000 on the building materials and construction. She is happy that she no longer has to pay rent. Fundiswa is a self-employed food-vendor. Since March 2018, has been selling foodstuff (amagwinya, Russian Sausages, polony and burgers) at the Taxi Rank. In January 2019 she reluctantly agreed to care for Lelethu in order to avoid family conflicts between her relatives over the child's custody and child support grant following her mother's death in 2013. After relocating Lelethu to Cape Town, Fundiswa had a hard time enrolling her into school due to unpaid school levies at her previous school. She needed to save up the money in order to settle the debt, but before she did, the child would have to be out of school for a while, although one of the NPO social workers tried to intervene by calling the head teacher in Eastern Cape.</p>
<p>SA parentcase#1 1 Sizamkele</p>	<p>Sizamkele is a 55-year-old mother of four children (two boys and two girls) and a grandmother. She lives in a two-roomed shack in Khayelitsha, Site C which was inherited from her parents, and she shares it with her sister. She moved back home together with two of her younger daughters and two grandchildren after her second marriage ended in a divorce five years ago. Both her daughters had dropped out of school four years ago and her last-born daughter had just turned 18 at the time of the interview. Sizamkele makes a living by cleaning houses and washing clothes, which earns her between R.50 to R.100 depending on the size of the load. The family income is supplemented by her 21-year-old daughter's income as a hairdresser in the neighbourhood. Her youngest daughter who is now over 18 should have matriculated in 2018 but she dropped out of school three years ago. She could not be e-enrolled in school due to a mismatch between the girls' surnames and that of their mother which stalled the processing of their IDs. The girl's mother took her second husband's surname when registering for maternity services for her lastborn child but her official ID bears her maiden name because she had not officially married to her first husband. In the course of her two marriages, Sizamkele's surname</p>

<p><i>changed three times although her ID remained in her maiden name. The daughters have the step-father's surname but his whereabouts are unknown. Ministry of Home Affairs officials are adamant that the only way to confirm the girls are related to her and are legitimate South African citizens is to perform DNA tests. The test costs R.900 per person which Sizamkele says the family cannot afford. Consequently, the lack of IDs for the girls meant they could not access child support grant or stay enrolled in public schools after grade 7. The grandchildren are also not accessing the child support grant for the same reason despite several visits to DSD for support.</i></p>

During several of our interview sessions I had noticed Sis Phumza had bouts of pain and discomfort but she always assured me it was just a case of bad ulcers and I should not worry about it because she was scheduled for a surgical operation. After my fourth visit to the centre I promised to mobilise food and clothing donations but in late March 2019, I received a call from my interpreter saying Sis Phumza had passed away. She had developed serious complications after the surgical operation at Khayelitsha District Hospital. Upon further review it was discovered that she had an advanced form of cancer which has been undiagnosed until a few days before her demise. Her relatives felt she did not get proper medical care. The children under her care had to be moved at short notice, bringing trauma and yet another displacement which depicts the transient nature of alternative care arrangements for some of the children in temporary placement. A third incident occurred one morning in early August when one of the auxiliary social workers came to consult on an urgent matter. She was supporting a family with four children who were going through some difficulties and had been enrolled into an outreach program. But that morning the caseworker received a call informing her that the youngest siblings-one of a set of twins had died the night before. He had suffered a severe bout of diarrhoea and vomiting. All the children were sick and had been hospitalised but unfortunately one died. The auxiliary social worker was required to urgently ascertain the safety of the remaining three children. Other cases where participants cited income poverty often show the serious consequences of material poverty on the lives of children.

6. Other factors: Contested paternity, abandoned children with disabilities and the lack of affordable child care

There are instances when caring for children can be compromised by conflicts over paternity between a biological parent and the in-laws when the partner is deceased (parentcase#13). Sometimes personal self-interests of adults override children's needs causing great distress to children. In other cases, some parents do not know what to do with children with

disabilities, leading to their abandonment in shelters and children’s homes like the one run by Mama Ngelese (parentcase#12).

Table 29: Disabilities, abandonment and child neglect

Case ID	Case Summary
Parent case #12	<i>Mum Ng’elese is a 62-year-old granny, founder of her own NPO, and a DSD-designated safety and foster parent. She is an active community health worker and a passionate child rights activist. Prior to registering the NPO Mum Mum Ng’elese provided crèche services to low-income working mothers who could not afford personal nannies. Ng’elese lives in a gated RDP house in section C which she remodelled from a two-bedroomed bungalow into a two-storied house that was extended to cover the entire backyard as well as large sections of the front yard. The upper floors are her living quarters which she shares with the children she fosters while all the ground floor rooms are used to operate an ECD centre. It has tiny classrooms and a play area. The ECD is a vital lifeline for working mothers who cannot afford private or individualised child care services at home. Ngelese also provides alternative care to children without parental care particularly those with disabilities or double orphans. The total number of children under her care fluctuates between four and eight. Nearly half the children under her care at the time of the fieldwork (6 in total) had a mental or learning disability and their families were unable or unwilling to care for them so social workers had placed them under her care.</i>
Parent case#13 Granny Nchumi	<i>Nchumi is a 60-year old maternal grandmother caring for two of her grandchildren-Dumisani (12 years) and Simelane (7 years). She has been supporting her daughter by caring for the children most of their lives because their mother had a mental disability but never got the right medical care nor placement in a special school. She was briefly employed as a waitress, got married in 2012 but for most of her life until 2016 when she died, she had been unemployed. Nchumi is involved in a serious custody battle with the daughter’s husband and father of her second grandchild. The wife had Dumisani when she was single and thus Dumisani bears her surname unlike Simelane. Upon their mother’s death Nchumi applied for formal fostering but the father opposed saying he is capable of caring for his children. The judge then ordered him to take custody of both children immediately and start living with them but after that order he decided to take only the younger child arguing Dumisani, the first born, was not his child. However, since the parents were legally married the social workers insist that the court order recognises him as the father to both children but he is adamant. The standoff has put the older child’s (Dumisani) situation in jeopardy.</i>

7.3 Child Protection Responses in South Africa

The Department of Social Development (DSD) is responsible for child welfare services but due to chronic personnel shortages, DSD subcontracts registered Non-profit Organisations (NPOs) to deliver services to citizens in specific geographical areas where the demand for their services is high. Similar to outsourcing that is now common in the private sector, NPOs

are given annual targets and funded by the state to carry out mostly statutory child protection work. Using New Zealand as an example, Keddell (2018) criticises this approach as the state's preference for a market model for social welfare provisioning. Furthermore, Keddell argues that the problematic incorporation of social welfare agencies into exploitative neoliberal practices are "expressed through an active manipulation of markets to meet social needs (such as privatising social housing and the use of contracted third parties for social services to families and children), while reinforcing the cultural tropes of individualisation and ensuring self-responsible citizens over time" (Keddell, 2018:103). In the private sector outsourcing is hailed as efficient, but efficiency is achieved by dislocating high operational costs for production and delivery of services to others- but still demanding the same if not higher outputs at lower costs. To meet these demands the third parties undercut their workers by paying less, which creates less than conducive working environments. For instance, social workers working in NPOs are not provided benefits like transport and health insurance while delivery of their targets is accomplished under extremely difficult conditions (personal communication with NPO social workers). When something goes wrong it is easy for the contracting party to blame the third party-which DSD is accused of being prone to do. There are occasions where children have been exposed to harm as a result of neglect during the COVID-19 pandemic for which DSD was blamed²¹. Nevertheless, there are several core functions which social workers employed by the NPO carry out which constitute the main responses as enumerated below.

Home visits and social inquiries

When suspected child abuse is reported, social workers are expected to make a home visit as soon as possible, assess the risk to the affected children and take immediate action to prevent further harm. In addition, the protocol is to interview any other persons who might provide useful information related to the child's matter or family. In one case that I observed, the case manager interviewed several people including two neighbours and was able to substantiate gross neglect of three children as a result of both caregivers (the biological mother and maternal grandmother) being alcoholics. The neighbours feared that the children could end up in trouble if no action was taken soon. They implored the social worker to intervene since the children had been neglected for far too long. Based on the home visits

²¹ see *Daily Maveric* of 23 October 2020

social workers prepare social inquiry reports which should inform court decisions on the concerned children's matters.

Conversations with the two judicial officers centred on how much weight courts and officers in particular placed on social inquiry reports. Their perspectives were mixed, though overall both officers appreciated the value of such reports in informing court decisions, but conceded that a lot depended on the specific case, how much trust they placed on individual social workers, and the child's perspective in a matter. In the latter two cases, the senior judicial officer explained that she would generally send the adults out of court and remain with the social worker.

I do not interview a child alone-I don't think it's wise. When they are gone, the child is free in my office- colouring, playing with the toys. And I say to them come, come talk to me; come sit here with me. What is your favourite subject, what do you want to do when you grow up? And so on. Then I throw in a question 'so how is it going with Auntie so and so? Or how is it like being over there at the Children's Home? And I observe their body language and how they respond. If they are struggling to talk then I use some language (she illustrates with thumbs up and thumbs down to show happiness or sadness; sad face, wide grin indicating the same- happy or sad experiences).[...]. If they are a bit hesitant then I will say to them 'is there any other place where you could live?' If you were to live somewhere else or with any other person, where would you go? And you know they give me the most fascinating answers. They will say to me "I want to live with my daddy, or I want to live with mommy, or I want to live with Auntie Suzzie. And then I look at the social worker (with a questioning look/expression of surprise and shock). Suzzie? And then I ask the child "so who is auntie Suzzie? Then I will extend the order and I would postpone the proceedings and ask the social worker to investigate Auntie Suzzie. Then I say to the child "the social worker is going to talk to Auntie Suzzie to see if it's possible for you to live with Auntie Suzzie. Then we are gonna ask you to come back to me and we are gonna tell you where to go. Because you see for me the emotional wellbeing of the child is essential. They might be safe in the children's home, they might be well dressed, and they might be getting home supervision and three meals a day, and going to school. But if they are miserable, then I need to find out how to address it (SAJO#2)

Such conversations with children in court might elicit the need for further investigations or might indicate incomplete investigations by social workers, in which case the judge or magistrate is reluctant to use the report. "I ask the social worker to investigate the issue that the child has raised with me. That's the best interest of the child in child protection". The excerpt acknowledges other dimensions of child's wellbeing which are critical in decisions

affecting children and for which social inquiries can add value to- if they are conducted professionally.

Child removals and alternative care placements

A notable intervention in the SA child welfare system is removal of children from home and placement with alternative caregivers. As a result, DSD has several registered safety parents within the local community and neighbourhoods that constitute their catchment areas. Many of the safety parents that I met at the NPO office were elderly women whose children had grown up and left home, hence they were happy to have young children to care for from time to time because they also kept them busy. In other cases, the parents were, or engage in informal work and the childcare work provided extra income to them. My observation was that among social workers as well as community members, the availability of safety parents like Sis Phumza (Case#8) and Mama Ngelese (case#12) has built an expectation that all reported abuse should result in removals or in “the best interest of the child” or the circumstances are found to be “not conducive to their wellbeing”. Similarly, for children whose parents are deceased there is an almost automatic understanding that they ought to be enrolled for foster care grants as soon as they are placed with their alternative caregivers. The challenge with this approach is that it provides an easy solution that leaves little room to explore other possibilities, thus limiting the proportion of children who are reintegrated back home, as well as an exploration of other family-centred solutions in addition to accessing cash, which in some cases does not fully resolve the problems experienced by the families.

Siyavuyo’s case (Parent case#4) included removal of the children from home, short term care by a safety parent and after the mandatory 90 days, planning for longer-term fostering of the children by the safety parent. To facilitate foster care placement, the children went through a medical where neglect and ill-health were noted, reinforcing the need for removal. Once a medical report confirms some health –related problem, the likelihood of removal increases. In a similar case where, other children had been removed, the social worker’s report had indicated that the children were ill, “which shows they are affected by poverty” (NPO Caseworker’s Report of 23rd February 2019). Social workers may refer the children for counselling to help them cope with the changes to their lives. Moving to a new house under the care of a foster parent means that children would be living with a stranger and would be required to change schools. Fortunately, the social welfare office facilitated the

placement of Siyavuyo's children in a new school. In her final report the social worker indicated that the children seemed happy residing with the prospective foster parent who was "doing her best to take good care of the concerned children and requires financial assistance to continue doing so" Case worker's report, April, 2019:11). She concluded that it was important that the court approves her recommendation for fostering and access to a foster care grant so that the safety parent has stability and financial security in order to better care for the children.

The pursuit of therapeutic jurisprudence

The perspective of both judicial officers is that the law cannot be the solution to social problems. One of the judicial officers insists that society must first address the social fabric, the cause of dysfunctionality within the family and the community. The prosecution of parents should be done only when it is absolutely necessary, and should be informed by the mitigating circumstances in each case. The system promotes application of therapeutic jurisprudence. As an example of how family preservation is promoted, both judicial officers talked about taking time to understand the case and hence they tend to approve the 90 days requested by social workers to place children with a safety parent because they understand social workers need a considerable amount of time to try and resolve family cases without rushing to promote family preservation. The magistrate justified her actions by explaining that "*you want to make sure that you somehow can assist not just a child but the mother as well so that she can be a better carer to the child [...]. But I do not think they get great results in trying to rescue the mothers (who are addicts). I honestly don't think so* (SAJO#2).

Family mediation sessions are equally important for the prevention of abuse and neglect associated with dysfunctional family relationships. Instead of prosecution, South African courts provide an alternative support service which is still anchored [anchored] in the judicial system, but one that facilitates a deeper understanding and exploration of solutions at the family level before a court decision is made regarding a child's matter. The family mediation option is common in maintenance courts. The senior judge who presides in both children's and maintenance courts explained what the mediation process does.

The other thing that I think is unique in South Africa is that we have got a team of accredited family law mediator [...]. Some of them are lawyers, some of them are psychologists and social workers [...] they help the family to come up with a parenting plan. And some of them we also work with the children. The parenting plan is a creation of the Children Act 2005. It helps with decision making and regulates care and contact arrangements for co-parenting where parents are

separated. Once it has been drafted with the assistance of the mediator, then it can be made into a court order” (SA Judicial Officer #2).

7.4 Interpreting the best interest of the child principle

While waiting to interview the judicial officer in Khayelitsha, she invited me to sit at the back of the courtroom while she concluded a judgement. The case involved a teenage boy aged about 19 and still in high school. The police had conducted a drug raid in his house and found drugs which he said belonged to his brother whom the police had suspected was a drug-dealer. Unfortunately, his brother had escaped before the police arrived, so they instead arrested the boy who was at home at the time of the raid. In mitigation the young man said he had nothing to do with the drugs and that his brother was the drug-dealer. After some intense interrogation, both the magistrate and prosecutor were satisfied that the young boy was innocent so the magistrate ordered his release on account of his dependency on his siblings, on condition that he moves out of the home and lives with another relative to protect himself from exposure to drugs and criminality. This observation offers anecdotal but nevertheless useful glimpses into some important connections between poverty, crime and drugs in low income neighbourhoods and how these are understood in determining legal matters involving young persons.

The child law emphasises the supremacy of the best interest principle in children’s matters, and all the case workers interviewed talk about it as the normative principle guiding their work. However, when asked what it means, different perspectives emerged which show the complexity of applying the concept in real life situations. For the judicial officers, it seems to require a deeper appreciation for external circumstances and an ingenious capacity to read the law from multiple perspectives and contexts. One magistrate invoked the term “triage” to describe the principle. Triage is a common concept in the medical field and refers to a strategy used in emergency situations to determine what procedures and individuals ought to be prioritised to save life especially where there are resource limitations. The magistrate applied the triage principle to demonstrate the order of priorities in children’s cases. She explained that the starting point involves decisions that ensure the child is free from harm, then proceeds to deal with other survival and developmental needs such as education. She argued that;

Best interest of the child for me is like you almost have a triage. For me the first and primary concern is the safety of the child [...] it is urgent if there is a child who isn’t safe [...]. The word PROTECTION implies we are protecting children: but from what? From something

[...] safety of the child means looking at their emotional wellbeing and everything else that follows after that –medical, their education [...]. Educational because it is one of the most problematic. But we look at education mainly because these children (who come to children's court) are under our radar [...] sometimes children are brought to court and they are not going to school (SAJO#2).

The second South African judicial officer further pointed out that she would not hesitate to remove a child from their home or separate the child from their parents if she thought it necessary.

It is in the best interest of the child if the parents' place is unsafe for the child; if the children are unsafe in their parents' care. If I don't believe children are unsafe, I won't remove them unless their safety is at risk; so, like if the parents are bad drug users (SAJO#2).

The other magistrate said she would follow the law, but to do that she would still require information from the social inquiry reports which provide detailed accounts of the child's situation and family background. This magistrate was adamant that:

I would then also be guided by the social workers' report that they always have [...]. I would [also] like to speak to them (parents and child) and also ask a lot of questions. But you have to rely a lot on social reports and the investigation, so I rely heavily on them and I keep my faith in them. I must say so far, I only have one that I did not trust (SAJO#1).

In some situations, greater sensitivity is essential to interpretation of the principle. It might require going beyond the manifestly obvious basic needs to more fundamental aspects of a child's wellbeing – some of which might require the child's participation to gauge the extent of risk. In this regard, one of the South African magistrates observed that children's basic needs might be fully met but the child's emotional wellbeing might be compromised especially where children have been placed in an out-of-home care centre. In such case, she argued that the child might be;

Safe in the children's home, they might be well dressed, and they might be getting home supervision and three meals a day, going to school. But if they are miserable, then I need to find out how to address it. So sometimes I ask them "why are you unhappy there?" And they might say "there are children there who bully me" [...] so I say [...] did you speak to someone over there? "yes" Who did you speak to? So, and so... and what did they do? And then I ask the social worker to investigate the issue that the child has raised with me. So that's the best interest of the child in child protection matters! (SAJO#2)

One of the magistrates suggested that on other occasions legal interpretation of the principle requires pragmatism especially when dealing with dynamic family situations. She argued

that within family law, the aim of the principle should be to solve a problem rather than punish parents by creating what she referred to as a therapeutic environment. In her view;

A punitive approach to the law is inappropriate to solve family problems. It does not bring about social cohesion, it only creates more problems” (SAJO#2).

However, the aim of the law and the realities that families have to deal with are quite different. One of the main resources for solving the problem of neglect is to facilitate families to meet their material needs. This has been made possible in South Africa on account of a family-friendly social welfare system in the form of foster care grants, social pension and child support grants. However, in an environment where sometimes all the adults in a household are unemployed, accessing these grants becomes a high stakes matter which could lead to serious conflicts in the family. This was clearly illustrated in one case where the NPO caseworker was forced to mediate between two siblings fighting over the death certificate of a deceased sister. Whoever had control of the certificate would have been the legal guardian to their sister’s children but they each wanted to have custody so they could access the foster care grant. During one of their fights the certificate was torn in half so that none could make the foster care application and the children were caught between the fighting aunts, with pressure to take sides.

7.5 Chapter summary and conclusion

Evidence in this chapter shows the existence of multiple and intersecting drives of child vulnerability and the involvement with child welfare in South Africa. Important among these is poverty which is an underlying cause that manifests in the inability of parents to register their children and consequently they miss aspiration-defining opportunities such as education and access to social grants, and quality health care. Other factors involve parent’s ambiguous marital status which affect children’s identity and long-term care arrangements, patriarchy, domestic violence, family conflicts over custody and the control of the limited resources-mainly social grant income. One salient feature of care steeped in historical and cultural practices is that of grandmothers raising the younger generation who are growing up in a challenging urban environment. On their part, young people’s exposure to gangsterism, crime, drugs and high consumerism are also causing conflicts between them and their caregivers, leading to the need for social welfare interventions.

The typical responses observed represent traditional social work practices like home visits, child removals, counselling, support with grant applications and other related statutory work

were found to be predominantly in use. There were limited family-preservation activities such as group counselling or family conferencing. If anything, the availability of foster care grants and the provision for safe parents seem to have made it easier for social workers to remove children from family homes as a number of the children and parent cases have shown. A useful innovation that is being promoted by judicial officers is the call for therapeutic jurisprudence. The goal is to apply the law for healing rather than for punishing the parents involved in neglect and other care-related difficulties.



CHAPTER 8: CHILD PROTECTION AND SOCIAL ASSISTANCE IN AND KENYA AND SOUTH AFRICA

8.1 Introduction

This is the last of the three empirical chapters. It addresses the two research questions emanating from the second objective. The objective explored the relevance of social assistance grants in influencing protection outcomes for children and families with a history of child abuse. The research questions consider are how the available social protection assistance schemes address child abuse; and what changes might be necessary to make social grants more responsive to child maltreatment and neglect.

Discussions in the chapter explore the application of, and usefulness of social assistance grants to child protection work in Kenya and South Africa. The actions, attitudes, and perceptions of judicial and other state agents towards social assistance are presented and then analysed for insights, as are the attitudes and experiences of families as they navigate the child welfare systems operating under widely varying social assistance landscapes in the two countries. The emerging insights afford an understanding of the extent to which state welfare arrangements make a difference for children and families living in material difficulties and affected by child abuse and neglect. The social welfare contexts in Kenya and South African vary considerably though both countries utilise social assistance as a component of social protection within their social development policies. In acknowledging these differences, the chapter starts with a brief discussion on the ontological basis for social protection in general, and social assistance as a more specific component of social protection. This discussion is intended to provide a context for the various perspectives presented on social protection by state officers and families in Kenya and South Africa. These ontological foundations were found to play a vital role in shaping participants' views on the usefulness of grants or otherwise.

While there is no doubt that social assistance is now a pervasive and vital anti-poverty tool in the developing world (see Handa *et al.*, 2018; Barrientos, 2016; Devereux and McGregor, 2014; Adesina 2011, 2014) there is “a great deal of diversity in terms of how it is conceived, what it consists of and how it is implemented” (Devereux and McGregor, 2014:296). The fundamental difference depends on whether the prevailing social policies are centred on the principles of universalism or restrictive targeting. These fundamentals are underpinned by

ideological principles of solidarity, citizenship, rights and entitlement, or targeted at individuals or social groups that are considered deserving of state assistance (Mkandawire, 2005). Mkandawire further argues that solidarity and citizenship are "the most important ideological underpinnings of social policy" (p. 2) and that where these are the basis for social assistance the outcomes have a more transformative effect. Similarly, drawing on Rawls' notions of justice, Barrientos (2016) avers that diversity in social assistance approaches is dependent on how society justifies social assistance. It is either necessary based on needs, risks, or citizen rights and social justice. As a need, the society is expected to ensure a basic minimum standard of living for its members, which is approach that the UN supports (Barrientos 2016:158). On the other hand, a risk perspective justifies social assistance as necessary to minimise or mitigate threats resulting from an income insecurity and other socio-economic changes in the life course that threaten income availability such as unemployment, old-age, illnesses, disability or natural disasters Ibid). As a right, social protection interventions are justified on account of normative standards and principles such as those enshrined in international laws like the United Nations Covenant on Economic, Social and Cultural Rights. The World Bank as well as western liberal governments take the risk mitigation perspective and advocate for safety nets to reduce the effects of poverty among the ultra-poor. This is what is referred to as -income-based welfare (Mkandawire 2006; Barrientos, 2016). The ILO and most civil society organisations are inspired by a human right imperative and go a step further and advocate for justice-based social protection (Barrientos, 2016).

A justice-based social protection approach is underpinned by normative principles of rights which imbue a sense of obligation on the state on account of a social contract between the state and its citizens. This differs from the often-presented justification for adopting social assistance as anti-poverty mechanism in a varying degree, and where arguments mostly address concerns of efficiency, effectiveness, and the most deserving populations that are targeted through means-testing (Barrientos, 2016:152-154). Hence, Barrientos argues that "an important implication is that research into antipoverty transfers in developing countries must move beyond a narrow consideration of their instrumental effectiveness and examine their role in, and contribution to, changes in the role of government and social structures" (Barrientos, 2016:152). The redistributive characteristic of social assistance can correct some of the injustices which contributed to, or give rise to inequalities (Devereux and McGregor, 2014). A just-based social protection approach thus corrects this situation by using strategies

that deliberately positive inequalities in favour of the poor (Barrientos, 2016:154), which according to Rawls, is the only justifiable form of inequality. Redistribution processes include progressive taxation, greater investments in public services and public provisioning of public goods like education, and publicly funded health schemes among others. A socially just approach to social assistance encourages social and economic cooperation between members of a society, but when large inequalities exist, certain groups may be reluctant to participate in their society or make contributions. By ensuring certain social minimums, a consistently stable society is guaranteed, a basic and acceptable living standard is ensured for the poorest, and they are included in the social, political and economic systems of their society as equal participants (Barrientos, 2016). Ultimately the approach can transform relationships between the state and citizens by expanding the government's mandate for social inclusion and the realisation of social rights of its citizens (Ibid). Hence as noted by Mkandawire (2005), social assistance should ideally embrace universalism (rather than targeting) and utilise redistributive strategies to bolster solidarity and cohesion. Universalism is closely associated with nationalism, state-building and developmentalism (ibid), but the particular politics and histories of individual states play a considerable role in how these motivations impact social policy choices (see Adesina 2021; Schmitt and Martens, 2019; Mkandawire 2016). These explain variations in the welfare systems of Kenya and South and are taken into account in the exploration of emerging insights from the empirical evidence discussed in the subsequent sections.

8.2 Social grants as a child [protection tool in South Africa

As a developmental state, South Africa has a more developed social welfare system compared to most of the other African states. The 2020/21 Parliamentary Budget Office Report indicates that the eight types of social assistance grants reach a combined coverage of about 11.5 million households. Out of the eight, three grants target families with children: the child support grant; the foster care grant, and the care dependency grant. The first two are well known and their uptake among low-income earners who meet the set thresholds is high compared with the care dependency grant²² which is available to a very small proportion of a special category of children requiring specialised care as a result of permanent and severe disabilities. The country's high unemployment rates, especially among Black South Africans in rural areas and those living in former townships like

²² <https://www.gov.za/services/services-residents/parenting/child-care/care-dependency-grant>

Khayelitsha, means that grants are widely utilised. For many poor families, grants have become a constitutive part of the household income and as a consequence, a core function of DSD and its appointed agents (NPOs) is to facilitate access to grants, working in conjunction with the Children's Courts and the South African Social Security Agency (SASSA).

Available literature shows that grants are most useful in instances of child neglect as well as where children have lost or are at risk of losing parental care for various reasons, including parental death and illnesses such as HIV/AIDS and abandonment (see Roelen *et al.*, 2017 for example). To contextualise the application and usefulness of available grants in instances of child abuse and neglect it was necessary to first establish the most common forms of abuse and neglect, how parents and caregivers explained neglect, and how reported and substantiated cases were managed within the child welfare services system. As chapters six and seven have shown, in both countries neglect was cited by nearly all participants as the most prevalent form of abuse in low-income neighbourhoods. Based on this, exploration of the data considered the need for such grants and relevance of social grants assistance from the perspectives of legal provisions, access procedures, and their adequacy.

8.2.1 Court facilitated processes of determining need and access to grants

The two judicial officers indicated that they handle between 500-1000 children's cases annually. One of the two officers is a senior judge who handles both protection, maintenance and family law cases in different courts at the regional court level, unlike the district magistrate who is restricted by her jurisdiction to protection cases mainly. The senior judicial officer (SAJO#2) indicated that taking the family law cases into account, the children's regional court handles in total about 3000 cases annually. These are distributed between three judges, with each handling an average of about 1000 cases annually. Based on her several years of experience, she estimates that out of the 1000 that each judge gets, about 50% of the protection cases involve neglect. In her view, the main factors associated with child neglect are drug abuse and alcoholism, loss of strong family support systems, poverty, and mental stress among parents due to loss of a sense of identity, as well as ambiguous and dysfunctional marriage unions which exacerbate the risk of child neglect. Furthermore, she attributes the above risk factors to deeper societal problems. Addressing neglect first requires determination of whether a child requires care and protection, before any further action is taken.

The way a CP in the children's court works is proceedings are opened to determine if a child is a Child in need of care & protection (CNCP) and if the court finds the child is in need of care and protection (CNCP), the court makes orders to place children in foster care or in a Child and Youth care Centre (CYCC). Within the Children's Act there are a variety of CYCCs including cluster foster care, secure care facilities or residential care programs (SAJO#2).

When a declaration of a CNCP is made because the parent is deceased, unable, or unfit (for example due to drug addiction) orders are issued to place the child with an alternative care giver or institution. In most of the cases the default caregiver in such circumstances is an elderly grandparent, typically a pensioner with limited resources. It is not automatic for these alternative caregivers to access foster care grants once they are granted the foster care orders. It might be necessary for them to apply to the maintenance court. The senior judge pointed out that there are technicalities regarding the Children's Court's proceedings which limit the powers of a magistrate in terms of how much they can do to support struggling foster parents and alternative caregivers. As the judge explained, when presiding over child protection matters, she is bound because;

When I have got my Children's Court's magistrate hat on, I can act upon the Children's Act. [...]. BUT I also do maintenance court cases which are governed by the Maintenance Act [...], and it's about child support [...]. When I do my children's maintenance matters then I've got my children's maintenance hat on" (SAJO#2).

The legal technicality of separating jurisdictions should be understood within the broader goals of child protection and care as provided for under the Children's Act where "*the goal of child care proceedings is to remove children from risk, place them into safety [... with the view to reunification with the family and parents*" (SAJO#2). Technically, it means a struggling foster carer must make an additional application to the maintenance court as a foster parent, which can be confusing, time consuming and exhausting for elderly grandparents already taking on new childcare duties. To reduce this legal bureaucracy and ensure their capacity to care for the fostered children, magistrates become innovative as she further explains below.

One of the things that impacts on this order is the grants issue because children of parents who are drug addicts are usually placed under the care of grandparents. Most of the grannies are elderly so they are on the pension grants- but it's such a small amount and soon they come back to us and they apply for the foster care grant orders. But I don't think the act was intended to be used like this- however, that piece of legislation is interesting in the sense that if the magistrate feels sorry for a granny who is struggling, the magistrate finds a way to make that possible- to make that order (SAJO#2).

8.2.2 Social grants and the care of children at risk

When I asked participants how important social grants were in reducing the need for a child to be declared a CNCP, there were mixed reactions. To begin with, there is a profound appreciation for what they can achieve if accessed by vulnerable caregivers. Whilst vouching for grants, participants also equally lamented the observed attendant gross abuse of grants. These reactions reflect a curious ambivalence towards social grants among child protection actors as well as parents and children in the study. The judicial officers' response was shock.

Oooh, but that is essential! It is absolutely essential. I mean because you can't expect a safety parent or another person to take on another child to care for; a child to feed and clothe without some support? Without any grant! I mean the grant is basic, honestly. [...Because even in those extreme cases it was abandonment, in those 90 days we also try to involve the mothers on all the other you know the father...in the care of the child. They try to help the mother [...]. Whatever problem, to overcome it, be it dependency on drugs, or whatever. And they try to, you know, help them come visit the child (SAJO#1).

Similarly, one NPO manager agrees with the magistrate's sentiments and emphasised that

There is an expectation that as many children should be raised within their families as far as it's possible and kinship care is encouraged. [...]. So kinship and fostering within the family is encouraged instead of giving children to strangers (adoption). To make it easy on those who choose to care for their relative's children but have limited resources the state offers the foster care grants (NPO#2Director, Sis Patience).

Sis Patience emphasised the value of grants in child protection and that failure to access these has detrimental consequences for families with young children if the parents are unemployed.

In Khayelitsha, poverty is quite high. The poverty node in former Black townships in almost all parts of the country needs deeper solutions that focus on urban renewal, and this is something that we need to talk about more openly. This is also something that President Mbeki often talked about. The child support grant is the only source of income for most households. So, it means that a household with two children can at least be sure of R.800 each month and if this was not available one wonders where those households would get an income from. The level of unemployment is just too high in this neighbourhood. [...]. Neglect is very high but I believe it is not something, which is intentional among most of these parents. [...]. Where the money is used to meet children's needs then it makes a big difference. The problem is where some parents do not use it correctly. ((NPO#2 Director, Sis Patience).

But on the other hand, Sis Patience also acknowledges-as do the magistrates and social workers- that there is abuse. After explaining the struggles grannies face to raise their grandchildren, a judge pondered on the relevance of grants in such instances.

Well, the first problem in SA grant is that they have -for whatever reason- they have got two different grants which is how much?? ...]. Quite honestly, I don't know what to say. I think it may have even made the problem worse. I don't know (shrugs her shoulders). I don't know... We often have grannies coming to us to apply for the foster care grant and the reason they say to us is because sometimes the mothers are not getting the child care grants themselves. The mothers are getting money off the CSG to buy drugs and alcohol or whatever. They have given their card to loan sharks. I don't know how to solve that problem because the money is getting abused. And then foster care grant is a different amount- it is R900 and something? I think it should be just one grant and if there was only one grant then there wouldn't be so many foster care applications from the grannies coz they are definitely the ones taking care of the children. They definitely need that extra R500 (SAJO#2).

For grandparents raising grandchildren, grants are a core part of their household income. In some cases, social grants constitute 100% of their disposable income, whether in the form of the older persons social pension, foster care or child support grants. Numerous grant applications at the NPO reflected this position. This is illustrated by Nchumi's case (SA Parent case#13. The NPO social worker had to evaluate Nchumi's foster care grant application, which would enable Nchumi to effectively foster her grandchildren. Nchumi claimed that her daughter and former husband were incapable, and with the added responsibility meant that she was struggling financially. Both Nchumi and her husband were retired and dependent on social pensions for survival but since they were caring for four of their grandchildren, their income was severely constrained. Having successfully applied and been appointed the legal foster parent in mid-2018, Nchumi had immediately applied for the foster care grant. The social worker's analysis shows that the total monthly household income was R. 4,180, which amount was made up of two child support grants and two older persons' grants as shown below.

Table 30: A Summary of Nchumi's household income

Source	Amount
Old person's pension grants- (Nchumi and her husband)	R. 3380
Child Support grants for two grandchildren enrolled for CSG	R. 800
Total income	R. 4180

Source: NPO Social Worker's report, (2019)

The court approved the grant, but when her daughters' former husband learned about it, he contested saying he was capable of raising his children, even though previously he had been reluctant to do so. The foster grant was cancelled forthwith in December 2018. The

children's magistrate ordered the father to take his parenting responsibility seriously by taking a direct responsibility of raising his children. He was required to immediately take back his children from their maternal grandmother, but this court decision created complexities for the older sibling who was not fathered by the man. As a step father he, was extremely reluctant to take the older child, insisting that the younger one was his only child from the marriage and that he could not care for another man's child. He suggested that the boy be taken to his biological father or paternal family in Eastern Cape. The situation was further complicated by the fact that the children's mother had been legally married to the man and her death certificate indicated as much, meaning there was a surviving parent, which limited the maternal grandmother's claim to custody. To protect her grandchild from an imminent separation from the only family members he knew, Nchumi decided out of her own will to surrender R.400 from her pension to the step-father so that he could raise the two children together, ensuring the court order is enforced. This solution came after several family conferences which had left the social worker frustrated because she tried to help the grandmother but the father opposed her every move. Even with this settlement, both the social worker and the grandmother were uncertain how long it might hold before the step-father came back with additional demands. The child remained in a precarious position.

In some rare cases a lot of drama accompanies foster grant applications which further underscores the centrality of social grants for low income households, and where access to grants has become a high-stakes bargaining tool among estranged parents, safety and foster parents as well as kinship carers. The attendant conflicts threaten the wellbeing of the very children they are meant to protect as the case of Afeziwe (child case#6) demonstrated. Two years after being moved to Cape Town to live with her maternal grandmother and before being taken to a safety parent, her paternal grandmother continued to receive the child support grant. Afeziwe's attempts to get the money remitted to her grandmother were rebuffed by the grandmother. Afiziwe says;

When I was at Eastern Cape and leaving from Eastern Cape to here, I was getting a grant. [...] Then after I came here and then my grandmother who's in Eastern Cape she used to send at January and February and then I see she didn't send again. And then I tried to phone her, to answer about the grant and then when I told her ayiboh! 'why she does not send me the money?' She said she's looking after my sisters, why am I complaining about my grant? I say I also want it. And then she said that, why should I? I just like complaining about just R.380? I said R380 is money. And then she said like I'm getting older and I'm cheeking here. And when I tried to call her again, she just dropped the phone. And then I told (the social worker's name) about that and that I want them to stop that grant, but she said for them to do that, I must

get a certificate, so I don't think the grant is not stopped yet. I think she's still getting it (Afeziwe, child case#6).

To stop the grant, Afeziwe needs to present her identity documents to her social worker but unfortunately, she lost her birth certificate and has been unable to get a replacement. Until she does, the paternal grandmother will continue receiving the grant without any recourse for not meeting the requisite parental obligations, nor the teenager's needs. However, Sis Patience the NPO director insists that the right process should be a cancellation of the grant where there is blatant abuse.

We have to intervene when we become aware of any misuse. So, our role in such situations is to first get a cancellation order on the grant and then find another suitable caregiver who can provide care to children (Sis Patience, NPO#2 Director).

Incidents like Afeziwe's emphasise the importance of identity documents for accessing social grants. The basis for claiming social assistance is the social contract that citizens have with their state, and to the extent that one can prove citizenship, then their claims can be asserted. Gaining access to children's birth notification or clinic cards, parents' birth and death certificates give the holder power over whatever grant the child is entitled to. NPO director Sis Patience elaborated just how essential identity documents are

It is the poverty which is driving neglect and the situation is made worse where parents cannot access grants because their children do not have birth certificates and other identification documents such as birth notifications, clinic attendance cards or the mother's ID. The ID situation has become complicated now because the Department of Education has become very strict. Schools are not enrolling children who do not have the right documentations. So, when you see a child loitering, they're not in school, of course, it is seen as neglect, but the root cause is that the parents do not have the necessary identification to register the children. So as social workers we intervene by providing letters to parents to take to the Ministry of Home Affairs for the processing of ID documents. And of course, even when we give these letters to the parents, the Ministry of Home Affairs also has its own processes. And sometimes as social workers we are forced to go an extra mile to make sure that we provide any other necessary support to such parents. For example, by making social enquiries and presenting the reports in court so that courts can issue orders to Home Affairs especially where the family or children are particularly needy and the child support or foster care grants cannot be accessed due to lack of documentation (NPO#2 Director).

In the example of the two sisters fighting over their teenage nephew's foster care grant, the matter boiled down to the right and custody of the child based on who held their deceased sister's death certificate and hence, the legitimate foster grant applicant. The social worker was frustrated with the two sisters who often gave conflicting versions of the problem and

“refused to cooperate on this matter of foster care, yet the child needs the support” (NPO Social Worker#4). In the meantime, their nephew was 16 years and soon would be 18 and unable to benefit from state social support.

Having witnessed several grant-related family conflicts, some social workers have become sceptical about the role of grants in reducing child and family vulnerabilities. One of them avers that it is a new source of dilemmas for families and social workers.

I hate foster care grants. It is like you are celebrating the death of someone and you want to benefit from it. At the same time, the children under foster care are treated like queens and kings (presumably because they enable access to an income for otherwise income-poor households). They want smartphones and Nikes worth R.1300/- because there is money coming for them. Many have become spoiled brats under the excuse of being orphans! And then when the child starts developing behaviour problems the foster parents come running to the social worker. The social worker is a stranger to the child. What can I do? I feel like hitting the child! The foster parents also need to learn how to discipline these children [...]. Children know that people feel very sorry for them and they end up being too soft on them (Social Worker#4).

The social worker’s strong views and attitude might be informed by her upbringing and cultural orientation as a Xhosa. She explained her beliefs regarding parenting practices in urban settings and her view was that they are “too soft” on children’s undue demands *In Eastern Cape that is not the case at all! How do you call yourself an orphan when you have a grandmother, aunties and other relatives around you? So, what are we? Are we not taking care of you? Why do you want the world to pity you? If the child grows up like that, they will manipulate you. You must not allow it. In Eastern Cape, such nonsense is not accepted!* (NPO Social Worker#4).

Even where the need is rather obvious as is the case with children with disabilities, contests still prevail once relatives realise, they can benefit from the care dependency grant as Sis Phumza found out in one case of a child with disabilities under her care. She had been informed that the children’s father was a jailbird and it was their mother’s dying wish that the children are not raised by the father. Upon her death DSD had placed the children at SIS Phumza pending further checks on their family background. Sis Phumza requested for additional support from the social worker because of the disabled child’s medical costs, prompting the caseworker to initiate application for the disability care grant.

I was using my money to go to the hospital to just get therapy to help this child. But all of a sudden there is this uncle who came to me and said ‘I just want my sister’s kids, give me those kids’. I asked them ‘do you understand this situation because this family... the children have been neglected for a long time ago and the family in Eastern Cape did nothing?’ But now because they hear when I talk to the social

workers they get interested. The social workers were supposed to go and apply for the road accident fund (care dependency grant) because when I talked to the hospital the doctor said the mother didn't do the claim. Because this claim is gonna help this young boy to get a wheelchair and go up and down for this therapy. So they know if he is paralyzed they gonna get a huge money. They jumped and said we need those kids! (Sis Phumza, Safety Parent and NPO#1 founder).

8.2.3 Grant adequacy and the bureaucratic procedures

Despite the relatively small size of grants, they remain an important source of income, particularly where caregivers are unemployed. However, there are concerns that it is inadequate to meet the child's needs, and also that it might encourage perverse incentives. In poorly resourced households, the grant also meets the needs of other household members. This might compromise children's greater healthcare and nutritional needs, with a higher risk where children are under the care of caregivers whose main motivation for care is access to foster care grants. It is especially challenging for safety parents who are only supposed to keep these children for short periods, spend their own resources and claim reimbursement of their expenses at the end of the short stay. In reality, this arrangement is not working, as two of the safety parents indicated. The amount allocated is unrealistic and it takes very long for DSD to process the reimbursements, which puts the parents in a state of anxiety over their ability to continue meeting the children's needs. One observed that

In fact, the problem is that Social Development gives us R27/- per day per child. Whether she's five, she's twenty, she's whatever age. So really there's no money and you are not sure even if you gonna get that money, you know. And sometimes they say to me you know Sis Phumza. we want you to have six children in your home. Just imagine six children in my home! [...]. You need to feed those children as well, and if they get sick you take care of them (Sis Phumza).

As a foster parent, elderly Mum Ng'elese went through the necessary training to understand foster care but she still feels that there is a lot of personal initiative that is required because the amount of support provided by DSD is not sufficient to meet the needs of children.

The social worker says to you- this is your child. Everything about this child is for you to know, anything coming to this child is yours. [...]. So, this is your child and you have to care for this child. DSD only gives a foster grant of R920 per child, and that money is supposed to go towards buying clothes and food and everything that the child needs including school fees, transport, and uniform- and this money is very little, it is not enough. But it is up to you to organize everything. If you do nothing, then don't take the child. If you'll do nothing, then don't start (Mum Ng'elese, NPO#3 Founder).

There are debates on whether to make grants conditional or not, but in South Africa- as with many other Global South countries- social grants are not conditional on meeting other

obligations. All the same, the expectation is that they are used to meet the needs of the intended beneficiaries, but no provision is made for monitoring or verifying. The only time where this is done is when there is reported abuse or misuse by the recipient as noted earlier. I asked state officers if there was a mechanism to ensure that the grants were utilised for the benefit of children. In a resigned tone a magistrate simply retorted

I am battling with that. I mean how do we know? I don't know whether there is a way to ensure that money actually goes to the child. It is just good faith. That's all. There is no other way, I mean it is really sad when you think about it. The amount itself-because it is not much (SAJO#1).

8.3 Social grants and child protection work in Kenya

Kenya has extremely limited social welfare programs overall, with only four types of social assistance grants (cash transfers) which are severely restricted to the ultra-poor. The four include Cash Transfer for Orphans and Vulnerable Children (CT-OVC), Cash Transfer for Persons with Severe Disabilities (CTPwSD), Older Persons Cash Transfer (OPCT) which is a social pension for citizens aged 70 and above (popularly known as *Inua Jamii*), and the Hunger Safety Net Program (HSNP) (Ministry of Labour and Social Protection, 2020). The HSNP targets vulnerable households in arid and semi-arid (ASAL) regions where cyclical failed rains render households susceptible to severe drought and famine and consistently threaten people's livelihoods and food security status. In addition, the government also offers other complementary forms of social assistance like the school feeding program which covers 1.6 million children (mostly ASAL), crop and livestock insurance, agricultural input subsidies, food aid, and nutrition improvement which is facilitated through NICHE (Nutritional Improvements through Cash and Health Education) (ibid). All the programs are severely restricted with only 353,000 children supported under CT-OVC, 800,000 old persons under OPCT, 47,000 individuals with severe disabilities, and around 148,000 households enrolled for the HSNP. In 2020 the Kenya National Social Protection Secretariat reported a total coverage of 1.3 million households across all the four schemes which translates to an average of only five million Kenyans that are benefiting from social grants out of a population of about 54 million people, 46% of whom are living below the poverty line. This makes the coverage extremely low. Of the Five million benefitting, at least 64% are women (Ministry of Labour and Social Protection, 2020). Overall, the expansion of Kenya's social assistance programs has been extremely slow, with investment only reaching 0.4% of GDP by 2018.

In addition, if a household with a member enrolled in the *Inua Jamii* program also has either a child below two years, or a pregnant or lactating mother, they receive an additional US\$ 5-10 under NICHE, depending on the level of vulnerability in selected ASAL areas. In total, only 7% of Kenya's working adult population benefits from the currently available social assistance (Ministry of Labour and Social Protection, 2020). In a country where nearly half of the population is below 18 years of age and 36.5% of the population lives below the poverty line, the current social protection coverage is extremely low-even by the government's own admission. Even those above the poverty line are barely surviving and are equally in need as noted by one of the two policy makers interviewed.

We acknowledge that the demand is extremely high and the number of households who qualify is high. We are yet to meet the demand because currently what happens is that based on the budgets and the targeting criteria set, the system generates a ranking of all eligible households and if we need 100,000 households, then the difference between the 100,000th and 100,001th person is very little (KenPolicymaker#1)

Challenges with targeting, high demand for the grants, and low borderline poverty cut-off points mean that many indigent households are excluded, although the government is trying to address this problem now. In the revised 2019 Social Protection Policy and its Sustainable Financing of Social Protection Framework, the government envisages a scaled-up social protection environment that will include universal child grant benefits, expanded social health, as well as a consolidated income security program (Ministry of Labour and Social Protection, 2020).

8.3.1 Courts and cases involving children living in difficult circumstances

As noted in chapter six, the two major factors leading to child neglect in Kenya are poverty and unstable family or marital relationships. These in turn create an unstable environment for children, and are directly and indirectly linked to gross child neglect, domestic violence, drug and substance abuse, as well as poor mental health of parents and caregivers. Each of the eight parents' cases presented in chapter six cited one or more of these factors as impacting their capacity to provide nurturing care and safety, and deprived children of their basic needs as well as parental love. Equally, as some of the children's cases illustrated (see Amalla's case for example), poverty, lack of basic needs, and inadequate parental care led to child abandonment, truancy and criminality among young people (for example the case of Ngesa and Omwenga). It also pressured parents to opt for the institutionalisation of their children as a means of guaranteeing a measure of protection against some of the difficulties

they faced (for example Mogaka's mother in child case#3). These cases show the consequences of poverty and inadequate care at the family level.

However, while the role that poverty plays in child maltreatment seems to be acknowledged by many actors, access to material support is either not prioritised, or seems to be an after-thought within the child protection system. State officers who must intervene in such families are left with limited options for sustainably resolving abuse and neglect which is linked to poverty. Whatever action they take, their decisions are guided by the law and courts must first declare vulnerable children to be children in need of care and protection before any action can be taken. All the five children officers in this study were adamant that they only intervene when a parent fails in their duties and are reluctant to take any action before they are convinced that indeed there is parental failure.

Evidence points to a pervasive acceptance that parents must take full responsibility for childcare no matter their circumstances, along with a conviction that personal effort is what is required to overcome one's adversities. This attitude that blames victims is most apparent in different cadres of state officers and even policy-makers. In a judiciary report on the 2018 Children Justice Service Week that took place in the Ngong area court, the area Member of Parliament Honourable Joseph Maina reportedly advised parents "to plan for children that they can be able to take care of. This is to ensure that children are not neglected"²³. This extract indicates a neoliberal approach taken by some policy makers on the subject of poverty and neglect.

Judges and magistrates work closely with children and probation officers in the assessment of children in need of care and protection, and even though most agree that poverty is the leading cause of children becoming in need of care and protection, they nevertheless feel that parents should be held responsible. This might also explain the inordinate amount of time that social workers in remand homes invest in interrogating children, making social visits and fast-tracking family tracing and reintegration efforts. In my observations, I attended three meetings in which the manager lamented the slow progress of teams' family reintegration efforts. He asked his team to make concerted efforts to "clear" the admitted

²³ <https://www.judiciary.go.ke/judiciary-to-establish-more-children-courts/> (2nd July 2018).

children from the system (Field notes, May-July 2018). The reintegration process involved visiting the child's home to confirm that parents were alive, summoning the parents to attend court, and releasing the child back to the family in the shortest time possible. There was hardly any material support or in-depth assessments that would reveal the root cause of a child's criminal behaviour or truancy, as I observed during home visits to Ngesa's mother (child case#1) and Moses' home (child case#4). Instead, there were threats issued to parents for not taking proper care of their children, and a warning of dire consequences should the child run away from home again, as in the case of Moses.

Both judicial officers in the study agreed that poverty is a major causal factor in neglect and abuse. However, the senior one was of the view that poverty should not be an excuse to neglect children. But she blames the poor quality of care and neglect on the failure to espouse parental responsibilities.

Not that poverty should be any good reason for child neglect, but I think there is a very low level of the capacity of parents to understand parenting. Because even if you are so poor whatever you eat, the child can also eat. But I think we are basically not very good at instilling discipline in parents to realise that (it is their responsibility). So, when there are challenges, they neglect their children. There is this attitude of 'serikali chukua, serikali shughulika' (Let the government take them! Let the government deal with this! [...]). I have found situations where parents just cede their responsibility. Many of the neglected children end up in the streets, are taken into custody by police, the children's courts designate them as children in need of care and protection and commit them to state remand homes (KenJO#1).

Preventing the kind of destitution noted by the judge would require accurately assessing and intervening promptly. Failure to improve the desperate living circumstances precipitates children's trajectories into the juvenile justice system. It is thus not surprising that some poor parents find the option of having their children committed to state juvenile facilities quite appealing compared to the risk of homelessness, or recruitment into criminal gangs, which tend to be attractive to youth in informal settlements. Ironically, parents express this despite the history, reputation and deplorable living conditions in most state juvenile facilities²⁴. The main juvenile facilities that exist in Kenya today include rehabilitation schools, remand centres and borstal institutions²⁵. Many started as detention centres for juvenile delinquents found loitering on the streets of urban centres during the colonial era

²⁴ See the NCAJ 2019 report on the state of juvenile justice in Kenya).

²⁵ These are correctional centres that detain young persons between 15-18 years who are convicted of civil and criminal offences (see <https://www.lawquery.co.ke/our-blog/lawquery-visit-to-shimo-la-tewa-borstal-institution-on-the-9th-may-2017>)

(see Ocobock, 2012; Cooper 2012; Nyamu and Wamahiu, 2022). Colonial ordinances and other pieces of legislation permitted the centres to use coercive violence in the form of corporal punishment and hard manual labour in state agricultural farms as the main forms of disciplining and training ‘delinquents’²⁶. The colonial government feared these young people would turn to criminality if untamed and left loitering in urban centres (Campbell, 2002; Ocobock, 2012). For decades, violence continued to define rehabilitation programs in these centres despite on-later legislative forms as noted by Cooper, (2012). A remand home manager who took part in this study explained that the police as well as his institution receive numerous admission requests from desperate parents dealing with various parenting challenges. For instance, when children are terminally ill and the family has no stable income, some caregivers prefer to have their children admitted into state facilities because

They will feed better and get their medication regularly. We also admit kids who are at risk or have been recruited into gangs and join bad company. The parents of such children- especially when they are single mothers- find it hard to cope with this challenge or to control the child. [...]. The parents seek to have them committed and rehabilitated. The parents take their children to the police and then the police advise them to take them for rehabilitation [...]. Somehow when they get here, they actually get some help despite how they get committed (CO#3).

Experiences of Judge KenJO#2 confirm the manager's concerns and the worst fears of parents like Mogaka's mother. Among the juvenile offenders who appear before her for criminal matters, she has witnessed the loss of young lives due to gangsterism which she linked to life in impoverished neighbourhoods.

A risk assessment report might show that a child is at risk of being recruited and becoming part of organised criminal gangs. For example, there is a gang called Gaza in Kayole which even police officers know is very dangerous and are scared of Kayole area because of that- yet the gang is made up of very young boys. So far, I have lost 6 boys to this kind of risk- they were just around 16 to 17 years. They died through what I call “ghetto jurisprudence” (gang executions”). A Ghetto child cannot be treated as any other child. They are already exposed to too much violence and crime by the time they are teenagers. These children are more likely to get into a life of criminality to earn as little as Kshs 200/- per day. The work involves running minor criminal errands like selling drugs for others or petty stealing purely for survival (KenJO#2).

²⁶ The term juvenile delinquents is found in a lot of colonial documents regarding children admitted into approved schools and rehabilitation facilities. It remained in use long after independence in 1963.

8.3.2 Parental Prosecution

Children can also enter the juvenile justice system through the deliberate actions of state officers. The normal pathway for the management of child neglect by children officers follows three steps which start with efforts to first educate parents on the dangers of neglecting children. Second is the issuing of warnings to neglectful parents. Thirdly, where parents have been warned but neighbours still report abusive behaviour of these parents, officers feel justified to institute their arrest and prosecution. The arrest and prosecution of those termed as neglectful and abusive parents is a common feature of the child protection system in Kenya, even though this approach has its unique challenges. When asked if they were happy with how the Department of Children Services handles child abuse and neglect, one of the officers pointed out that

The department tries as much as it is practically possible to address the matter in a way that it can keep the family together by helping them through the issue even if it's by preferring charges against the abuser. However, we try to solve the issues amicably dependent on the extent of the issue at hand and empowering the family to take up parental responsibility properly (SCCO#5).

Furthermore, the officer pointed out that child neglect forms the bulk of their cases, and explained that the management process is progressive.

We summon the parents for a discussion and agree on how they will exercise their parental responsibilities but, in a scenario, where the life of a child has been endangered, we refer for legal action through the police. The parents or guardians are formally charged for neglect and meanwhile, the child is removed from the abusive situation and placed in a place of safety or with a fit person (SCCO#5).

On the other hand, judicial officers pointed out that the prosecution of parents tends to be complicated on many levels when perpetrators are the main breadwinners, where extreme poverty is the main cause of such abuse and neglect, or where weak family relationships and support systems do not encourage alternative care within the extended family. In such cases, there is fear that children could end up worse off. State officers also face a real dilemma of what to do with children in a context of limited alternative care options-as is the case in Kenya without a state-funded foster care program. Institutionalising children in remand homes becomes the default option, even though these homes are few and already overcrowded, as noted by the Special Taskforce of the National Commission on Administration of Child Justice (NCAJ, 2019) which was appointed by the Chief Justice to look into children's matters within the justice system in Kenya. The limited state facilities force magistrates, probation and children officers to rely on children's homes and rescue centres managed by charitable organisations (NGOs).

Articulating worries over the inadequacy of alternative care facilities especially when perpetrators are the primary caregivers, the senior judge explained

First of all you have to think of ‘where do I keep this child’? You know the child has to be removed from home, because there is no way the child would come to court and then go home to the very abuser, for the very abuser to provide food, guidance and everything to this very child that they have abused. You see the problem? So dealing with children matters is very challenging to the magistrate.[...] you have to find a suitable rescue centre where you can put the child [...] n that rescue centre then you have to make sure that the child is provided for, the child is able to go to school, the child is able to get the medical attention they require, and many, many cases are compromised at that level (KenJO1#).

Desperation and fear of incarceration of the family breadwinner drives some family members to pile pressure on the child as well as witnesses to frustrate their cases and prevent removal of children from families, as the senior judge elaborated further below:

You see mothers of those (abused) children coming to court and saying they want to withdraw for fear [...] -not only that the child would be taken away from them, but also because of the husband who is the main provider. They fear that he can be taken into police custody and of course he could be incarcerated because of what they did to the child). Those are very difficult cases and they are very many. [...] they may not also cooperate because they are the ones being accused. [...] they might decide not to say anything. What can you do? (KenJO#1)

Similar frustrations and concerns for children’s material needs impact on rulings and decisions of judicial officers on the most suitable alternative caregiver. Judges may place children with a relative presumed to be a fit alternative only to realise later that the relative’s economic state is not any better than the offending parent under prosecution. Because of such experiences, KenJO#2 said she learnt to carefully evaluate each case and be very pragmatic about her rulings, noting that she is not uncritically bound by the law and does not simply apply it blindly. She prefers to also be guided by the family situation of each child because in her view prosecuting neglect cases is very complicated. She explains her predicaments below:

In one case I had a mother of six children who was accused of neglecting her children. When they came to court the first time the relatives were very supportive [...] one of the accused person’s sister agreed to take responsibility for the children so I issued orders for the children to be placed with her. [...] after sometime they were back to my court and the children’s auntie said to me “Your honour, please take back the children, I can’t take care of the 6 children plus my own 3 (making 9 in total) [...] she was struggling to feed them and care for them [...]. After discussions she offered to keep the children at her house as long as the sister was willing to buy food for them and also offered to babysit them (KenJO#2).

Similarly, when dealing with unusual categories of offenders such as young people in conflict with the law which is mostly attributed to poverty, KenJO#2 tries to be pragmatic in her approach to children’s protection.

So with these kinds of cases where children are brought to court due to cases that involve conflict with the law or delinquency, we may need to carry out more than one assessment. If there is a risk from crime-related activities or gangsterism, then the prosecution or probation officer might request extended custody for the sake of the child's safety- especially boys. We're increasingly seeing these problems with children being brought up by single mothers, or those who are orphaned and the older ones have to fend for their younger siblings. [...]. Now when they commit petty crimes like those they are charged with felony, but we have also seen a few cases where for example a 16-year-old had committed a capital offence like man slaughter so they are seen as murderers in their community. So if I feel that a child is likely to be unsafe if released, I will incarcerate such a child for extended periods (KenJO#2).

At the same time, KenJO#2 also considers shorter or more lenient sentences for caregivers accused of serious crimes for which mitigating circumstances point to serious underlying but non-criminal family circumstances.

With child maltreatment, it is a lot more complex but often what happens is that in mitigation a lot of the offenders in child maltreatment cases particularly neglect and non-sexual abuse cite ignorance to defend their actions. In some cases, even in serious cases like murder of a child, the mitigating circumstances might lead one to give a non-custodial sentence. I have never believed that a woman just wakes up one morning and decides to just kill a child. Something must be seriously wrong at home (KenJO#2).

The judge feels that unresolved family conflicts and a culture that encourages women to 'vumilia' (endure) for the sake of their children is partly to blame for the gross domestic violence that might occasionally provokes serious harm to children. She believes that part of the problem can be resolved by providing opportunities for women to receive information on their rights and also to acquire useful skills that allow them to earn some income. However, the judge explained that this is a personal initiative which requires collaboration between her office and NGO networks that she has built as a result of her community outreach efforts.

We try to look at and explore ways in which we can empower women especially. For most of these, just finding small jobs here and there where they can fend for themselves and their children makes such a huge difference. We try to link them with CSO that can provide this kind of support- for example, the Wangu wa Kanja NGO (KenJO#2).

8.3.3 Application of social grants to child protection risks

KenJO#2 feels that state-funded child support grant/foster care grants could make a big difference, but are not available in Kenya. One children officer regret that there is only one grant that directly targets children- and mainly orphans for that matter. Being based at the county level, she is directly involved in the targeting processes that identify the neediest

children. She explains that the CT-OVC has “helped maintain children within the family set up and reduced the number of would-be destitute children” (SCCO#5). When asked if children and families affected by violence and neglect might benefit from social grants, she was quick to respond “I think so because when you dig deep to the root cause of the violence or neglect most of the time it’s because of the inability of the parent(s)/ caregivers being unable to meet some of the basic needs. So maybe a grant would assist the children and the one most aggrieved (SCCO#5).

For the few families that are lucky to access them, the grants have made a difference as noted by one policy maker dealing with social grants more directly and monitoring their impact.

Cash transfers give an opportunity to grown-ups to do what they can to boost their lives- and there are many success stories. When I make field monitoring visits, I am humbled by what some people have been able to achieve with only Kshs 2000/- (equivalent to US\$20) per month! Some are keeping chicken, others are into small livestock husbandry with dairy cows and goats, while others have started all sorts of small-scale income-generating activities. It’s all about restoring dignity among the poorest- they can now have some resources to buy some decent clothes, bedding especially among the elderly, this is such a vital need and many have been neglected and have nobody to take care of them. Those who use the money responsibly are reaping a lot of benefits and the resources also enable them to take responsibility for their lives (KenPolicyMaker#1).

Despite the positive testimonies of their transformative effect, there is still that assumption and ideation of personal responsibility and the need for one to pick themselves up by their bootstraps. However, one sub-county children officer (SCCO) is completely opposed and expressed reservations against using social grants to resolve neglect cases.

Cash transfers should not even come in for neglect cases because they are not orphans and the program is basically for orphaned children and [...] severe vulnerability. So in my view people who can visit this office from whichever locality, those are not vulnerable. They are either lazy or they’ve refused to work. If I support them and they drink the money I tell them okay you know what? When you don’t have work and you fight it’s okay the government will take care of you (sarcasm). But it’s not right. The cash should be basically for the severe vulnerability. You know, those people who cannot even leave their homes, they, they don’t even have what is called a household. They’re just confined in some shack, some mud house somewhere, somewhere where a human cannot even stand (meaning the shack is too small). In my opinion and in the work that I’ve done for all those years, you rarely find that group of people coming here for help (SCCO#1).

The officer above does not contemplate a situation where cash transfer grants could be used to address other vulnerabilities besides those brought about by orphanhood or inadequate parental care as a result of HIV/AIDS, rendering children extremely vulnerable. To her mind, children with living parents can only be vulnerable because such parents make poor choices or are lazy, and therefore their laziness should not be enabled further by providing social grants. At the same time, she admits that the poorest and most vulnerable may not benefit from the limited social assistance that the state makes available because they are unable to access it. The officer denies the reality of most Kenyans-which is borderline vulnerability and risk sliding into extreme poverty at the slightest shock. For children, such shocks might involve the sudden loss of parental care due to ill health that is not HIV/AIDS, drug and substance abuse or the incarceration of their primary caregiver which the CT-OVC does not contemplate. The children officer's views contrast vastly with those of one policy maker involved more directly in the management of social assistance programs at the national level. Though admitting that the available grants do not directly address child protection concerns *per se*, they are tangentially linked because the grants address poverty.

I would say that the grant is already addressing child protection in a sense. For those families that are benefitting we have very clear expectations²⁷. They will take their children to school and keep them enrolled, providing health care, and meeting their basic needs. In my view, this is a good starting point. The idea is to get people started on solving their own problems- we have something to start from. We already have too many policies, so the thinking now is that we need more action and less of other policies. We need more action on the implementation side. But of course, the question is what is prioritised given the resources available? (KenPolicymaker#1).

For that matter, she feels that the Children's Act 2001 provides a useful legal framework for addressing child protection concerns and that this legislation is very clear on parental responsibility. Consequently, she argues that

The government tries to also create the right environment in which parents can earn a living in order to embrace their parental responsibilities. With the National Social Protection policies in place, it is possible with time to expand the coverage and guarantee some level of income to the vulnerable groups of people- with the right thinking around the subject (KenPolicymaker#1).

²⁷ Ideally, there are not officially stated conditions that are attached to the cash transfers but in practice the state insists on certain behaviours and action by caregivers and children who are beneficiaries of the grants.

8.3.4 Assessing the potential and adequacy of grants for child protection work

According to KenPolicymaker#1, there are too many people on the borderline “but we have to have a cut-off point. So, there are those limitations”. With this limitation comes the challenge of making do with what is available and adapting. Generally, judicial officers and other child protection actors use their ingenuity and create networks with CSOs. KenJO#2 participates in community outreach programs where she tries to link women in difficult situations with NGOs like the *Wangu wa Kanja*. High dependence on charity and the benevolence of CSOs is typical of the child welfare system in Kenya. While the judge’s and probation officers’ efforts to link women offenders with NGOs for support are quite laudable, such efforts demonstrate a failure of the formal welfare system and over-reliance on NGOs for the delivery of social services. The approach also treats the symptoms without addressing the root cause of the problem, because the demand is too huge for civil society organisations to meet. Wide coverage and sustainable approaches are needed. Mercy’s story (Parent case#5 in chapter six) illustrates the magnitude and impact of such a deficit on the lives of children and families. Before being arrested and charged with child neglect, Mercy had approached the local children’s office in her area twice to request that they admit her children into a children’s home until she was economically stable. Her initial requests were ignored and she was accused of trying to run away from her parental obligations. It was only after Mercy was formally accused of neglect that the Department of Children Services -DCS had no choice but to remove the children on court orders.

As a first offender and based on other mitigating circumstances, Mercy was lucky to receive a non-custodial sentence. During her probation period her probation officer linked her with an NGO which was to give her a scholarship to enable her to enrol for a catering course so she could start a food business. Unfortunately, the scholarship was partial and she could not raise the difference, leading to the loss of the opportunity altogether. As an unemployed single mother, Mercy feels she could have benefitted from ‘a leg up’ through full support from the Probation and Aftercare Department to develop business skills and access to capital to start a small income generating project. Though she has completed her non-custodial sentence, Mercy is still economically unstable but is at peace knowing that her children are being cared for in an institution. However, she fears that if her children are placed under her care again, she might get into trouble with the law once again for neglect and prefers to have the children taken to their fathers if the state can help her locate them.

The Department of Probation and Aftercare Services insists that it has limited capacity to do more. As one senior officer explained, the department had a business start-up and scholarship fund that were part of its offender rehabilitation program, but since the budget cuts instituted in 2006, the department has struggled to sustain such programs.

We do not have such at the moment. We used to have some cash fund that was available to families in our program but it was withdrawn about 10 years ago. I think it was around 2005 or 2006. At that time the government used to give between Kenya Shillings 3,000 and 10,000 per case for business start-up capital. They would get basic training in a chosen vocational area and then in addition we would give them working tools like a salon, hairdressing or barber kits to open a barber shop/salon business, tailoring machine, carpentry tools and such. We do not give the start-up capital anymore but we still give them the training and the working tools. We also link them with organizations that can give them additional support and training (PACO#1).

When challenged about the low investment and the urgent need for significantly higher budgetary allocations to social protection similar to the government's enthusiasm for infrastructure development, the policy maker's response was quite insightful. It also alludes to a slow evolution process and a long historical struggle against poverty.

Yes, we seem to be very keen on huge infrastructure like roads, dams, and the energy sector among others in our approach to development but investments in social programs remain historically below expectation. This is why five decades later, we are still addressing the same concerns as Sessional Paper No. 10 of 1965 which reiterated the Kenyan government's commitment to ending poverty, diseases and ignorance. There has been progress, but I think the bigger problem we seem to have is the high dependency attitude that we have as a country and its citizens. We want donors to fund many of our development programs, but I think as a nation we need to start giving enough thought and attention to how we can stimulate people to become independent. And some of the ideas really just take commitment from a few individuals (KenPolicymaker#1).

This argument promotes the idea of teaching people to fish rather than supplying them with fish (Ferguson, 2015). In this regard, she gives examples of the recently expanded National Health Insurance Fund (NHIF). By 2018, at least 2 million people were covered by the expanded NHIF program which now includes people in the informal employment sector that were previously excluded. The fund also covers many aspects of health care costs that were not covered before, which has eased the health care burden and thus shifted household consumption patterns.

We used to have a lot of 'harambees' (public fundraising) for medical bills which can be really huge on poor families- but those burdens have been reduced. Besides

easing the financial burden, it has significantly reduced the amount of time spent away from productive activities and people can be a bit more at ease mentally since they know that somebody has got their back and is picking the tab! There are even greater benefits for families that wholly embrace their parental responsibility because they can take advantage and expand on their initial benefits. For example, being appreciative of the fact they have become more credit-worthy/ less risky borrowers and so people feel more comfortable lending or extending credit facilities to them because they know the money will be repaid. They know there is some regular and guaranteed income flowing into that household (KenPolicymaker#1).

The officer's thinking is quite progressive as she advocates for strategies that link social grants to sustainable livelihood opportunities and stimulate increased access to social services such as health insurance. This is the idea behind recent calls for cash-plus programs which seek to augment grants with social services. But to make a difference, careful thought is needed to determine which essential services will make the biggest difference for the poor, but the coverage of grants would also need to expand for the programs to have a society-wide transformative effect.

8.4 Chapter conclusion

Both Kenya and South Africa emerged from challenging historical experiences of racially segregated and exclusionary welfare systems which limited coverage of the largest, poorest, and predominantly African population. In many ways, these historical legacies continue to define the two welfare landscapes. To its credit though, South Africa has been able to expand its welfare system, with clear benefits. One emerging insight is that foster care grants make a difference in the lives of children without parental care. Social grants also facilitate a higher likelihood of kinship care and fostering since the relatives feel that they can count on the state to partly meet the basic needs of the additional family members who join the household. At the same time, there are serious challenges that limit the system's effectiveness. There were several instances where family conflicts were generated over foster care grants. These worsened the family relations and even increased the risk of further neglect of children whose parents were deceased. At the same time, social workers spent inordinate amounts of time managing grant applications or resolving disputes about grants, with limited interest and attention to resolving non-financial but nevertheless, equally important causes of child maltreatment and neglect at the family level.

In Kenya, there are manifest complexities associated with the management of neglect and abuse cases that come to the attention of child welfare authorities and courts. Threats and

consequent prosecution of parents is particularly worrying in a context of limited state support to families in material difficulty in the first instance. Under such circumstances is it just or even productive to pursue parental prosecutions so fervently? Besides, very often child protection officers rely on charitable organisations for alternative placement of children out of home, psycho-social care, income-generating projects for families, and even for their own capacity development. The less than adequate state investments in care and protection programs and facilities raise serious questions about the usefulness of parental prosecution, child removals and commitment to nurturing children within the family as the child protection policies explicitly vouch for.



CHAPTER 9: CHILD PROTECTION INTERVENTIONS, WELLBEING OUTCOMES, AND URBAN POVERTY AND VIOLENCE

9.0 Introduction

This chapter is a synthesis and discussion of the key findings presented in chapters six, seven, and eight. The findings are critically examined through a child wellbeing lens based on the wellbeing in development (WeD) framework by Gough, McGregor and Camfield, (2007). The framework is applied as an analytical tool that facilitates interpretation of the extensive data that was collected and presented in the empirical chapters. The findings are also discussed against existing literature on the emerging issues.

The chapter is divided into six sections. The first section (9.1) briefly revisits the WeD framework in order to demonstrate how it was operationalised as an analytical tool in the study. The second section (9.2) identifies and discusses six overarching themes on child protection interventions in the case study countries. This is followed by section 9.3 whose focus is on similarities and differences between the child welfare system in Kenya and that of South Africa. Section 9.4 is on children's material wellbeing and considers important discourses of poverty that are embodied in children's and caregivers' narratives as a core group of actors whose experiences were central to the investigations. Their perceptions are contrasted with the views of state officers, as well as other study participants' perceptions and attitudes regarding the importance of social grants for child protection. State officers' perspectives have a particularly important value because they can enable or constrain the design and implementation of appropriate policies, as well as the extent of children's access to social grants and related benefits. Section 9.5 explores subjective wellbeing by considering how children and their caregivers explain their life circumstances and what they see as effects on the quality of their lives as well as future prospects. Section 9.6 discusses relational wellbeing by examining the relationships of care between children and caregivers and between children, families, and the state. Considering state relations, the study argued that discourses on children's rights especially interpretations of the best interest of the child (BIC) principle inform the nature and importance of state-citizen relationships. However, the interpretation of children's rights and the BIC principle by different players is likely to determine how the social contract with the state is realised within child welfare service provisioning. The chapter closes with a short conclusion in section 9.7.

9.1 Wellbeing in the Kenyan and South African child care systems

As discussed in the conceptual chapter, the study adopted the Wellbeing in Development (WeD) framework. WeD conceives wellbeing simultaneously as a productive process and an outcome whose construction is dependent on the prevailing social, political, economic and cultural conditions which affect people living in similar circumstances quite differently (Gough, McGregor and Camfield, 2007). Consequently, wellbeing is realised at the confluence of resources at a person's disposal to meet their needs; how they utilise opportunities and resources at their disposal to realise aspirations that individuals consider important; and, the individual's perceptions of the extent of satisfaction with the attainment of these life goals in their social and cultural context (McGregor 2007; Gough, McGregor and Camfield, 2007). Consequently, proponents of the framework have maintained that wellbeing is constitutive of three aspects: the material/objective, subjective, and relational dimensions of wellbeing. Material wellbeing focuses on economic resources needed to meet basic needs and living standards; subjective wellbeing is about values, perceptions and experiences; while relational wellbeing considers personal and social interactions and networks (Sumner, Haddad and Climent, 2009:24). Any evaluation of people's wellbeing must take into account all the three dimensions. Besides, the context in which the processes occurs including the nature and type of social relations, culture, politics and economic arrangements equally matter (Gough, McGregor and Camfield, 2007).

In distinguishing between dimensions and domains, McGregor, Coulthard and Camfield's (2015) note that dimensions are universal while domains are key features of the dimensions. It follows that, procedurally, in an assessment of the three dimensions of wellbeing is preceded by definitions of their constitutive elements and selection of appropriate indicators. The selection of domains should also be informed by the cultural and historical context, and hence, the exact indicators will vary from one society to another, making the emerging meaning of wellbeing contextual, personalised, and subjective (Ben-Arieh, 2014; Wood, 2016). It all depends on the interaction of multiple and interrelated factors which could result in positive or negative outcomes with consequences for the quality of life that is achieved, as well as current and future opportunities for realising a good life. These discussions make it clear that material resources matter for general wellbeing as well as the production of subjective and relational wellbeing, but on their own, they are not enough to realise the desired wellbeing outcomes. This resonates with Sen (1999) who draws attention to the inadequacy of material wealth for realising happiness or a meaningful life.

Figure 4 in the conceptual chapter summarised the key aspects of WeD and the processes that contribute to its development including time. In this discussions chapter reference is made to figure 4 whose contents guides discussions in the sections that follow.

Since experiences of realising wellbeing are subjective, the quest to understand people's happiness, satisfaction and aspirations relies on self-reporting, informed by the social and cultural context in the self-evaluation process. For that reason, people's personal narratives offer a window into meanings they attach to their life experiences. The term 'wellbeing' was not used *per se in* conversations with participants in this study, nevertheless discussions centred on the level of satisfaction with their life given the circumstances they found themselves in as children, or caregivers, and whether or not their expectations were met with regard to child welfare services provided. This general approach allowed the participants to explore the meaning of their lives in a broader sense rather than restricting them to a narrow assessment of whether they were happy or not, which I found not useful given the difficult subject the study was dealing with. Hence the application of wellbeing took a broad outlook to objective, relational and subjective domains to the well-being of children experiencing urban poverty, familial violence, and neglect, which leads them to require statutory child welfare services. To estimate levels of wellbeing, the meanings of dimensions and domains stated by White (2008), cited by Sumner, Haddad, and Climent (2009:23) were adopted as well as some of the generic domains for each of the three dimensions that include objective, subjective and relational wellbeing. Table 3 in the conceptual chapter presents the key elements that were considered important under each domain in the study. The discussions that follow make reference to the various dimensions and indicators of wellbeing.

Sumner et al. (2009) draw attention to the family, community, market and the state as key institutions mediating welfare and wellbeing processes and consequently, intergenerational transfer of poverty and vulnerability since they are the basis for wellbeing outcomes which are influenced by the emergent care and social reproduction arrangements. At the micro level, a rapidly changing African family, parents' capacity to meet their children's needs and fulfil important societal obligations, safety, identity, having children/having a family (connectedness), and being part of one's community are considered culturally important for children's wellbeing and life satisfaction. At the macro level are developmental concerns of state obligations towards its citizens, including the promotion and protection of citizens' rights and welfare, and ensuring a more equitable and socially just society. Consequently, social welfare policies are important determinants of child wellbeing. This also drew

attention to the role of social protection as a growing development strategy for fighting poverty and asserting claims to citizenship rights especially among vulnerable groups. Interactions between children and state apparatus provide an important avenue for explaining the nature of state-citizen relationships and their effects on individual children's lives and well-being. As such, social grants are a particularly tangible means through which the state attempts to fulfil its social contract with citizens, and hence they mediate important social and political relationships. The particularity of this relationship is critically examined with child welfare policies in mind for children and families living in difficult circumstances and utilising state child protection services. Furthermore, a cross-case comparison is also done to understand the similarities and nuances between the experiences of families in Kenya and South Africa.

9.2 Key child protection interventions and their impact on children's lives

This section examines the different approaches used by child protection actors in each country. It seems apparent that the current range of child protection interventions reflect the legal definitions of abuse as well as the interpretations of these definitions by state officers and agents responsible for child welfare. Whatever actions officers take reflect their general interpretations of these policies, which in turn are influenced by factors such as professional training, work experience, length of service, changing attitudes regarding child rights and child protection, and individual officers' cultural biases. These factors resonate with Baumann's *et al.* (2014) Ecology of Social Work Decision-Making model which is discussed in Wilkins and Meindl (2022:5). The model identifies four sets of factors that influence judgments and decision-making by caseworkers which include individual social worker characteristics; organisational factors; case factors; and external factors (*ibid*). The key issues in each case study country are discussed in 9.2.1 and 9.2.2. In addition, the key differences and similarities in the two countries are analysed in section 9.3.

9.2.1 Kenya

Seven factors were identified as the key drivers of abuse, violence and child neglect. These included mental health, domestic violence, unemployment, gendered and harmful cultural practices, disengaged or emotionally distant parenting, weakening kinship ties coupled with limited state support, and unplanned or unwanted pregnancies. Children explain their circumstances in terms of unmet needs, lack of parental love and concern, physical violence at home, and an inability by parents to meet children's emotional and material needs as some of the factors driving neglect and truancy. These factors caused children in the study to be

in need of care and protection and subsequently, the cause of their entry into the child welfare system. Once in contact with the system, state officers decided on the actions to be taken. Children indicated there was little to no proper consultations and explanations regarding what was going to happen to them. Based on the analysed responses, three overarching themes discussed below seem to characterise Kenya's child welfare. These include the malleability of the best interest of a child (BIC) principle; over-reliance on the institutionalisation of children; and a higher likelihood for blaming and prosecuting parents/caregivers.

The fluid nature of the best interest of the child principle

The findings of this study suggest that how child abuse, neglect and maltreatment is framed strongly influences the response options available to different actors in child protection, whether those actions are targeted at parents or children. All the actors cited the Children's Act of 2001 and the best interest of the child (BIC) principle enshrined in it as the main reference for their definition of abuse and neglect. Consequently, the law and BIC serve as the departure points for all their actions. However, from the findings DCS officer seemed to more resolutely cite BIC and took an extremely narrow approach to the law compared to Probation and Aftercare as well as judicial officers. The latter two were more willing to interrogate and entertain broader and more contextualised interpretations.

At the same time, the use of figurative language by one Kenyan judge to describe the BIC as a 'monkey hopping from tree to tree' leaves no illusion about her perceptions on the fluidity of the concept, despite BIC being an ideal that all actors aspire to. The officer recognized that its applicability to one child or family might not work for another family, which calls for one to first understand each family's and child's situated circumstances. The magistrate was also adamant that the best interest principle (BIC) very much depends on the family and child's circumstances. In some cases, KENJO#2 insisted that the law must sometimes be superseded or balanced with pragmatism and the practical needs of the child. Hence she argued that it is "*not merely the application of the law because sometimes you have to 'break the law' to protect the child [...]. In some ways it is a humanitarian principle (KENJO#2).*" When applied in this stated manner, it gives magistrates a wide latitude. But it would appear that the level of comfort among judicial officers for a liberal interpretation is also influenced by personal biases on account of cultural background, experience, and

level of exposure to progressive ways of interpreting the law. In this regard, the judge above explained that;

A magistrate who is serving in the rural areas might not understand or appreciate child rights issues which are rather liberal in approach and might clash with certain cultures and traditions in a given context. They may also have their own ideas about parenting styles and practices, so they might be quite prejudicial in their approach (KENJO#2).

A useful example where the above argument might be illustrative is how different magistrates make use of alternative means of resolving children's matters, such as the diversion programs within the juvenile justice system. Diversion programs minimise children's contact with the juvenile justice system by facilitating access to early rehabilitative services if they are involved in minor crimes, and in this way the state catches juvenile offenders in time before they enter into full-blown crime (DCS, 2021). Though diversion was not encoded into law by 2018, when I undertook data collection, progressive children's magistrates were already using this strategy to keep children out of the juvenile justice system. The fact that some magistrates do not take that option suggests an unwillingness to innovate beyond the law, or limited capacity and knowledge on children's rights and how different interpretations of those rights might shape the lives of young people into different pathways. Harsh custodial sentences for petty crimes risk initiating children into the world of crime. The DCS report notes that "some children interviewed in rehabilitation schools admitted to having been hardened by serving a custodial order as well as being exposed to other forms of criminal conduct" (DCS, 2021:19).

The above suggest that the more experienced a magistrate/judge is in working with children and youth matters, the more likely they are to utilise flexible options and therefore make favourable decisions that could positively impact children's lives. In fact, the NCAJ Taskforce found that some judicial officers were unfamiliar with the children's Act and ended up making decisions that were detrimental to the lives of children (see NCAJ, 2019:33-34). On this matter the report specifically states that;

Many magistrates do not have specialised knowledge in children's laws, policies, and child rights issues. They also lack understanding of the Sexual Offences Act 2006 and the Children Act. Therefore, they are unable to make informed decisions, relying instead on reports by children's officers, which mostly recommend that the child be sent to a specific institution regardless of whether this is her or his best interest. There are also cases of misinterpretation of the law leading to wrong placements to

Probation Hostels and wrong sentences impeding effective rehabilitation. There is inadequate capacity to handle children matters in child holding institutions (NCJA, 2019:34).

Fortunately, under the new Children Act of 2022 Articles 228 and 230 now make a number of provisions that aim to protect children from unnecessary contact with the criminal justice system. As a start, children accused of an offence are now entitled to a preliminary inquiry in which their age must be established. If they are below 12 years which is the new age of criminal responsibility, then they cannot be tried in a court of law. Secondly, Article 230 specifically makes it legal for magistrates to make diversion orders which are extensive and categorised into three levels. Under each level are several measures. At the first level options range from very basic forms of restitution such as issuing a written or verbal apology to the person they offended, attending counselling session, placement under good behaviour order, or being prohibited from frequenting certain places. At the second level of diversion they may be asked to undertake community service, make a payment of up to a maximum of shilling 5.000 (US\$ 55) as compensation, compelled to attend a family group conference or a combination of any two of the specified options under level two. At the third level, any of the options in level two are applicable but on an extended period of up to 12 months, or “compulsory attendance at a specified centre or place for a specified vocational or educational purpose for a period not exceeding six months, and for not more than thirty-five hours in any one week” (Children Act, 2022 Article 230 (c) and part (iv))

Similar to knowledge on diversion prior to the new law which came into effect on 26th July 2022, some judicial officers are said to be unfamiliar with the various juvenile institutions that care for the various categories of children (DCS, 2021:19). Important knowledge on the age group categories the different institutions cater to as well as programs available is important in making decisions on children’s cases. As noted in one recent review of the juvenile justice system in Kenya, partial knowledge or lack of awareness can lead to wrong institutional placements, delays in accessing justice and further suffering of children within the system (DCS, 2021:19).

On the part of DCS children officers, narrow interpretations risk making them ‘slaves’ to the law. This same finding was noted by Cooper (2012), who observed that officers maintained an extremely linear and path-dependent approach to the management of neglect and abuse in the country. As such, Cooper argued that Kenya officers seemed to follow the

letter of the law but lost sight of the spirit of child protection, which is to safeguard the interests of the child and prevent further harm. But to be fair to these officers, this study noted that some attempts would be made during initial stages of the case to try and understand the parent's circumstances. This would appear to be one end of the spectrum where a friendly and family-centred approach was employed by inviting parents to the chief's office for a conversation and to explore possible support options. While this is supposed to give parents a chance to remedy the situation in a more amicable way, it could also potentially be problematic because of the asymmetrical power relations between ordinary citizens-especially low-income parents from the slums and chiefs and their offices. From a historical point, chiefs were imposed by the colonial administration to enable indirect rule of natives. To ensure the effectiveness of colonial officers, the colonial administration generally sanctioned the use of state violence by chiefs for forced labour, intimidation and the forceful maintenance of law and order (Elkins, 2005). Likewise, colonial government officers in charge of reformatory juvenile institutions such as the approved schools and borstal centres wielded power over the so-called juvenile delinquents through coercion and violence (Nyamu and Wamahu, 2022; Campbell, 2002). This reputation still haunts the institution of chiefs and children officers many years into the reign of the post-colonial state. This is despite recent constitutional reform efforts to entrench a human rights culture in governance. Thus, the idea of being summoned to the chief's office or by government children officers is intimidating to many parents. Secondly, while the chief warns the parents of more dire consequences in the future if a caregiver fails to abide by whatever agreements they reach in the first meeting, if the root causes of child maltreatment are not addressed the effort is counterproductive because it might discourage any further efforts to seek help or tap into other community resources, especially if they might involve the state. In any case. Often chiefs will consult children officers for advice during the initial meetings.

In the linear fashion, cases beyond the chief's capacity are brought to the attention of the next state officer- in this case, the children's officer, and eventually culminate in the prosecution of the 'difficult' parents. As one probation officer (PACO#1) explained, children officers tried to resolve the matter to the best of their ability- mostly by warning the parents a number of times before charging them in court. Though parental arrests are supposed to only occur in severe cases of abuse and involve parents who have severally failed to heed warnings, there is little evidence to show that children officers are provided with alternative tools to assistance parents. There are no deliberately curated programs to

prevent an escalation of such cases, which could also explain why some children officers feel that they should not be made to listen to parents' problems. In one gross neglect case where a parent is warned for not providing for her children and advised to find work, yet she cannot find employment, the likelihood of re-offending is high. In the long run, it is likely to result in numerous parental prosecutions where incarceration does little to remedy the situation. Given that social inquiries and family visits and interviews are mandatory in cases that involve prosecution, social workers gain a better sense of family circumstances and hence can intervene more accurately. Surprisingly the two strategies (social inquiries and home visits) which are the core of social work practice and child protection work appear to be important only when ordered by the courts, and even then, at the discretion of judges. In terms of how useful the reports are for the determination of cases, judicial officers observed that generally such reports can be a good guide, but do not constitute the main basis for arriving at their final decisions. This is unfortunate given the heavy resource investment in home visits. Besides, an opportunity to do better for the child and their family is lost when such reports are underutilised.

Once charged for child maltreatment and other non-violent or minor crimes, parents are likely to receive supervised non-custodial sentencing or community service orders, although custodial sentences are also not unusual (See Kenya Law, 2008). Non-custodial sentences are between 18 and 36 months and can be granted or denied depending on the severity of the crime or the circumstances surrounding the case. The length of the sentence depends on the severity of the offence in the judge's view, previous similar convictions, and the mitigating circumstances based on the probation officers' social assessment reports. Parents profiled as repeat offenders like Angela (case#1) or Adiema (Case#2) get the maximum sentence. Angela had been reported to the chief (the local administrator) for neglecting her children and at one point the chief together with the area children officer had placed three of her older children in a CCI for several months. Arresting the primary caregivers produces new risks such as their children becoming destitute, especially if their care cannot be entrusted to another responsible adult within the family or household. Through court orders, children officers may commit such children to a children's home (CCI) until the parents are released from prison or are in a better position to care for their children. Ironically, Angelas' attempted murder of her infant happened shortly after she had been reunited with some of her children but they were immediately removed a second time after the attempted murder

incident. Had Angela received the right attention the first time, this second incident might have been prevented.

Angela's case raises critical questions on the effectiveness of punitive approaches against parents and their long-term effects on children's wellbeing. Though in a different context of intra-familial child sexual abuse, Deche, Kinyanjui and Mwaura (2019) address similar concerns regarding the wellbeing of the child and their family as a result of prosecuting a parent who is the perpetrator and also the breadwinner. They argue that in some instances contesting family interests impact on the outcome of cases in the interest of long-term livelihood security for the rest of the family (p. 5010). This may involve some family members willingly frustrating investigations and refusing to testify against a breadwinner in the quest for justice for the affected child (ibid).

Parallels can also be drawn from other jurisdictions with liberal-leaning child protection systems such as the United States whose child protective system policies are considered punitive especially to minority and low-income groups (see Cancian et al., 2017; Fong, O2017). On average 6% of all children in the USA and at least 12% of Black children experienced out of home care by the age of 18, with many of the foster care cases being the result of child neglect and not abuse *per se* (Cancian et al., 2017). Moreover, low-income, and being a single parent (Cancian, et al., 2017), or involvement in unstable relationships and having a non-degree level of education (Fond, 2017) are some of the major risk factors. One of the common responses is removal and placement in state-funded foster care program. Consequently, the foster care system costs USA tax payers about US\$10 million annually, and federal policies require that parents offset alternative care placements costs especially in instances of prolonged stays and where states and counties are low on resources (Cancian *et al.*, 2017). Using state-wide data from Wisconsin state Cancian *et al.* (2017) found that charging parents child support in order to offset state foster care costs had the unintended outcomes of a reduction in the overall household income in poor families and the additional risk of prolonging foster care periods as parents are unable to meet conditions for reunification. However, while the study is indicative of how child protection and welfare policies could negatively impact on child wellbeing, the authors suggested more research involving more states in order to reach a firm conclusion on the relationship between child support orders and involvement in child protection services as important policy areas.

Blame and prosecution of parents

At least eight of the 13 parents serving non-custodial sentences for child abuse were charged for neglect under section 127 (1) (a), (b) of the Children’s Act No. 8 of 2001. The fact that parents are prosecuted for neglect suggests that some blame is apportioned to parents whom officers believe have refused to change despite some warnings and hence, must be taught a lesson. It is not just the children officers who show this attitude, but some elected leaders too. In the 2018 judiciary report on the children’s justice service week in one of the courts in Nairobi, the Member of Parliament (MP) Hon. Joseph Manje advised parents “to plan for children that they can be able to take care of. This is to ensure that children are not neglected”²⁸. This extract shows the perspective of some policy makers (legislators) on the subject. Blaming parents as the main cause of neglect absolves the state of the more difficult task of confronting the root causes of the problem because there is a disassociation of neglect and abuse from structural failures, which limits the deployment of any long-term solutions. When asked for their views on whether prosecution of parents is effective, opinions were divided, though a larger proportion of state officers felt strongly that ‘errant’ parents need to be taught a lesson. This point was most emphasised by nearly all the children officers (four out of five) while probation officers who deal more directly with offenders tended to feel the need for more support to be accorded to parents. One children officer opined that;

Let me talk about one where I was working on before. We did that (custodial sentence) and after nine months the mother was released and she became the best mother! She even came back to thank me saying that it was frustrations that had put her into that situation. The husband was frustrating her with her six children [...]. I took care of four of her children [...]. They got scholarships to study because they were so bright- from Primary to secondary and further on. When the mother saw that she had a lesser burden she had to reform. I told her if she’s not going to change, I’ll not pay the school fees. So, it (prison) was a means to get a good end for me- and so it worked (CO#1, June 2018).

Surprisingly, some parents like Adima concurred with the children officer’s opinion above by arguing that her arrest ended up benefitting her because “*it has helped me to change. I have stopped drinking. I was making money from my casual work but I was using all the money to drink*” (Kenyan parent case#2, July 2018). Adima believes that she wasted most of her daily wages as a casual worker when instead, she could have invested it in her family or a business. In her view, the arrest and prosecution helped her to sober up. She insists that

²⁸ See: (<https://www.judiciary.go.ke/judiciary-to-establish-more-children-courts/>, 2nd July 2018).

there is a huge difference in her life now explaining that her children are now enrolled in a private (low cost) school, attend school regularly, and wear clean clothes. She pays Kshs 500/- (about US\$ 5) per month per child. The school fees payment plan enables weekly savings.

I don't have to pay it all at once unlike the city council (public) schools where they want you to pay Kshs 2000/- per child for the term all at once [...] so whenever I get paid -say if my kibarau (piece work) pays 400/- I will just pay 200/- every now and then until I complete the payment for all the children. I realised I had been wasting so much money (Adiema, 2018).

In the case of Ivy (parent case#3), both her mother and the probation officer agree that she reformed after the encounter with the law. Because Ivy's sentence was long, her probation officer was able to track and document her progress over a period of two and a half years, and this provides a rich source of information on Ivy's trajectory. The probation officer explains that Ivy reformed after her short stint in Langata Women's Prison, and attending several probation supervision meetings. Ivy is now a recovering alcohol addict and her mother is willing to support her to go through a rehabilitation programme. Rehabilitation is one among the five elements identified in her probation officer's care plan. Ivy is also expected to attend guidance and counselling sessions, training in parenting skills to understand child rights, and is also encouraged to find work "even if that means taking up casual jobs- as long as she was able to generate an income" (PACOr#3). Ivy's probation officer had recommended her to join an Alcoholics Anonymous (AA) support group program which was operated under the auspices of an NGO (SAPTA) but unfortunately, the program came to an end due to shortages in donor funding. The only officer trained by the NGO also got transferred and the program came to a sudden end. None of the other officers had the skills or the motivation to continue with the program, so Ivy had to discontinue therapy.

By 2018 Ivy reported to her probation officer that she had stopped drinking and started a clothing business in the city. She had also severed her relationship with the father of her two younger children because in her view "he was a bad influence for her and the children". Subsequently, she also ended her relationships with some of her former friends whom she considered to be a bad influence on her. In a later follow-up review between the officer and Ivy's mother, the mother reported that Ivy had become a better parent. The probation officer stated that;

The accused person's mother says that although Ivy forgets her children when she gets drunk, she is one of her best children. [...]. Since she was released from prison, she has remained present and involved in the children's lives and has been of great help to her mother. The mother continues to say that Ivy has greatly changed and spends most of her time at home taking care of her mother and assisting her children. The accused's mother says she would be grateful if the accused was given a non-custodial sentence so that she can take care of her children (Report by PACO#3, June 2018).

While Ivy was lucky to partially benefit from a rehabilitation program, many people on probation do not, due to limited state funding of preventive programs.

A minimalist approach to investments into the rehabilitation of delinquent children and juvenile offenders is also a colonial legacy of Kenya's child welfare and juvenile justice system (Nyamu and Wamahiu, 2022; Ocobock, 2006 and 2012; Cooper, 2012). The idea of establishing probation services in Kenya was mooted in 1941 and services were offered from 1946 by the British colonial government. The aim was to decongest prisons through non-custodial sentences and rehabilitation of petty offenders using community-based approaches. The congestion in prisons was a direct result of sporadic arrests of young Africans involved in violent insurrections against an oppressive colonial regime which intensified during the *mau mau* struggle for independence. The department has since become integral to the criminal justice system in Kenya. By 2018 the department had a workforce of 900 officers. The number nearly doubled between financial years 2019/2020 and 2020/21 to 1,500, and is expected to reach 1,900 officers in 2022 despite a reduction in government recruitments as the state redirects resources to health services to combat effects of the covid-19 pandemic. Key functions of the department include supervision of probation orders for non-custodial offenders (both adults and juveniles), oversight for community service orders, rehabilitation of offenders, conducting pre-sentencing social inquiries and furnishing courts with assessment reports, supporting victims of crime, and collaborating with other law-enforcement agencies for social crime prevention and public safety. Probation reports are useful for informing terms of bail and bonds, informing sentencing, and supporting pre-release decisions in the case of presidential pardons²⁹. However, the low budgets severely curtail meaningful rehabilitation efforts despite having good care plans. The same concern

²⁹ For details on the Probation and Aftercare Services Department (see: <http://www.probation.go.ke>)

was noted in the DCS (2021) study on rehabilitation programs in Kenya's juvenile justice system.

Over Reliance on institutionalisation as a child protection strategy

Another overarching theme that emerges from the child protection interventions in Kenya is the system's continued overreliance on institutional care of children without parental care as well as those in need of care and protection. This is despite disavowal of the approach in official government policy documents (GoK and UNICEF, 2014). In 2014 the government launched its Alternative Care Guidelines which initiated the process of deinstitutionalization (DI)³⁰. In 2018 it initiated a pilot deinstitutionalization in western Kenya (Kisumu County). However, a recent study on the implementation of deinstitutionalization in Kenya shows minimal government commitment because "while the GoK has provided some training in the Guidelines of AFC (alternative family care), private organisations have been the main players promoting alternative family care and deinstitutionalization in Kenya" (Miseki, 2018:4). Though the effort is laudable in its promotion of kinship foster care, it risks maintaining an old problem. Noting similar concerns, Chege and Ucembe (2020) argue that institutionalised care constitutes a major weakness in Kenya's child protection system because of its priority treatment of visible symptoms without dealing with the root causes of child vulnerabilities.

While kinship care is an important and widely accepted form of alternative care for children without parental care, increasing levels of poverty are impeding its practicability in modern Kenyan families, and more so those in urban areas. Instead, institutional care is seen as the preferred alternative by many poor families. HIV-related orphanhood increased demand and the popularity of alternative care institutions in African countries like Kenya and Uganda where the death or long periods of illness among reproductive age parents left thousands of children without parental care and nurturing (Cheney and Ucembe, 2019). Even though willing, many of the grandparents and other relatives were also facing other challenges of poverty. For instance, at the height of HIV-AIDs infection, Kenyans were also grappling with the effects of neoliberalism. The economy shrunk, and retrenchments became rampant, especially in the civil service which employed the largest workforce at the time. At the same

³⁰ A global campaign to remove children from charitable and state-run homes, the so-called children's orphanages and care centres with the aim of offering them alternative care within family and community settings.

time, health services and education costs shifted from the state to citizens, driving the cost of living upwards. These circumstances made caring for orphans a huge challenge, which NGOs took up by setting up community-based health care programs as well as charitable children's orphanages and institutions. Many have continued to operate well past the worst HIV/AIDS pandemic period, recruiting more children into the centres in order to attract funding. Cheney and Rotabi (2015) discusses the orphan industry in Uganda during that difficult era and how it produced illegal international adoptions and greed for foreign donations from American evangelicals keen to make a difference in the lives of 'poor' African orphans.

A similar situation prevailed in Kenya at the time. CCIs still remain popular among many slum dwellers who believe that children from poor families would get a better life in such institutions, as some of the narratives by parents and children in this study illustrate. For instance, Mercy begged the children's officer to put her children in a home for a period of time when she was economically at her worst. Equally, although Dorothy knew her child was placed at a CCI, she still had no interest in being reunited with him. On the other hand, Omwenga and Mogaka's parents felt that their children would still be cared for in juvenile institutions and especially wanted their children admitted there because these institutions are known to be very strict in enforcing discipline, a reputation they gained due to their colonial foundations (Ocobock, 2012). Ngesa's treatment at the police station (Child case#1) shows that violence is still a tool that is deployed within certain child protection institutions linked to juvenile justice. Some level of informality is also employed in resolving some of the juvenile cases. For example, Ngesa's first arrest ended up with a beating by the police and release for supervision. In other cases, the police are said to oversee informal victim compensation agreements where parents repay what was stolen and the child is released (DCS, 2019). Such cases while useful as short-term solutions, the strategy does not address the underlying family issues.

In traditional African families, children's orphanages did not exist and neither did the idea of orphans (Abebe, 2007; Cheney, 2007). Until the 1990s at the height of the HIV-AIDS pandemic in Africa, rise of neoliberalism (and NGO driven development efforts), children without parental care were generally cared for within the extended family (Cheney and Rotabi, 2015; Seekings, 2008; Abebe, 2007). Nevertheless, in the colonial era a limited number of children's orphanages established by missionaries catered for the most destitute. The colonial administration also facilitated establishment of state-funded juvenile

institutions like borstal centres, rehabilitation schools (Occobock, 2012; Nyamu and Wamahu, 2022). The overall aim of these institutions was to deal with the threat of growing numbers of juvenile delinquents as a result of disruptions caused by dispossession of land among indigenous communities initially and later on, the *Mau Mau* insurgency (Elkins, 2005; Nyamu and Wamahi, 2022).

Prior to enactment of the Children's Act of 2001, child welfare services were mapped directly onto the criminal justice system (DCS, 2021), and distinct types of state-owned juvenile institutions remained a core part of the country's penal system despite continuing efforts to disentangle them (NCAJ, 2019). They include borstal and juvenile detention centres, rehabilitation schools, remand homes and reception centres, and probation hostels (DCS, 2021). There are administrative challenges associated with the management of these institutions because they are managed by different government departments, each with different priorities. On the one hand, borstal/juvenile detention centres are managed by the Kenya Prisons Department. Currently, there are three borstal centres which admit children between the age of 15 and 18 who are guilty of various crimes and their goal is to correct, rehabilitate and reintegrate young offenders back into society in order to prevent criminal behaviour in adulthood (Department of Children's Services-DCS, 2021). Probation hostels are under the jurisdiction of the Probation and Aftercare Department.

On the other hand, rehabilitation schools, remand homes, and reception centres are under the Department of Children Services. Currently DCS manages 14 remand homes and rehabilitation schools in Nairobi, Likoni, Malindi, Eldoret, Kakamega, Kiambu, Murang'a, Nyeri, Manga, Nakuru, Kisumu, Meru, Machakos and Kericho. Remand homes admit children between 7-15 years. Ideally, children should be held for short durations during their criminal trials, but in practice this does not apply. Due to shortage of state-funded facilities, remand homes end up admitting a diverse group of children under the broad category of children in need of care and protection (CNCP). CNCP might include former street children, displaced or lost children, child victims of abuse placed there through court order, child witnesses who have to testify in criminal proceedings, or children removed due to a high risk of further abuse or gross neglect. In remand homes, CNPS are routinely mixed with child offenders in the same facility which increases risks for the most vulnerable children (DCS, 2021; NCAJ 2019). The NCAJ Task Force on children's justice expressed concern with regard to the safety of children in juvenile remand centres where there is mixing of "child perpetrators, child victims, as well as children in need of care, in the same facility and

even in the same rooms” (NCAJ et al., 2016:133). A number of CNCP are already victims of abuse and run the risk of being re-traumatised through exposure to violence and bullying when placed in remand with offenders.

All the above issues show serious weaknesses in Kenya’s child protection system, and a limited focus on family support towards long-term resolution of the root causes of children’s involvement with child welfare. A critical examination of the child protection system in Kenya and particularly judicial officers’ knowledge and application of the law in children’s matters, children officer’s decisions, and the management of state juvenile institutions, led Nyamu and Wamahiu (2022) to conclude that the system needs to decolonise (ibid). The recently enacted Children Act of 2022 will amend the Children Act 2001 and overhaul some of the colonial legacies in the child welfare practices. The extent to which it succeeds remains to be seen because the law was only enacted at the end of July/August 2022 and its implementation as well as impact will take time.

9.2.2 South Africa

In South Africa the drivers towards involvement with child welfare include; domestic violence, emotional abuse and cruelty against children; the loss of parental care through death, and separation; parental neglect and abandonment due to alcohol and drug abuse; and poverty. Drug abuse and alcoholism by parents increases the risk of child neglect and exposure to violence including emotional and physical abuse. At the same time, with a large proportion of grandparents raising their grandchildren, child welfare social workers also have to mediate over difficult relationships between teenagers with behavioural challenges and their grandparents. The strained relationships add to the burden of childcare where the primary caregivers feel inadequately prepared in terms of the required parenting skills to manage today’s adolescents and teenagers and the challenges they face.

Unsurprisingly, some alternative caregivers are reluctant to care for problematic teenagers. This was the case where the caregivers were not the biological parents or close relatives as Yonela (SA Childcase#5) and Afiziwe (SA Childcase#6) demonstrated. Close relatives like Isipho (SA Parentcase#5) sought the help of her male relatives in rural Eastern Cape to enforce discipline and impart important cultural values in her troubled and drug-using nephew. A careful consideration of the above and other salient issues yielded three overarching themes regarding the South African child welfare system. The themes were: childcare arrangements in a changing family structure and poverty context; a pragmatic

approach to the BIC principle; and shifts towards therapeutic jurisprudence. The three are discussed in the section that follows.

Changing family structures impact on child care, and are mediated by poverty and lack of opportunities.

The dynamics of family relationships have changed significantly, with consequences for child care in South Africa. Both SA judges explicitly linked inadequate child care to the changing family contexts among different racial groups. Notably among both the coloured community and Black South Africa grandmothers are often the primary caregivers- but the reasons for this vary. Explaining the variation, SAJO#2 noted that among black South Africans, HIV/AIDs ravaged the reproductive age between 18-45 years which left many young children under the care of their grandparents. On the other hand, in the coloured community grandmothers are often the ones raising their grandchildren due to a high prevalence of drugs and alcohol abuse among child-bearing adults and young people. The phenomenon of care provision by grandparents is attributed to apartheid policies which continue to wreak havoc on non-white populations in general but more particularly among Black South Africans as Patel *et al.* (2019) shows. The study argues that

One of the legacies of apartheid is that it left black (African) parents without the resources to create a favourable home environment for their children. African children are less likely to live in households with both their parents, and parents are usually less educated, [...] are more likely to reside in households with limited physical space, where there is no running water and electricity [...] (Patel *et al.*, 2019: 14).

Apartheid policies on migrant labour had the consequence of keeping Black African men away from their families for long periods. As a result, the meaning, importance, and practice of marriage among Black South Africans has changed, with a large proportion of women opting for different kinds of intimate partner arrangements. Commenting on some of the changes impacting kinship and household set-ups, Seekings (2008:1) notes there is a “decline of marriage and the crisis of patrilineality”. It is not therefore uncommon for a mother to have several children with multiple fathers who remain largely absent as several parental cases (for example #2 and #4) have shown.

Without a doubt, apartheid policies impacted negatively on the institution of fatherhood. Observation of case-intake work at the NPO revealed high rates of avoidance and/or failure to acknowledge parental responsibility among large proportions of Black South African men. Based on secondary literature reviews, Seekings (2008:21) noted this phenomenon

arguing that “fathers respect few responsibilities to their children” and that the “a crisis of paternal responsibility” was greater in urban areas, and worsened by HIV-AIDs and unemployment. These situations leave mothers vulnerable and often unable to meet their children’s basic needs. To survive, some mothers are involved in serial relationships with multiple intimate partners while others were constantly embroiled in battles over child support (for example Yanga in parent case#9 and Nchumi (parent case#12). These cases seem to support Seeking’s (2008) idea of a crisis of paternity. However, it seems that even where the fathers were present, they seemed to face insurmountable obstacles that made it difficult to effectively discharge their parental duties (e.g Siyavuyo, parent case #8, and Yanga, parent case#9. In both of these cases unemployment had grave consequences for child care to the extent that both were willing to give up their children to be fostered by strangers.

Towards therapeutic jurisprudence and pragmatic interpretations of the BIC principle

In South Africa, the judicial officers seemed to be in favour of therapeutic jurisprudence. Therapeutic jurisprudence aims to bring about healing, an improvement in the family situation and restoration of relationships where this is possible, and thereby promoting family preservation efforts. Wexler, (2008) defines therapeutic jurisprudence as a multi-disciplinary strategy that attempts to expand the boundaries of law and the due process framework to aspects from other disciplines such as psychiatry, social work, and criminology. It considers how the law is implemented and its effects on people, and advocates for the alternative application of the law for healing purposes. It has its historical foundations in mental health law which was anti-psychiatry as a discipline (Wexler, 2008). Therapeutic jurisprudence was introduced by some judges to check the excesses by psychiatrists who often over-reached their bounds in commitment proceedings of mental health patients (ibid). According to Winick and Wexler (2006:607) therapeutic jurisprudence is part of a repertoire of the ‘comprehensive law movement’. The movement advocates for a client-oriented approach to litigation and legal representation with the aim to “lessen the excessive adversarialness of lawyering” and improving the overall wellbeing of clients” (p.607). Other strategies along this line include “preventive law, creative problem-solving, holistic law, restorative justice, the increasing array of alternative dispute resolution mechanisms, including collaborative law, and the emergence of problem-solving courts” (ibid). Legal practitioners committed to these strategies are guided by an ethic of

care where they must put their clients' wellbeing and interests first and seek to lessen difficulties that are ordinarily associated with legal processes.

The senior judge in South Africa referred severally to therapeutic jurisprudence to explain that her honest commitment is to see the country and generally children's courts moving towards family-centred ways of working with children and their families, hence a therapeutic jurisprudence approach. While the second judge did not use the exact term, she nevertheless demonstrated commitment towards family-centred solutions and the ideals of restorative approaches to parents struggling to raise their children. SAJO#1 narrated an incident involving a young Black South African lady who had sought orders to give away her infant for adoption because she could not afford to take care of yet another fatherless child- she was already a single mother. The magistrate assumed the social worker had done her background checks and granted the mother's request. Immediately the social worker placed the child under the care of an adoption agency to initiate the adoption process. But very early on Monday of the following week the young mother came back to court and wanted her child back, which surprised the magistrate. She decided to talk to the mother at length as the excerpt below shows.

I said to her 'why did you sign away your baby?' She said, well, because I want the best for my child. I want the best for my child but I cannot give him what the adoption parents will be able to give him. I mean she had no knowledge (about the adoptive parents), but you see she had thought to herself "I am so unworthy, I will give my child to whoever wants to adopt him- they can do better than me". Then she said to me "but you know what? I have not slept the whole weekend. I cannot let go of my child. I have to beg you, I have to get my child back." So, I cancelled (the adoption order) and gave her the baby back because who can ever not, after hearing that? Then I asked her where the other child is? [...]. I discovered she has a permanent job with McDonalds in Kraaifontein and that she was on maternity leave! I asked her what she would do with the maternity leave after giving away the baby. [...] And I said, stop sisi! Why? She told me I want the best for my child but it is so hard. It was heart-breaking. Do you understand now when I say there is no social cohesion anymore? People are no longer getting married anymore, especially here in South Africa. And the men just make babies. They do not care, they walk away. [...]. I spoke to her for a long time because I wanted to know what kind of person I am dealing with. And it came out it is because she is so overly concerned for the wellbeing of the children- which is why she decided to sign away her last baby. [...]. I have no doubt that she is going to look after that child now. [...]. But I just thought to myself, and I told the social worker I don't know if I can do this but I don't care! I am going to give her back her bloody child because I mean I can! (SAJO#1).

Contrasted with the story of Jacky (parent case#9) In Kenya, it is easy to see how a therapeutic approach might work. While Jacky is arrested for giving up her child, the young

mother above gets a second chance to raise her child. Advice and support towards the right process of giving up Jacky's parental rights might have prevented further suffering.

A pragmatic approach to the best interest of the child (BIC) principle

In chapter seven, I noted how SAJO#1 dealt with a matter in her court involving a teenager whose living arrangements with his brother had embroiled him in a criminal matter. Later during our interview, the judge referred to the case and expressed her frustration at how a colleague had handled the matter the first time it came to court prior to being transferred to her court for sentencing. In her view the teenager should not have stood trial in the first place given his tender age. Instead an alternative route to resolving his case should have been pursued at his first appearance in court. She advised the young man to change the course of his life by moving out of the brother's house and becoming more responsible. The magistrate explained her reasons for not issuing a harsh deterrent sentence.

In that moment that you put those fingerprints down (in the criminal record/database) he has got a ummh... [criminal record], he is marked! I don't know why they did not divert his case [...]. You can't give 19-year olds a criminal record on just one [...] petty crime- [...] a packet of "tik" or whatever (SAJO#1).

These excerpts show high sensitivity to the plight of children and how their involvement with either child welfare or the juvenile justice system could easily change their life trajectories in defining ways- often negatively. Taken together with SAJO#2's views, these examples suggest a higher propensity among South African judicial officers to rationalise the circumstances of individual children, their families, and make use of court proceedings to re-interpreting laws within the context of those they serve rather than confining themselves solely to the letter of the law and the circumscribed legal technicalities.

9.3: Comparing child protection services in Kenya and South Africa

This section discusses similarities and differences in the child welfare and child protection systems in Kenya and South Africa.

9.3.1: Similarities

Varying degrees of commitment to the BIC principle

The use of discretionary powers by judicial officers to resolve children's matters appears to be a common feature in both jurisdictions. Magistrates in both countries see BIC as a flexible tool to work with, which can enhance family-centred approaches to child protection. The interpretations were also informed and dominated by a child rights discourse which defines

the relationship between children and the state. State officers overwhelmingly referred to the best interest of the child principle as the basis for all their actions as far as children's welfare and statutory requirements dictated. It is not surprising because the BIC principle is quite explicit in both UNCRC and the ACRWC, both of which were important foundations in the development of the two countries' legal frameworks, especially the Children Act of 2001 (now the Children Act of 2022) in Kenya and the Children Act 2008 and the Child Justice Act of 2010 in South Africa. However, the unanimity with which the principle is invoked is not commensurate with unanimous interpretations and implementation. Moyo (2012) bemoans a narrow conceptualization of the BIC or paramountcy principle arguing that a narrow application "requires decision makers to religiously follow what the child needs or wants without reference to other competing interests" (p.143). In collective societies such as those in Sub-Saharan Africa, pursuit of a narrow approach to BIC may serve to disenfranchise children by diminishing the value of important social networks which are usually important in states with a weak welfare system. Other contextual, personal, cultural, professional, and even ideological factors influence the interpretation, leading to competing and sometimes contradictory outcomes. A useful example is when parents are prosecuted in order to force to become more responsible caregivers but such action ends up constraining their future opportunities. Another is where access to social grants is facilitated to meet the basic needs of a child but that also leads to family conflicts over its control, resulting in the inadequate care of the very child, yet children's officers did not see it as part of their mandate to mediate family conflicts.

Managerialism in social welfare: reliance on NGOs and contracted NPOs for service delivery

A degree of reliance on charitable organisations for service delivery in both countries is apparent. Referred to as Non-profit Organisations (NPOs) in South Africa, and Non-Governmental Organisations (NGOs) in Kenya, these organisations either subsumed government child protection efforts or complemented them in major ways. In South Africa, NPOs are subcontracted by the Department of Social Development (DSD) to provide a range of services in line with the Children Act of 2005. NPOs have annual targets that must be met and based on the assessed degree to which they met the targets, the next financial year's budgets are either secured or reduced if the performance was deemed unsatisfactory (NPO#1 Director, 2019). The arrangement of service provisioning through NPOs presents its own set of challenges, one of these being the quality of services that are offered on low budgets

(Van Niekerk and Matthias, 2019). Restricted budgets mean that NPO social workers work under very difficult circumstances. For instance, the NPO that hosted me during my fieldwork had only two organisational vehicles shared between eight social and auxiliary social workers, each of whom had a heavy caseload. On some occasions, those committed to their work would resort to walking or using public transport in order to perform their duties, despite the risks associated with this option. Khayelitsha is known to have a generally high crime rate and a low police coverage, making it a dangerous neighbourhood (Super, 2016). On numerous occasions, several of the NPO social workers had been robbed of their phones and valuables.

Tensions between DSD and NPOs are not uncommon, with disagreements arising from “NPO funding of child protection services, a lack of respect for NPO service providers, discrepancies between salaries and service benefits across DSD and the NPO sector, and lack of consultation between the sectors” (Van Niekerk and Matthias, 2019:243). It was therefore not surprising that many of these NPO social workers longed to move to DSD, the state department. In the meantime, some just got by and continued to work for the NPO to accumulate experience that would be valuable if they were to be considered for a DSD position. In the four months that I was based at the NPO, two of the social workers had applied for work and got appointments at DSD, which was cause for major delight. One expressed the move as the best thing that happened to her in a long time. She was happy that she no longer had to work under immense pressure with no resources to do what needed to be done for children. For instance, the NPO reports had to be typed from a central laptop shared between three departments. Alternatively, the case workers had to bring their own laptops to work even though they felt unsafe doing so because of the high possibility of being robbed. Most NPO social workers felt that working as social workers at DSD gave greater authority, greater access to resources that would enable them to deliver more effectively, and most importantly at a personal level, a better salary.

Within the private sector the practice of contracting third parties which is known as business outsourcing is exalted for maximising profits through efficiency which is achieved by dislocating high operational costs of production and delivery of services to others. However, to meet these demands the third-party undercuts workers’ salaries and benefits among other cost-cutting measures which are exploitative and create an undesirable working environment. Appreciating social services as a public good, outsourcing is problematic.

Keddell (2018) argues that the contracting of third parties for service delivery is a typical neoliberal agenda which seeks to reduce costs, enforce liberal ideals of individual responsibility, while allowing the state to only care for the most deserving poor rather than serving its citizens as a duty and obligation.

Commitment to kinship care and family-centred approaches in theory but practice is wanting

In both jurisdictions kinship and family preservation policies were invoked but support levels for related strategies betrayed the varying commitment levels by state officers and agents (contracted NPO workers). Availability of the foster care grant in South Africa is an important step in realising the family support articulations. However, its availability in a country with extremely high unemployment and income poverty rates seems to make fostering a high-stakes game. Through it, low income families can secure some regular income and this creates tensions among family members as the case studies in chapter 7 showed. On the other hand, with growing poverty in Kenya, fostering is increasingly seen as a burden, though the child protection system still insists that it works and should continue to support children. But with little state support for those who take up additional obligations to kin through the care of orphans, families counter this problem through charitable children's institutions (discussed in section 9.2.1). CCIs are seen as the better option for guaranteeing food and education to destitute children among the poor (Cheney and Ucembe, 2019; Chege and Ucembe, 2020). Seekings (2008) found evidence of weakening of the kinship care system. Citing studies done in Malawi, Lesotho and other Southern African countries, Seekings argues that there is growing evidence of limits to kinship care. In one study in Malawi, upon the death of a kin, some relatives were said to make spirited attempts to "divest themselves of guardianship of children" (p. 21). But despite weakening, it was found to be important (Seekings, 2008, Miseski, 2018), hence additional resources will be necessary to sustain it and social grants in adequate amounts can fill this gap effectively if combined with other non-monetary support services.

9.3.2 Differences between Kenya and South Africa

Firstly, there are clear distinctions regarding attitudes towards citizenship and social welfare policies in the two countries. The difference manifested through the established social protection policies and how families and children in need were treated by state officers when they sought services. Among both citizens and welfare workers in South Africa there

appears to be an embedded understanding of child and foster care grants as a right and thus there were high expectations on the state's obligation towards those in need. After Siyavuyo complained to DSD for not taking his children to school, the NPO social workers made a home visit and summoned him for *grossly neglecting his children*. Siyavuyo told the social worker that he had tried his best to care for the children since their mother abandoned them at his place but he is unable to make ends meet because he did not have a stable job. After a home visit and several interviews with the children as well as the neighbours, the social worker determined the matter was urgent because a medical report had established that the youngest child was undernourished and had a mild degree of intellectual impairment. In her report to court she stated that;

He (Siyavuyo) seems to care about his children and was worried about their condition but was unable to help them. He has tried his best without success” (NPO Social worker’s report, February, 2019).

The children were immediately placed in protective custody and within 90 days at the recommendation of the social worker the court ordered the children to be placed in a foster care arrangement with the father having visitation rights. The caseworker also facilitated the speedy application of a foster care grant which was by the end of April 2019.

Meanwhile in Kenya few citizens' harbour expectations of limited state support. Conversely, state officials tend to frown upon and discourage reliance on government. As reported earlier, one of the judicial officers bemoaned the '*serikali chukua*' (government take-over of the obligation) mentality. Citizens are expected to work and earn a living in order to care for their children. In one court case in 2012 a magistrate's court in Nakuru Town had convicted parents for neglecting their child and jailed both mother and father for three years. But a similar higher court seems to signal a gradual change in jurisprudence. In the neglect case (Criminal Appeal No. 96 of 2007) a mother was charged with neglecting her three children aged seven, three and seven months and sentenced to three years imprisonment by a lower court. On appeal, Judge Mohamed Khadhir Ibrahim of Eldoret High Court set aside the sentence and ordered the mother to be released. He argued that the lower court had erred in their sentencing and ruled that the problem was "social and required rehabilitation, counselling and family intervention. By the Sentence, the Children were deprived of their mother's rehabilitation and protection. The Courts should be humane and compassionate in such matters of parental responsibility. The Children's Act is supposed to support the family and not to punish them or the Children. (Kenya Law, 2008:1). The judge

further reiterated that the Children's Act 2001 is supposed to support families, not punish them or their children (Kenya Law Review, 2008). These cases reflect the wide-ranging attitudes towards claims to state social welfare in Kenya, as the levels of contradictory interpretation of the notion of rights and state obligations towards citizens as enshrined in the laws³¹.

A second difference that emerges is that of adversarial versus therapeutic approaches to child protection interventions. Evidence suggests a greater tendency towards parental prosecutions in Kenya, which takes an adversarial stance. On the other hand, in South Africa, the tendency was towards out-of-court family resolutions and therapeutic jurisprudence. This variance invites a curious question of what informs the choice of whether to effect parental arrest and prosecution or employ a therapeutic approach? Though the question is beyond this study, it nevertheless remains relevant and warrants answers through further empirical work. For now, it is safe to suggest that some answers may lie in the ideological foundations of child protection in each country. In South Africa constitutionalism is important for defining social rights and embedding them in policies. South Africa has one of the most progressive constitutions world over, hence it is not surprising that its social assistance programs are considered generous (see Seekings, 2008 on pensions). Though the Kenyan constitution of 2010 gives recognition to social rights, realisation is gradual and implicitly stated in the revised social protection policy. Perhaps it is this overall absence of definitive plans that emboldens most state officers' strong aversion for citizen expectations of state support. There was wide disavowal of parent's attitude of waiting for the government to do something for them (the *serikali saidia* attitude). Instead the often-voiced expectation was that parents must make an effort no matter how poor they are. Further discussions on constitutionalism are revisited in section 9.6 on social grants and child protection.

9.4 Examining the material wellbeing of children and their families

Conversations with research participants made it clear that poverty was mainly understood as inadequate incomes as well as failed or limited opportunities which limited parent's ability to secure their children's wellbeing. As a result, social workers in South Africa prioritised access to social assistance grants (mainly foster care and child support). Social

³¹ For case details see: <http://kenyalaw.org/caselaw/cases/view/53461/>

workers at the NPO spent an inordinate amount of time processing court documents to facilitate access to social assistance, or mediating family conflicts arising over the use and management of these grants. For mothers with child custody, access to grants also increased the risk of fathers absconding their parental obligations even when paternity was openly acknowledged (for example SA, Parent case#12). Participants reported incidents where mothers seeking child support from their children's fathers were rebuffed or negotiated with an understanding that the mothers were already recipients of a child support grant.

On the other hand, there was limited evidence at the NPO of attempts to provide additional support to caregivers struggling with behavioural difficulties associated with teenagers and adolescents. The NPO did not receive funding for these kinds of programs from DSD and had to rely on external funds to run such programs, which explains why they remained a low priority. This observation led to the conclusion that among social workers, vulnerability to child ill-being seems to be largely understood from an income poverty perspective, which is compounded by living in equally 'challenged' neighbourhoods like Khayelitsha where children are exposed to other vices such as drugs and crime. Whereas lip service is paid to family-strengthening efforts, there is little evidence of its implementation. This includes even children under state care, as foster parents complained about the lack of support from social workers once children were placed under care. In a few cases, the social worker may have developed a care plan but there was no evidence that this was followed up or collaboratively implemented with foster and safety parents.

Similarly, this understanding informed the state's response to extreme social-economic failures such as those created by Covid-19. At the height of the pandemic, the South African government augmented its repertoire of social grants. The Covid-19 Relief of Distress Grant of R350 per month for an initial six months and extended for a further six more was paid to unemployed individuals with no other social grant or unemployment benefits³². On the other hand, the Kenyan government did not offer any direct social grants nor increase amounts under existing grants. Rather, as part of its relief against the social economic effects of the pandemic, it suspended certain taxes and reclassified income levels so as to exempt a larger category of income earners from taxes. Unfortunately for South Africa there is a lot of emphasis on income via grants to meet children's needs and less on expanding livelihood

³² <https://www.dsd.gov.za/index.php/latest-news/21-latest-news/433-social-development-publishes-the-regulations-for-the-covid-19-social-relief-of-distress-srd-grant-of-r350>

opportunities, skills and capabilities. Without other opportunities for caregivers, contestations over who may access grants have the potential to limit the quality of child care provided, with likely adverse consequences for the child's subjective and relational wellbeing. These contests severely test and strain familial relations as Afiziwe's case showed. Whereas this may be interpreted as concern for one's relative (kinship care) it cannot be disputed that many fights over child custody are motivated by the monetary benefits, as four of the South Africa cases discussed in Chapter 7 show.

This need to facilitate access to social assistance in order to mitigate monetary poverty seems to overshadow the need to intervene in other aspects of the family, which jointly with deprivation affect children's wellbeing. The finding has resonance with the study by Lloyd-Sherlock and Agrawal (2014) on the likely effect of pensions (mostly non-contributory) on the health of the elderly in South Africa. Although targeting a different population group and utilising different methodological approaches, this particular study nevertheless appears relevant to my study finding. Lloyd-Sherlock and Agrawal, (2014) utilised large survey data and concluded that although generally there is an association between access to old age pensions and improved health outcomes among older persons, this did not appear to be the case in South Africa. Despite a large proportion of elderly Black South Africans accessing social pension, their levels of awareness about health matters and utilisation of health services remained extremely low, which undermines one of the expected effects of social pension. The authors lament that "the South African government is good at giving older people money, but is not good at keeping them alive or in good health. This unbalanced approach to social protection undermines the potential benefits of a generous pension scheme for older people's wellbeing" (p.1583). The study concluded that there was a need to take an integrated approach to social protection in order to bolster the overall benefits of social grants. Such an approach they argue "recognises the potential benefits of giving poor people cash are potentially undermined unless this is part of a wider set of interventions" (Lloyd-Sherlock and Agrawal, 2014:1583). Others like Conradie (2013) argue that the old people's pension remains critical in many poor households in Khayelitsha precisely because it meets the needs of the entire family. This means that while diluting its impact on the lives of the elderly, it serves as a lifeline across generations.

Following similar arguments for an integrated approach by Sherlock and Agrawal (2014), the child support and foster care grant recipients caring for children and more so the grandparents could benefit from effective parenting programs that provide useful

communication, alternative discipline and negotiation skills to help them deal with modern-day challenges that young people face. Such challenges are points at which cash-plus programs (Roelen *et al.* 2017; Little *et al.* 2021) might have greater multiplier effects.

It is useful to make a distinction here between the perceptions and attitudes expressed by social workers compared to those of judicial officers on the same matter of material poverty and the family circumstances. While all acknowledge poverty as a big contributor to child vulnerability, the judicial officers also made a lot of reference to the social and cultural context in which children were growing up in poor neighbourhoods in South Africa. SA JO#2 in particular saw vast differences in the way the social care and support networks of Black South Africans had changed as a result of the apartheid policy as well as due to HIV/AIDs which ravaged Black South Africans much more than the other racial groups. This historical context explains why there was a high number of grandmothers caring for children in Khayelitsha as noted by the study. Similarly, as explained by the senior judge, grandmothers played an equally important child caring role in the coloured community but for a different reason. In their case the judicial officer's experience was that neglect and abuse of children is directly associated with high rates of alcohol, drugs and substance abuse leading to early death and high rates of child neglect and violence, thus requiring child welfare interventions. Myers *et al.* (2013) reported racialized and high rates of alcohol and drug use among vulnerable Black African and coloured women, which carried sexual risks for HIV infection and unplanned pregnancies among other problems. The judicial officers thus appreciate the mediation mechanisms put in place by the courts and the availability of drug testing and rehabilitation programs that caregivers can be ordered to undergo before child custody can be reinstated. They emphasise therapeutic jurisprudence and putting in place mechanisms that better support parents so that they can do better for their children. A judge indicated that she rebuked a social worker who required perfect conditions in order for a child who had been removed from home to be reunited with her biological parents who were refugees and hence their capacity to obtain a higher standard of living was limited.

9.4.1 Social grants as a means for securing material wellbeing

Income poverty impacts on parent's ability to meet the material needs of their children and hence, access to social grants has implications for the wellbeing of children and their families. In South Africa social grants represent an important source of income for households (Seekings, 2008; Patel *et al.*, 2019). Participants linked foster and child support grants to material and subjective wellbeing. Where social grants were available, relatives

expressed relief that they eased pressure on household income and made a difference in meeting the basic needs of the child as well as other members in the household. They felt that this allowed them to better care for vulnerable children in their families rather than have them being raised by strangers. Equally, three judicial officers (two in South Africa and one in Kenya) also noted how grants can make a difference in the decisions they make regarding care orders in children's matters before them. On her part, the judge in Kenya expressed frustration at the lack of such grants, which leaves her with limited options. Whereas she would prefer to place children in need of alternative care with relatives for stability, sometimes the willing relatives are not the most economically stable, as one of the cases illustrate. This experience suggests that reluctance to take on an additional economic burden on behalf of a relative forces judges in Kenya to institutionalise children. In South Africa, the judges felt that having grants gave them some assurance that the child would be better cared for, albeit without full assurance that in all cases the foster parent or caregiver used the grants entirely for the right purpose- that of meeting the child's needs.

Unfortunately, there were cases that illustrate the fact that the grants fostered in-fighting and family wrangles. Conflicts were noted between adults competing for the right to foster children, as well as between children and their caregivers. In some instances, children wanted greater control of the funds or that a larger part of the funds be used to meet their more direct and preferred needs such as the purchase of certain brands of shoes and clothing. Studying old people's relational wellbeing and social grants in Bolivia, Wood (2016:168) found that "*Renta Dignidad* could harm social relations if the money itself becomes a cause of dispute, but it could also improve them by relieving the pressures of poverty which could otherwise cause arguments". Grants have therefore proved to be a double-edged sword. However, this challenge should not detract from their overall value in resource poor households. If and where social rights are guaranteed within the constitution citizens can make claims on the state to meet their obligations

The basis for social welfare is the social contract between the state and its citizens (Devereux 2014). Under Chapter two of the Bill of Rights, the 1996 South African constitution guarantees a wide range of rights including social security, housing (Section 26) and other social and public services are guaranteed in the constitution in the 1996 SA (Section 27). Since 1994 subsequent ANC regimes have made efforts to deliver this promise, with constant pressure from the citizens to do more to reduce poverty and inequality. One of the judicial officers (SAJO#2) talked about the association between child neglect and lack of

vital services such as schools and other important amenities. She then argues that a parent accused of neglect could argue before the court that their inability to enrol their child in school is the result of insufficient education in her neighbourhood. She countenanced such an idea where constitutional mandates can be enforced through court processes that invoke constitutional rights. In such a context prosecuting a parent for not taking a child to school for example could be a reflection of the extent of state neglect, especially where such a parental failure is the result of poor state planning for education facilities in low-income neighbourhoods. The senior judge pointed out that the rights are justiciable- meaning that a citizen could sue the Western Cape Department of Education because there are hundreds of children who should be in school and who are not.

So because it comes under our radar and we have a lot of power as magistrates, we put huge pressure on the Department of Education to get the child back into school. So that's just a fringe benefit of bringing the children to court (SAJO#2).

Kenya's bill of rights also includes social and economic rights and was to a high degree influenced by the South African one. However, the implementation of these rights is at variance. The difference is likely to be in the fact that South Africa put together programs with timeframes for the delivery of some of the key services, which Kenya has not. But also, the fact that Kenya's social protection mechanisms have no legal basis/support but are based on administrative measures, some of them simply exist only at pilot project level. When rights are not encoded in law, there is weak accountability and no guarantee of sustainability.

9.5 The relational wellbeing of children involved with child welfare

Children's relationships with biological parents, other primary caregivers, siblings, and members of their extended family- especially grandparents- seem to matter a great deal for their happiness. Healthy relationships are also a function of strong bonds developing between children and their caregivers over time, but for that to occur the caregivers must be mentally, socially, and emotionally stable. This section will examine the nature of relationships that exist between children and their guardians which are contrasted to the various caregivers' perceptions, in order to show what matters for children's relational being when child welfare services are involved. The kinds of decisions and actions taken by social workers and child protection officers are likely to enhance or further curtail children's wellbeing. So too the kinds of social networks caregivers and parents can draw on in times of adversity. Hence the various social networks that parents and caregivers discussed in their personal narratives are also examined.

Family bonds between children and their parents/caregivers

No matter the circumstances that children grow up in, they still value the love, care, support and presence of their parents. Circumstances such as death, divorce and separation, or removal from home for various reasons deprive children of parental love and nurturing. Personal narratives and experiences of children in this study demonstrate that children attach a lot of value to parental love, emotional connection, and parents' availability and involvement in their lives. However, the nature and strength of family relationships determined the quality of care provided to children identified as vulnerable. Useful examples from the study included Nomzamo's (child case#1) selfless commitment towards the care of her siblings; Lelethu's young Aunt Fundiswa (SA Childcase#2); Charlotte the aunt to the October siblings (SA Childcase#4). After their parents passed away their relatives (grandparents or aunts) took over the care and where they could not do it for long, they passed the responsibility over to other caring or willing relatives.

Thompson (2014:1917) points out that relationships are important for mediating how a child experiences the world as well as their overall understanding of the world. Thompson elaborates on the numerous relational functions that the family plays in ensuring children's wellbeing. Some of the more important ones include first an appreciation that it is from the family that a child first learns important values, develops a sense of acceptance, love, solidarity, security, sense of emotional competencies, the value of friendship and care for others as examples. The values learnt within the family influence future external social interactions of the child. Secondly, socialisation by doing- through shared duties and responsibilities within the household nurtures a sense of duty towards self, others and country, and especially for inculcating a sense of mutuality (Thompson, 2014). In line with this, the 'chore-curriculum' (Lancy, 2012, cited in Serpell and Adamson-Holley, 2017) in Africa is important for socialization and preparing the child for the future. The chore-curriculum is a concept that describes the importance that most African societies attach to the socialisation of children into responsible adults through and the performance of tasks alongside adults from whom they learn important skills and societal values. In addition, social networks that also include neighbourhoods foster positive relationships while others do not. Where people are friendly, and trusting, people are likely to experience acceptance and feel secure than where this is lacking.

In support of the strong role of family and social ties, an extensive review of literature on family resilience-strengthening programs by Isaacs, Roman, and Savahl (2018) showed that the structure of the family is not as important as the security it provides. They noted that “the quality of family relationships regardless of family structure, more strongly predicted adjustment and wellbeing” (p.2). In addition, the review also found that that families with higher levels of social networks and connectedness showed greater resilience during adversities (ibid).

In the case of Mercy (KEN, Parent case#5), the neighbourhood she was raising her children exposed them to drugs at a very early age, and encouraged by rejection by maternal relatives, the older boy though only 10 years, seems to have found consolation in drugs and street life. Similarly, a lack of acceptance, and uncertainties around one’s parentage-and especially not knowing one’s biological parents seems to create an identity crisis for children as the case of truancy by Mercy’s firstborn son illustrates. This was perhaps more the case among boys than girls as the cases of Omwenga and Mogaka showed. The former desired to know his mother and while the latter was growing up without a father. These two boys were among the three children who played truant and ended up in the remand home in Kenya. They traced their problems to their demands that their present caregivers reveal the identity of their biological mother or father.

Besides intra-family connections, the family’s connection with the broader society matters (Thompson, 2014). Of essence are connections between children, their families and the state through social welfare services. Consequently, how child protection interventions impact on children's relational wellbeing. In the WeD framework the state is theorised as both an agent and a structure. As an agent, it is a site on which the global arena acts, imposing social-economic, political and cultural practices of the more powerful imperial powers. At the same time, the state is a structure in and of itself (McGregor, 2007) which exercises its authoritarian capacity and ambitions for nationhood on its citizens in order to govern and achieve its aspirations as a nation-state. This social engineering by the state as structure (Scott, 1998) through social policy shapes the nation’s vision and goals. Towards these goals, it is ensuring that children, childhood and young people are the most greatly targeted and governed segment of the population. This understanding relationships between children, parents and the state in terms of realising children’s well or ill-being as a result of state policies of child welfare and protection. At a macro level, the analysis focused on the role of the state in creating an environment for families to realise their aspirations through current

child welfare policies and programs implemented by state agents who might include social workers, child protection officers and NGOs who implement social programs either on behalf of the state or supplement state efforts where state social programs are limited. Nature and extent (coverage) of state programs were examined to understand the ideological persuasions that underpin child protection and social welfare in general, as well effects of each on families affected by violence and poverty. The importance of the relationship between children and the state mediated by social welfare are discussed in detail in the section on social grants and child protection.

9.6 Subjective evaluations of quality of life

Since well-being is realised in the process of interactions with others, relationships matter for both overall wellbeing as well as the subjective domain specifically. Feeling unloved, unwanted, or disconnected from important familial relationships was cited as a factor that contributed to general dissatisfaction with life. Most of the children attributed strong feelings of satisfaction, security, and belonging to having caring and loving parents, siblings, a stable family, and close relatives such as aunts and grandparents. Some of the children that were playing truant cited their feelings of being unloved, not having someone to talk to when in trouble or feeling overwhelmed, or needing to escape physical violence and cruelty at home. This was the case for Anovuyo (Child case#3, SA), the 16-year-old teenager whose mother died while she was at the tender age of four. Her father remarried, and severed connections with her by moving to Mpumalanga. Years later as a teenager Anovuyo discovered the whereabouts of her half-sister and father and was excited to reconnect with them, though her excitement soon turned to bitterness when she realised the father was not keen on nurturing the father-daughter relationship especially because Anovuyo expected his financial support. She explained that his first priority was to his current family in Mpumalanga. Anovuyo lamented that the relationship was weak “I wouldn’t say we are in contact at the moment, not really- there are some family issues there. So, I just keep my distance” (Child Case#3, SA). The issues that Anovuyo alludes to relate to her feelings of being let down by a lot of adults in her life particularly the uncle who became abusive, forcing her to be placed in alternative care, and her biological father who had promised to help her but reneged on his promise. Anovuyo has contemplated suing the father for abdicating his responsibility but is unsure how helpful that course of action might be in the end.

I want to sue my dad for child support and they [social workers] were like no! you are a child [...]. It doesn't look like my dad is going to do anything anytime soon. So I just want to let him be. But I'm still gonna look for child support because I need his money-a lot! [...]. I don't like the fact that I can't come to a decision. Because I want to come to a decision to rule (decide) that okay, this is how I feel and this is the way forward. But then at some point there is the thing that comes and I'm like 'oh Anovuyo but then he's your dad'. But the other side is like, yeah, he's your dad and where is he now? So sometimes you just have to toughen up and man-up and face the facts! (Anovuyo, SA childcase#3).

Anovuyo's crisis represents the kind of distress and anxiety lack of parental concern and guidance causes children when faced with difficult situations that impact their lives. Without help from the only surviving parent-(though only recently discovered), Anovuyo felt that her life chances had shrunk considerably as she explained;

I'll say like where I'm standing now, like right now there's no going back. There's nothing coz I've no one to go back to. So, everything I do is to be of my own benefit. I don't have time and at this stage, I don't have time to play games coz my sister is pursuing her career in Pretoria, my dad's living his life, and my cousin is with his father being supported and stuff. So the only way I will get out of my situation is if I force through and make sure that I'm successful because at the end of the day this is a children's centre. I cannot be here at the age of 18-like after eighteen. So at 18, I'm doing my matric, and after that, I find a way. I must start finding the way now. I wanna be independent now. I don't know why, but I feel self-conscious if I want something from an adult. And then it's also intimidating (Anovuyo, SA childcase#3).

The situation was acute because she was living in a children's home and was very aware that in two years' time, she needed to have a clear plan or else her life would be doomed. For now, her life-line is the placement with Sis Phumza as her safety parent by DSD up to age 18, after which she will be on her own. She remains uncertain about how the future will look, or how the transition to adulthood will unfold. This anxiety and accompanying life crisis is not uncommon among formal care leavers (Cheney and Ucembe, 2019) who have to grapple with the arbitrary cut-off age which ushers them into uncertain adulthood without parents.

On the other hand, parents linked their subjective well-being firstly to their ability to meet the family's basic needs and more so those of their children. Secondly, subjective wellbeing was intimately tied to how secure parents felt in marriage and intimate relationships- which also translated into their children's security and wellbeing. Several of the mothers reflect high levels of insecurity which they attributed to growing up in polygamous families (for example Mercy), being in polygamous marriages (in the case of Dorothy), or unstable/dysfunctional marital relationships (in the case of Nanjala and Adiema). For

married women specifically, having children was considered the ultimate marker of acceptance over and above having had their dowry paid. In African societies, children secure marriages and guarantee a place for their mothers' in the marital home and family. To underscore this point, John Mbiti, a renowned scholar of African religion and philosophy states that;

Marriage and procreation are a unity; without procreation marriage is incomplete. [...] It is a religious obligation by means of which the individual contributes the seeds of life towards man's struggle against the loss of original immortality. [...] A person who, therefore, has no descendants in effect quenches the fire of life, and becomes forever dead since his line of physical continuation is blocked if he does not get married and bear children (Mbiti, 1969:133).

Bearing children is thus an obligation that most African men take very seriously, and for that reason, married women are under immense pressure to facilitate their partners' fulfilment of this sacrosanct duty. Men whose wives are barren are encouraged by their parents or clan elders to marry a second wife or take a concubine for that purpose, further destabilising the first or legally married wife (Mbiti, 1969). Besides child bearing, further security and belonging is assured when there is a permanent homestead designated as the marital home. This is assured by a husband building a house for his legitimate wife or partner which women interpret to mean permanency, acceptance and connection to the matrimonial clan/family and relations. Such a home is most valuable if built on family or ancestral land. Such a home holds a lot of value in particular for the second wife in polygamous marriages since it is the second wife who might stand to lose the most if the union was not known to the elders before the death of her husband.

Unfortunately, Children officers do not consider it their duty to help families deal with the underlying issues that lead to neglect or emotional abuse of children. A strong disavowal for such a broadening of their mandate was expressed by one county coordinator of children's services who explained that;

If the parents cannot agree then we advise that they go to court. [...]. But our role is to keep the child safe and counsel the child, counsel the parents and then also let other arms of government do their work" (CO#3, June 2018).

Children officers in Kenya do not necessarily have a counselling psychology background since recruits are drawn from a wide range of social science and humanities disciplines, including education, social work, sociology, and political science and even procurement. This gap might influence officers' commitment and capacity to deal with deeper family

issues. This is significant as several of the case histories point to complex family relationships as an important factor in the causation or sustained neglect and abuse of children. For instance, despite the complexity of issues that Adiema had to contend with, social workers at the charitable children's home where Adiema's youngest child Carlton was temporarily placed for safety felt strongly that Adiema was a reckless and unfit mother. They did not consider or recommend interventions that would help Adiema deal with the difficult marriage and poor relationship with her in-laws. Adiema believed her in-laws had rejected her, which is why the husband was reluctant to finalise dowry payment and the related customary marriage rites that would reaffirm her position and legitimise her marriage. Having ruled out separation or divorce after 18 years of marriage, Adiema chose the "*vumilia*" (persevere) option, which one judicial officer (KENJO#2) insists is problematic for many Kenyan women, and it increases risks for children. Unfortunately, it would seem that Adiema's perseverance grew gradually and was severely tested as she grew older and desperate. She worried about her own security as well as her children's future in a precarious family relationship context.

9.7 Chapter conclusion

The study concludes that whereas material deprivation seems to be a major threat to children's wellbeing, it was also apparent that a combination of material poverty with deficiencies in relational and subjective factors exacerbates wellbeing failures among children from low-income families. Unfortunately, among many protection workers this intersectionality of factors does not seem to be sufficiently recognised and poorly addressed (if at all). In the case of Kenya, the study found that the actors focused a lot more on fulfilling the legal requirements stated in the laws and child protection protocols, and which they also tended to interpret very narrowly- with the exception of judicial officers. The narrow interpretation tended to blame parents for not doing enough to protect their children from harm. At the same time officers had a narrow view of social grants with many insisting that grants need to be limited to avoid dependence and laziness among the poor who should work in order to meet the basic needs.

In the case of South Africa, social workers appear keen to fulfil the primary duty of facilitating access to much-needed social assistance grants. As a result, there were limited efforts to follow-up families and provide any additional non-financial and family-centred support. This finding suggests the need for combining antipoverty (income) measures with

social services in interventions targeting children affected by poverty as well as violence and neglect, calling for transformative social protection. More attention and consideration should be given to the complexity of familial violence, neglect and poverty and how child protection efforts could mitigate this multi-layered issue. This is not to advocate for a single-issue focus but rather to argue that social protection needs to be widened and fully integrated into social services in order to confront most of the modern-day challenges confronting families. Cash alone or cash plus a few services does not resolve the problem.



CHAPTER 10: CONCLUSIONS AND RECOMMENDATIONS

10.0 Introduction

This chapter ties the evidence and discussions together by summarising the key findings of the study in order to demonstrate the extent to which the research questions have been addressed. This is followed by a set of recommendations focusing on policy implications and areas for further research. The chapter is organised into five sections. The first section summarises the findings and their implications for child protection and welfare policy and practice in a developing country context. The second section discusses the study's limitations with the aim of delimiting the extent to which interpretations of the findings can be generalised. The third part expounds on the main contributions of this study, while the fourth discusses recommendations, and suggests areas for further research work. The chapter closes with a final summary which concludes the study.

10.1 Summary of the key findings of the study

The study addressed two broad objectives. Firstly, it aimed to critically examine how child protection interventions framed within the discourse of 'the best interest of the child' influence poor families' experiences of child protection services along with their intended and unintended consequences on their wellbeing. Secondly it explored the relevance of social assistance grants in influencing the outcomes of child protection interventions for children and families with a history of child maltreatment. Both the consequences and outcomes were understood in terms of material (objective), subjective, and relational wellbeing of children and families that were involved with child welfare in Kenya and South Africa.

The following research questions (RQ) were addressed by the two objectives:

RQ1: *In pursuing the best interest of the child, how does the child protection system respond to child abuse (with the exception of sexual abuse) when it involves parents or other primary caregivers as 'perpetrators'?*

RQ.2 *In carrying out child protection work, how do social workers and child protection officers frame child abuse in both Kenya and South Africa?*

RQ3: *How do children and families with a history of child abuse experience the child protection system in Kenya and South Africa?*

RQ4: *How do the available social assistance schemes address child abuse?*

RQ5: *What changes might be required to make social grants more responsive to children and families affected by child abuse?*

10.1.1 Key Findings

Based on extensive data collection and analysis, the study generated four interrelated findings. These are summarised below and then evaluated to demonstrate the extent to which the findings answer the five questions. Hence, the ultimate aim of this section is to offer concise answers to each of the research questions.

1. The fluid nature of the best interest principle

There are important similarities as well as distinct differences between the experiences of families seeking child protection and welfare services in Kenya and South Africa. To start with, there is a general commitment to realise the best interest of the child (BIC) in both jurisdictions. This core principle is inscribed in the child laws and the constitutions of both jurisdictions. All the child welfare related legislations are extensively informed by the United Nations Convention on the Rights of the Child (UNCRC) and to some degree by the African Charter on the Rights and Welfare of the Child (ACRWC). Moreover, in their actions, discourse and reports all the frontline workers interviewed (namely social workers, children officers, probation and aftercare workers, and judicial officers) invoked the paramountcy of the BIC principle as the main basis for all their actions. In practice though, this study found that interpretations of the BIC principle and the law in general was quite subjective. The most obvious variance in interpretation was noted between judicial officers in both jurisdictions and the other state officers, with the widest divergence being noted between judicial officers and children officers in Kenya.

In both Kenya and South Africa magistrates and judges agreed on the paramountcy of the BIC principle and took a pragmatic approach to their reading of the legal texts as well as the application of its core principles. All the four judicial officers emphasised the importance of a contextualised interpretation that takes account of each child and family's circumstances. They offered some personal examples of how that subjectivity was applied in specific cases involving children. Some of these exceptional cases were informed by the extreme deprivation of the caregivers, drug-related parental behaviours, threats to children's safety due to threats by criminal gangs, or young people's involvement in gangsterism.

2. Insistence on kinship care despite growing multidimensional poverty and rapidly changing African family structures.

Many of the families living in informal settlements in Kenya and South Africa cited income poverty as an important reason for inadequate child care, or inability to meet their children's needs. This pervasive income poverty manifested in various forms, but the most common was precarious employment and livelihood opportunities. Subsequently, the lack of income meant that caregivers could not provide food, education and other basic needs including the payment of penalties for late registration of births or enrolment of children in school. In South Africa, grants were found to be the main policy response to economic deprivation among caregivers. Social workers facilitated SASSA registration, preparation of social enquiry reports for courts to appoint foster parents, the acquisition of birth certificates to enable access to child support grants, or resolving child custody and maintenance complaints in order to determine caregivers' rights to access foster care grants. The study found that social workers dealing with statutory matters spent significant proportions of their time completing applications and facilitating access to grants for their clients. The facilitation included writing letters to SASSA for parents to access child support grants, advising parents on the documents needed to access social grants, making reports to court to recommend the appointment of foster parents or approval for the already legally appointed foster parents to access grants. In Kenya on the other hand, there was great ambivalence shown by state officers on the role of social grants in mitigating child protection particularly where the parents were alive and hence the children were not orphans. Instead it was often assumed that parents were lazy or not doing enough to address whatever social and economic challenges they faced. Consequently, officers in Kenya were more likely to employ punitive approaches.

The standard practice in child protection is to identify relatives who are willing to care for their kin's children if their parents become incapable for whatever reasons. While kinship care ensures that children are not separated from their relatives, growing poverty makes some potential caregivers retreat from kinship care obligations. Where foster care grants were available (for instance in South Africa), there was more willingness to take on care responsibilities, although it was not always for altruistic reasons. Rather, access to grants as a guaranteed source of income was a driving force which elicited controversies over the custody of some of the children without parental care.

This study has demonstrated that such contestations over grants can compromise the relational and subjective wellbeing of the children involved. Children become pawns in family conflicts which are high stakes struggles for the control of limited state resources. The contests are clear evidence of the limited livelihood opportunities in South Africa. The implications are that in spite of the strength of family ties in many parts of Africa, the impoverishment of large sections of society compromise the ability of extended families to meet the needs of their most vulnerable. Where state social protection guarantees are also absent or limited, people become dependent on informal social support networks to meet their needs, which might also put them at the risk of exploitation through client-patron relations. Noting this threat, Wood and Gough (2006) argue for de-clientelization of welfare support. By this they mean the process of moving from high dependency on exploitative informal personal networks and social capital for livelihood and welfare among vulnerable groups towards state-mediated social provisioning and regulation of markets which would ensure equity and social security for the most vulnerable citizens in developing countries. This conclusion is consistent with the study findings to the extent that they propound the need for state-funded entitlement guarantees that expand opportunities for the most vulnerable, and hence, they have application for countries such as Kenya and South Africa.

3. Prosecution of parents versus therapeutic jurisprudence

As noted above, an underlying factor in most of the maltreatment cases was poverty and the lack of appropriate opportunities for caregivers to adequately meet the needs of their children. Whereas this is not a new finding, what was surprising was the dissonance between an acknowledgement of poverty and how the challenge of child neglect associated with material deprivation was resolved. The study found that articulated commitments to family preservation were not adequately matched with appropriate funding of programs to support family reintegration, limit separations and enhance rehabilitation of parents struggling with mental health, alcohol and drug addiction or dysfunctional relationships which impact on the quality of care parents give to their children. Families need resilience building programs to survive hardships. These require a combination of both cash and non-cash strategies.

In Kenya, the prosecution of neglectful parents was notable, while in contrast such an approach was generally frowned upon in South Africa. Instead, the idea of therapeutic jurisprudence was advanced by judicial officers in South Africa in an effort to promote family preservation, though this idea is still in its infancy. All the same, this seems to be an

innovative and supportive response which should be adopted in both jurisdictions. However, more research will be required to build evidence supporting its viability.

4. Dislocation of social reproduction costs through managerialism and over-reliance on charitable institutions

The importance of NPOs and NGOs in social welfare provisioning in both countries was apparent. Gough and Wood (2004) and Wood and Gough (2006) argue that the community is a fourth player in welfare provisioning in contrast and as a critique to Esping-Andersen's three welfare regimes which theorise western welfare arrangements based on the state, market and the household. The informality of markets and reduced state spending on welfare has allowed community-based institutions to fill a gap in social welfare investments. Included in the community institutions are clans, kin, CBOs, and NPOs/NGOs. Despite these institutions filling an important gap, the expectation is that there would be progressively greater state investments with NGOs/NPOs complementing but not replacing the state in the fulfilment of its social contract to citizens.

The extensive and long-term involvement of charitable organisations in social welfare in developing countries is a colonial approach which absolved the state of the responsibility of caring for the most vulnerable in society, and allowed it to invest minimally in social welfare. In light of growing poverty, this approach is anachronistic with the realities of vulnerability that most families face now. In contrast though, the idea of children's rights is strongly advanced in many developing countries that have ratified most of the international conventions. In line with the articulated normative standards, states ought to match commitments towards children rights with policies and resource investments that address structural causes of vulnerability which compromise child care and the realisation of their rights. Historical child welfare structures rooted in colonial policies of exclusion and minimalist social spending are some of the areas that need a closer examination and transformation. This conclusion resonates with growing calls to decolonize child protection and generally childhoods in developing countries by multiple authors (Balagopalan, 2019a and 2019b; Fay, 2019; Liebel, 2020; Abebe, *et al.*, 2022). As well, one of the outcomes of this study was a publication that also makes similar calls based on a close analysis of children's experiences of the child protection services in Kenya (see Nyamu and Wamahiu, 2022).

10.1.2 Answering the research questions

RQ1: In pursuing the best interest of the child, how does the child protection system respond to child abuse (with exception of sexual abuse) when it involves parents or other primary caregivers as ‘perpetrators’?

The study found that although invoking the best interest of the child principle was ubiquitous among frontline child protection workers and judicial officers, the concept was extremely fluid, and multiple interpretations resulted in diverse outcomes depending on the interpreter’s own understanding, professional experience, attitudes, personal experience, as well as culture. In South Africa where the constitution is explicit about social justice and welfare rights, adversities are understood to be the result of historical injustice and exclusion. For that reason, there was less focus on prosecution. Rather, the officers concerned focused on social grants and placement of children in foster care as the main way of addressing the practical and immediate needs resulting from material deprivation. In Kenya, the focus was more on the enforcement of parental rights and obligations, with warnings to parents. In cases of extreme neglect, or in dealing with repeat offenders, prosecution was the preferred way to discipline the ‘errant’ parent.

RQ.2 In carrying out child protection work, how do social workers and child protection officers frame child abuse in both Kenya and South Africa?

The study found that in both jurisdictions legal frameworks provided the basis for defining abuse and also prescribed the modes of treatment of the problem. However, historical experiences and traditional approaches to dealing with some of the juvenile problems seem to have been maintained, and these no doubt influence how state officers frame abuse. Because of this some of the interpretations of abuse appear to be adopted without a serious critical engagement with the concepts. The study noted the absence of a questioning attitude for maintaining some practices. For example, in Kenya even though the law distinguishes between children involved in criminal activities (juvenile justice) and those in need of care and protection, in practice, the placement of children in state funded alternative care institutions, the two groups tend to be lumped together.

In Kenya, the colonial administration treated both the remand homes and approved schools as centres for the management of juvenile delinquents who needed firm discipline. Violence, harsh treatment and hard manual labour in these institutions’ farms was used to elicit self-regulating discipline and compliance rather than for rehabilitative purposes (Ocobock, 2006;

Nyamu and Wamahiu, 2022). It is not surprising that for a long time all the state juvenile centres facilities were colloquially referred to as ‘*wamumu*’ which is a Kikuyu word meaning the difficult or stubborn one. Remnants of the colonial attitude about the need for strict discipline were noted among some of the parents struggling with indiscipline and delinquency by their teenage children as well as some children officers.

On the other hand, in South Africa the interpretation of abuse is read mainly from a material poverty perspective and the immediate and easy solution is to ensure access to grants. While this is an essential strategy, it leaves a lot to be desired in terms of building the long-term capacity of parents to cope. In addition, sustainability is also a concern. Given that the grant amounts are limited, expansion of strategies to save and invest grant income in business is needed. An entrepreneurial component to social grants could have wider economic empowerment outcomes and overcome the apartheid legacy of restricting business opportunities among non-white populations.

RQ3: How do children and families with a history of child abuse experience the child protection system in Kenya and South Africa?

There were mixed feelings among both children and parents regarding their experiences with the child welfare and child protection systems. There are those who felt the system treated them and actually accorded them the kind of support they needed in order to resolve the personal adversities they faced. In Kenya for example, despite being prosecuted and having to serve the maximum non-custodial sentences under the supervision of Probation and Aftercare officers, three parents- Angela, Adiema and Ivy (Ken Parent case# 1,2 and 3 respectively) said that being prosecuted helped them to reform and they now felt they were better parents, able to care for their children. Notably, all three of the above had been linked to an NGO which provided them additional support either in the form of cash transfers to start a small business, nutritional supplements and temporary accommodation for their children, or extended counselling services. On the other hand, while parents like Mercy (Parent case#5) and Eva (case#8) equally appreciated the counselling support provided by their respective probation officers, they nevertheless felt they did not get as much of the most needed form of assistance to fully resolve their problems. In both cases they linked their adversities to limited economic opportunities and poor relationships with family members or a spouse, which caused them great mental distress. Where underlying causes are not fully addressed parents tended to be generally dissatisfied or disappointed with the services.

Among South African parents a similar situation of mixed feelings about state responses to child protection concerns prevailed. Levels of satisfaction seemed to depend a lot on the type of service or support that each parent expected. For parents seeking support with applications for foster and child care grants, there was great satisfaction since the application process tended to be straightforward where the documents needed were available and there were contestations round custody of the children for whom the grants were needed. This was the case for Fani the 87-year-old grandmother (SA parentcase#3) whose foster care application went through after cancellation from the daughter-in. Similarly, in the end Yanga (SA Parent Case#5) was quite happy with the social worker's handling of his case as she was able to get the twins' mother and maternal grandmother to agree to custody of the twins as long as Yanga was able to provide whatever financial support, he could get given his unstable employment situation. Yanga had implored the social worker to either find a way to reunify his twins with their mother and if that was not possible then, to temporarily place them in foster care to allow him time to look for employment, which had proved hard for him as a single and unemployed father caring for his two children singlehandedly.

On the other hand, parents like Constance (SA Parent Case#7) was quite unhappy with the support she got from DSD social workers. When she was completely unable to meet her grandchildren's basic needs, she had approached DSD for help. The social worker gave her three months to get herself organized financially and when that time was up she was unwilling to give Constance any extensions. Constance was so desperate such that she was willing to separate her grandchildren so that each could be cared by their paternal families. For the youngest where the paternal family was unavailable, she begged Sis Phumza to place him in her children's home as a safety parent. Given this experiences Constance had felt that DSD social workers were insensitive and should be more understanding and caring about the situation of parents from poor families. Another unhappy parent was the 60-year-old Isipho (SA parent case#6). She experienced protracted delays in the placement of her orphaned grand-nephew who was abusing drugs. After severally seeking help from DSD to have him placed at a Children and Youth Care Centre (CYCC) without success, she finally relocated the child to her rural home in Eastern Cape and enlisted the help of her brothers to discipline, mentor and prevent the boy from returning to the city until he had reformed. Equally unhappy was Sizamkele (SA Parent case#11) whose daughter had dropped out of school at 16 years due to lack of proper documentation for both her birth and school registration. Although her case was more complicated and required more than DSD, the

parent had banked high hopes of getting help on DSD and when this did not happen, she was quite unhappy.

In all cases, children attributed strong feelings of satisfaction, security, and belonging to having caring and loving parents or caregivers, siblings, a stable family, or close relatives such as aunties and grandparents. Hence, children's experiences varied widely depending on the primary reason they had got involved with child welfare and protective services. In either case, it was clear that relationships with parents mattered a lot for children and where this was considered lacking or had been affected by the state response, children showed greater anxiety and dissatisfaction. Where children had lost parental care through death or separation, there was anxiety about their future care and the longer their cases stayed open, the more anxious the children seemed to be. In South Africa such views were expressed by Afiziwe (SA child case #6), Yonela (SA child case #5), and Anavuyo (SA case #3). When Anavuyo wanted to sue her father to make him more responsible, the social worker preferred to play it safe and seemed not to know how to proceed with her matter despite the whereabouts of the child's father being known. On their part, Afiziwe and Yonela had been moved from one alternative care situation to another until they ended up at Sis Phumza's children's home. Afiziwe had become truant, making it hard to find permanent placement for her. At the same time though, Afiziwe worried that as she approached 18 and adulthood, her life would be jeopardized if she did not have a permanent solution provided by the social worker.

In the case of Kenyan children, a vast majority had limited knowledge about what was happening with their cases particularly the younger one. It is mainly the older ones who showed dissatisfaction with the way their cases had been handled as well as with kind of support they got from the officers handling their cases. Many of them also reported getting limited information about what was going on with their cases. The few that were happy had indicated it was because they were getting enough food to eat from the CCIs and had a place to sleep. Examples of these included Atwoli (Ken child case#8) who was abandoned by his caregiver as well as Amalla (Ken child case#6) mistreated by the step mother and beaten often by his biological father. For some of the older children such as Omwenga, Ngesa and Mogaka, their behavior made it difficult to be welcomed at home and hence they were despondent about their cases and the likelihood of ending up in rehabilitation schools though they seemed to understand this as an inevitable outcome of their criminal or truant behavior as juveniles.

RQ4: *How do the available social assistance schemes address child abuse?*

The study found that in Kenya there was no direct link between child abuse and the use of social grants as a strategy to address related challenges. Instead, social grants were used to support children without parental care as a result of HIV/AIDs related challenges. A very strict criteria is used to adhere to the overall purpose of the grants, to the exclusion of other vulnerabilities. It will be interesting to see how the government of Kenya deals with this problem under the new Children Act of 2022 which explicitly recognises kinship adoption and foster care. The law came into effect in July 2022 and guidelines on its implementation are yet to be developed. This study can inform that process in meaningful ways.

In South Africa the foster care grant was particularly important for supporting the care of children who had been removed from home due to abuse, violence or neglect as a result of parents' abusing drugs and alcohol. However, there is potential for abuse by relatives who consider it as an important source of income where employment and livelihood opportunities are limited. For that reason, South Africa may need to develop and scale-up income-generating programs targeting recipients of grants in order to develop a savings culture and entrepreneurial skills as means for the diversification of incomes.

RQ5: *What changes might be required to make social grants more responsive to children and families affected by child abuse?*

As noted under RQ3, the study finds that there is a need to re-examine child welfare systems in both jurisdictions in order to identify and address specific areas where colonial social welfare practices discriminated against certain groups. In addition, in the case of South Africa, in order to ensure genuine caregivers are appointed as foster parents, there will be need for closer vetting protocols to ensure that grants go to the person with actual connections or strong relationship with the child, rather than the one who seems to have a stronger claim by virtue of their standing as the case of Nchumi the 87 year old caring grandmother from rural Eastern Cape versus a biological father who is not really interested in the welfare of his child. A vetting process would result in a stable kinship fostering outcome as has been argued by Jedwab, Xu and Shaw, (2020). Their study carried out in the United States looked at factors influencing decisions on kinship versus non-kinship care placement out of home. They found that a significantly higher number of children initially placed in kinship care were moved into non-kinship care over a period of three years, which

they suggest might be related to the lack of rigour in selecting and informal kinship caregivers (ibid).

Besides, even though both the child support and foster grants in South Africa are not conditional, a closer monitoring of their usage as well as parenting support to caregivers as part of the package might bolster their effectiveness. The parenting component would be an important way of testing and demonstrating the effectiveness of cash-plus programs that are being advocated for by some social protection scholars (for example; Roelen *et al.*, 2017; Chakrabarti *et al.*, 2020; Little *et al.*, 2021). Similarly, in theory the OVC grant in Kenya is not conditional. But in practice caregivers of recipients are expected to ensure that children remain enrolled in school, are registered and have birth certificates, and receive frequent medical attention in order to continue benefiting from the grant. Having clear cash-plus programs might be a useful entry point to addressing specific child protection concerns. In the long run though, wider access to new grants such as foster care and child support will be necessary in order to address the high levels of multidimensional poverty in the country if it is to effectively address child illbeing.

10.2 Limitations of the study

The main limitation of this study was that it did not include the voices of the Department of Social Development (DSD) who were reluctant to take part in the study. As such, information on DSD and their working strategies are based on the participants' views as well as on secondary material on the department's policies and programs. The results should therefore be interpreted with the understanding that the voices of DSD as policymakers and policy implementers are limited.

Secondly, although the study is comparative, it is limited in scope due to budgetary constraints and time limitations. While the country case studies are not representative of what is going on everywhere else in Africa, they nevertheless provide a useful window into the various child protection practices and experiences in two significant countries in Africa with high poverty and inequality levels, similar to other Global South countries. Within Sub-Saharan African, Kenya and South Africa have been trail-blazers on progressive social protection debates, policies and practices in the region. The study therefore informs a social phenomenon for which further studies could be anchored in order to further explore the impact of social policies and their implementation of low-income families. The specific issues which need further study include the possibility of extending social grants in South

Africa to include savings and small micro-enterprise skills building. In Kenya, the victim-blaming attitude among state officers and its likely influence on reforms needed to increase support for kinship care. The need for foster care grants might be inevitable, yet state officers' attitudes on access and use of grants might stand in the way of reforms advocating for wider access to support struggling families whether the children are orphans or not.

10.3 Original contributions and implication of the study findings

The study makes a number of contributions that have immense value for policy and practice as far as child protection and child welfare in other developing countries is concerned., and particularly those facing similar challenges as Kenya and South Africa. Firstly, the study makes it clear that in the two ex-British colonial settings of Kenya and South Africa child care policies are still framed within a colonial perspective, which leave little space for the potential contribution of indigenous African knowledges, culture and values to such policies. Moreover, both these countries are in economic transition from rural subsistence economies to complex urban economies, and family life is situated within, and caught up in, this complex and broader economic transition. One of the major impacts of the transition on families is the breakdown and weakening of the kinship care system. While still very important in African families, it is clear that the system is unable to sustain social reproductive roles of its former set up given the increasing levels of urban poverty and changing family structure. In Kenya, the rise of single motherhood was notable. On the other hand, in South Africa an overall decline in marriage among women, absentee fathers, and the rise of multiple fathers among siblings were noted as important changes to the family structures. The newer forms have predominantly women as heads of households, including significant proportions of grandmothers raising several grandchildren both in urban or rural areas. Grandmothers in South Africa use their pension to raise the younger generation of family members, but young mothers may not have such access to regular, albeit meagre, sources of income. Where employment opportunities are limited, women are more likely to experience financial need more intensely, which makes social protection programs essential in order to reduce children's vulnerability to neglect and other forms of abuse linked to material deprivation. There may be a case to be made for early targeting of such households for preventive purposes. The preventive work recommended could be built on the strong cultural values which traditionally upheld family life. This process would need to be conceptualised and developed in progressive, imaginative and creative ways for the future.

Theoretically, the study adds to knowledge on the application of the wellbeing framework in developing countries, which is one of the areas identified in literature as needing further research from the Global South. So far, the framework has been applied to research work that seeks to understand how multidimensional poverty affects children as the Young Lives Project and the WeD research based at Bath University have demonstrated. However, it has not been used extensively to explore the intersection between child protection, multidimensional poverty and social protection measures. In addition, there has been a limited exploration of the component of relational wellbeing at the macro-level, which this study does include. This component is becoming increasingly important because of the recognised contribution of structural factors to child and family vulnerability in the first instance. It is therefore important to critically examine relationality as it relates to children and the state. This is an area that has implications for policy and practice but has not received sufficient attention in developing countries.

Contributions on Material wellbeing

An important finding deals with the difficulty of fulfilment of parental responsibilities in the context of material need. This is also illustrated by parents' personal histories. Education, life chances and teenage pregnancies appear to be important predisposing factors for parents to fall into material difficulties and to experience parenting difficulties. Examples of such difficulties might be classified as abusive or neglectful behaviours towards their children, for example the cases of Mercy in Kenya or Aviwe in South Africa. Several studies identify these factors as important predictors of poverty in the life course as well as the quality of child care especially where the primary caregiver is female. What is not yet clear is the extent to which such factors could be useful for determining or signalling the need for early preventive child protection support programs which could reduce the need for mitigative child protection responses when abuse or neglect has occurred. This might be an area that requires further research, with the understanding of the state's responsibility for social protection as the "overarching parent" in the African context. The study finds that there is a need for a wider application of social protection instruments like grants to address multiple social challenges besieging the modern family.

Contributions on relational wellbeing

The importance of parents and other family relations for child care and children's wellbeing was clearly articulated by children who took part in the study. Children's identity and

belonging were found to be integral to their wellbeing. Where children did not have strong bonds with biological parents there was an expressed sense of loss and even disillusionment. Related to the centrality of child wellbeing was the role of culture in affirming the position and possibilities for caregivers to offer a stable and nurturing environment for children. Mothers in unstable relationships or marriages felt that their children's future was in jeopardy or their actions to secure their stability occasionally put their children at risk. Besides, with poverty levels, limited employment options in informal settlements, along with the changing family structure where grandparents are raising a young generation whose social experience is vastly different from theirs impacts on parenting styles and the overall quality child care offered to children. Coupled with this dynamic is a cultural embeddedness of care expectations within African societies where kinship care is called upon to keep expanding its social reproductive capacity despite challenging economic times. Under such circumstances, the role of state welfare cannot be underscored enough.

Foster care grants fill an important gap in the care demands and should be made more available to families living in difficult circumstances. In Kenya in particular, there is a need for an increased understanding that the kinship care system is not inelastic and that urban families cannot expect to have the same access to the kinship system as those living in rural areas. For that reason, policy changes may be necessary. Child rights should not be seen as a normative standard where protection supersedes preventive strategies. Rather, these rights should be interpreted from a social justice perspective- where the state is obliged to offer support to families experiencing difficulties due to circumstances beyond their control. In this regard, the Kenyan child protection system could greatly benefit from a foster care grant.

Methodological contributions and implications

This study situates itself within the intersection of social anthropology and development studies to offer new insight into child protection practices in an African context through two ethnographic case studies. An interdisciplinary approach to social policy studies is important in advancing new knowledge as it transcends the more traditional ways of studying child welfare matters either as a subsector within social work, legal studies, or as anthropological issues which focus mainly on children's lived experiences. Secondly, an ethnographic case study design allowed not only an examination of individual experiences but also a comparison of individuals in one jurisdiction against another with policy contexts shaped by a shared colonial history in mind. The comparison serves an additional value for social policy research in both countries. Comparative studies help to theorise social welfare

arrangements based on country or region-specific characteristics as an analytical focus. While theorising about child welfare systems in Western and Anglo-Saxon countries has advanced knowledge in the area (see Gilbert *et al.*, 2011 for example), this has not been undertaken in Africa. This study is a modest attempt to fill part of that gap with the comparison between Kenya and South Africa as front runners. There is a need to build on this further in order to develop knowledge on the African child welfare regimes.

Implications for development practice and policy reform

Within the realm of social policy, the study contributes towards advancement of policy debates on child welfare in both countries, taking into account the unique contexts within which African children are growing up. The evidence speaks to Agenda 2063 of the African Union on the need for expanded social protection in the African continent. Given the importance of this policy to the 54 member countries of the African Union, further research along this vein is crucial. It will be particularly useful to examine the extent to which African states are moving towards realising commitments made through the Livingstone Call for Action. In this call African heads of states committed to increase budgetary allocations for social protection within the continent in a bid to address growing poverty and vulnerability of citizens.

10.4 Recommendations and areas for future research

- a. Ratifying the both the UNCRC and ACRWC and domesticating their provisions in their constitutions commits states to a gradual realisation of people's social and economic rights. These international laws envisage a gradual process where the state mobilises the necessary resources for this task, but they can also enlist the support of partners which allows non-state actors to make a meaningful contribution. However, over-reliance on NPOs and NGOs should cause citizens some worry because firstly, their projects tend to be short-term, small-scale and uncertain in light of fluctuations in donor funding. The latter could put people's welfare in a state of instability and even crises in case of sudden project closures- which is not uncommon. Secondly, there is limited questioning of why charitable organisations continue to occupy such a central role in the provisioning of social welfare, yet in the era of constitutionalism democratic governments are expected to guarantee the welfare of their citizens as part of their social contract. Worrying is the fact that greater involvement of charitable organisations and the donor community in provisioning has given them a disproportionate voice in shaping social protection policies

in those countries. Further research is needed to examine more sustainable ways of ensuring states meet their social contract obligations. Part of this research should include a closer examination of the role of colonial legacies in entrenching minimalist and exclusionary child welfare systems and practices in the Global South. The study joins the growing calls to decolonize child protection which have been articulated by other southern scholars such as Balagopalan (2019a and 2019b), Fay (2019), Liebel (2020), Abebe, *et al.* (2022), and Nyamu and Wamahiu (2022). A transformative approach is necessary in order to address structural factors that continue to criminalise poor children and their caregivers, as well as bottlenecks in the implementation of sustainable policies that could have long term positive effects on poor people's wellbeing.

- b. Further research is needed on ways to improve child protection outcomes that have lasting effects on child wellbeing and the family, as well as making it more resilient to the on-going socioeconomic changes. Such research would better inform statutory work in terms of how important processes in this sub-sector could better integrate family preservation strategies by utilising social grants with other support services to make child protection work truly multi-dimensional in approach. Importantly there is also a need to understand how DSD determines the funding levels of NPOs and the extent to which budgetary allocation for preventive programs differ or compare with statutory child protection services. This might partly help to explain why social workers would be spending so much time on grant-related aspects of the statutory work is probably because of the kinds of targets set for them that include the number of child removals, placements with safety parents and support to access grants. The monitoring of grants is also not given priority until they are almost due for renewal, in which case the court requires a progress report. Quite a number of safety parents as well as children under their care reported not having much contact with their social workers after placement
- c. As this study shows, overall the prosecution of parents who are maltreating their children due to economic adversities, mental health related challenges or substance abuse is not always helpful, although a few parents indicated it made them change. The use of therapeutic jurisprudence might resolve the adversarial approach taken by the more liberal-leaning child protection jurisdictions. However, because this is a recently emerging area in legal practice in general, more research work is needed on its potential within the child protection realm, and more so to act as a family preservation mechanism. The goal of therapeutic jurisprudence is to apply the law for healing rather than to punish

parents dealing with neglect and other care-related difficulties. Building both the empirical evidence and theoretical concepts is necessary in order to find alternatives to parental prosecution which would diminish its application in jurisdictions like Kenya where judicialization of child rights violations is high. Perhaps with court mediated family preservation orders the state departments for child welfare might be forced to invest more in preventive work.

- d. In Kenya, an important line of further exploration is the area of kinship care which would ease the excessive need for formal institutionalisation of children without parental care. The new child law (Children Act of 2022) is progressive and seems to hold promise for the realisation of social rights and the recognition of the importance of kinship care for children in difficult circumstances. How the new law is implemented will be of interest in the debates on transformative child protection practices in the country. This is an area where extensive research will be needed to inform the change process but the current study is a useful starting point.

10.5 Thesis conclusion

This study examined experiences of children and families from low income groups who are involved with child welfare services in Kenya and South Africa and finds that despite the best constitutional and legal commitment to ensure the best interest of the child, the implementation of this principle is assailed by challenges of interpretation and limited strategies for dealing with systemic problems that create childhood risks and cause children and families to require child protection services. The study found that Kenyan frontline workers read child protection laws very narrowly and adhered to the law and protocols very closely. They were also more likely to apply punitive measures to discipline parents who appeared to violate children's rights. Kenya's social protection policies also restricted access to social grants to children orphans and did not entertain the use of grants to address poverty and violence. On the other hand, frontline workers in South Africa took a less punitive approach and advocated for family support strategies such as access to social grants and therapeutic jurisprudence. However, that did not mean they invested more efforts into preventive measures. Instead they prioritised access to child support and foster care grants and spent a large part of their time on bureaucratic processes of facilitating access to the grants. The study calls for transformation of the child welfare and protection systems in both Kenya and South Africa in order to effectively address multi-dimensional vulnerabilities that go beyond material needs.

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ANNEXES

Appendix 1: INFORMATION SHEET FOR LIFE HISTORY INTERVIEW PARTICIPANTS



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Project Title: Child Protection Responses and Transformative Social Protection in Kenya and South Africa: Can social grants improve the wellbeing of children affected by violence and neglect?

This research project is being conducted by Irene **K. Nyamu**, a student at the University of the Western Cape. You are invited to participate in this project as someone with knowledge and experience about the research topic (child protection/child welfare services, child care and parenting, as well as social grants for children and families) in this country. The purpose of this research is to explore how children in contact with the child welfare services experience the services provided to them, the nature of services offered, how the services could be improved, as well as whether or not you think of cash transfers/grants can be of any assistance to the families involved.

What will I be asked to do if I agree to participate?

You will be asked to share your life story and related information about yourself/ your child (Name and background details, critical moments in your life, and how those moments have shaped your life as a young person, and future aspirations).

Would my participation in this study be kept confidential?

All your personal information will be kept confidential and will remain anonymous if that is your choice. You will be required to sign a consent form to protect your privacy and confidentiality while participating in this study. The researcher shall not reveal the identity of the participants and will safeguard the confidential information obtained in the course of the study.

What are the risks of this research?

The researcher has taken utmost care to ensure no harm befalls any child or adult who voluntarily participates in this study and thus does not anticipate any intended risks to those involved. Nevertheless, the researcher recognises that there may be a small proportion of participants for whom talking about some of the personal life experiences touching on the study topic might trigger painful memories or emotional discomfort. In the event that such an outcome is manifested, the interview/discussions will be immediately suspended and counselling support and referral will be offered. In addition, the participant has the discretion to determine whether or not to resume the interview at a later time or terminate it entirely.

What are the benefits of this research?

Though there are no immediate and direct material benefits for individuals participating in this study, the research outcomes will contribute to an increased awareness and understanding of complexities of the current child welfare system. Recommendations as well as other information from the study will be useful for developing policy briefs that will contribute to debates and new knowledge in the area.

Do I have to be in this research and may I stop participating at any time?

Your participation in this research is completely voluntary. You may choose not to participate and to stop participating at any time you want. If you stop or decide not to participate, you will not lose anything.

Is any assistance available if I am negatively affected by participating in this study?

Though this is not anticipated, should it be necessary, children (and adults) who might be emotionally affected by talking about previous personal life experiences will be supported to access professional counselling. A referral form is attached with contact details of accredited child therapists who have been requested by the researcher to offer this support should it be necessary.

Do I need to bring anything to the interview?

You may bring along any document that might help you remember details on the topic under discussion. However, if you make reference to some important documents during the interview I might ask for permission to use/review them at a later time during my research.

What if I have questions?

This research is being conducted by Irene K. Nyamu, a student at the University of the Western Cape. Her contact number is +254 722 472-678 (KE) or +27713284418 (SA).

If you have any questions about the research study itself, please contact Dr. Ina Conradie (Supervisor) at The Institute for Social Development (ISD), University of the Western Cape, her telephone number +27729916362

Should you have any questions regarding this study and your rights as a research participant or if you wish to report any problems you have experienced related to the study, please contact:

Dr Sharon Penderis
Acting Director
Institute for Social Development
School of Government
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This research has been approved by the University of the Western Cape's Senate Research Committee and Ethics Committee.

Appendix 2: INFORMATION SHEET FOR IN DEPTH INTERVIEW PARTICIPANTS



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Project Title: Child Protection Responses and Transformative Social Protection in Kenya and South Africa: Can social grants improve the wellbeing of children affected by violence and neglect?

What is this study about?

This research project is being conducted by Irene **K. Nyamu**, a student at the University of the Western Cape. You are invited to participate in this project as someone with knowledge and experience about the research topic (child protection/child welfare services, child care and parenting, as well as social grants for children and families) in this country. The purpose of this research is to explore how children who are in contact with the child welfare system experience the services provided to them, the nature of services and how they could be improved, as well as whether or not you think of cash transfers/grants can be of any assistance to the families involved.

What will I be asked to do if I agree to participate?

You will be asked to share information on your role in this work, what your job functions entailed within your organisation, your programme approaches to child welfare /protection work; what kinds of children's cases you deal with, your level of engagement with the child welfare system (policy, service level, research or referral) who else you collaborate with, and in what areas. The Interview will also ask you to give your honest views about what is working well, what could be improved and what seems to be a challenge.

Would my participation in this study be kept confidential?

All your personal information will be kept confidential and will remain anonymous if that is your choice. You will be required to sign a consent form to protect your privacy and confidentiality while participating in this study. The researcher shall not reveal the identity of the participants and will safeguard the confidential information obtained in the course of the study.

What are the risks of this research?

The researcher has taken utmost care to ensure no harm befalls any child or adult who voluntarily participates in this study and thus does not anticipate any intended risks to those involved. Nevertheless, the researcher recognises that for some participants, talking about personal life experiences related to the study topic might trigger painful memories or emotional discomfort. In the event that such an outcome is manifested, the interview/discussions will be immediately suspended and counselling support and referral will be offered. In addition, the

participant has the discretion to determine whether or not to resume the interview at a later time or terminate it entirely.

What are the benefits of this research?

There may not be immediate and direct material benefits for the interviewee at the moment. However, the research outcomes will create an awareness and understanding of the current child welfare services and the recommendations as well as other information from the study will be useful for developing policy briefs that will contribute to debates and new knowledge in the area.

Do I have to be in this research and may I stop participating at any time?

Your participation in this research is completely voluntary. You may choose not to participate and to stop participating at any time you want. If you stop or decide not to participate, you will not lose anything.

Is any assistance available if I am negatively affected by participating in this study?

Though this is not anticipated, should it be necessary, children (and adults) who might be emotionally affected by talking about previous personal life experiences will be supported to access professional counselling. A referral form is attached with contact details of accredited child therapists who have been requested by the researcher to offer such support should it be required.

Do I need to bring anything to the interview?

You may bring along any document that might help you remember details on the topic under discussion. However, if you make reference to some important documents during the interview I might ask for permission to use/review them at a later time during my research.

What if I have questions?

This research is being conducted by Irene K. Nyamu, a student at the University of the Western Cape. Her contact number is +254 722 472-678.

If you have any questions about the research study please contact Dr. Ina Conradie (Supervisor) at The Institute for Social Development (ISD), University of the Western Cape, her telephone number +27729916362

Should you have any questions regarding this study and your rights as a research participant or if you wish to report any problems you have experienced related to the study, please contact:

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This research has been approved by the University of the Western Cape's Senate Research Committee and Ethics Committee.

Appendix 3: INFORMATION SHEET FOR FGD PARTICIPANTS



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Project Title: Child Protection Responses and Transformative Social Protection in Kenya and South Africa: Can social grants improve the wellbeing of children affected by violence and neglect?

What is this study about?

This research project is being conducted by Irene K. Nyamu, a student at the University of the Western Cape. You are invited to participate in this project as someone with knowledge and experience about the research topic (child protection/child welfare services, child care and parenting, as well as social grants for children and families) in this country. The purpose of this research is to explore how children who are in contact with the child welfare system experience the services provided to them, the nature of services and how they could be improved, as well as whether or not you think of cash transfers/grants can be of any assistance to the families involved.

What will I be asked to do if I agree to participate?

You will be asked to share information on your role in this work, what your job functions entailed within your organisation, what are your programme approaches to child welfare /protection work; what kinds of children's cases you deal with, your level of engagement with the child welfare system (policy, service level, research or referral) who else you collaborate, and in what areas. The Interview will also ask you to give your honest views about what is working well, what could be improved and what seems to be a challenge.

Would my participation in this study be kept confidential?

All your personal information will be kept confidential and will remain anonymous if that is your choice. You will be required to sign a consent form to protect your privacy and confidentiality while participating in this study. The researcher shall not reveal the identity of the participants and will safeguard the confidential information obtained in the course of the study.

What are the risks of this research?

The researcher has taken utmost care to ensure no harm befalls any child or adult who voluntarily participates in this study and thus does not anticipate any intended risks to those involved. Nevertheless, the researcher recognises that there may be a small proportion of participants for whom talking about some of the personal life experiences touching on the study topic might trigger painful memories or emotional discomfort. In the event that such an outcome is manifested, the interview/discussions will be immediately suspended and counselling support and referral will be offered. In addition, the participant has the discretion to determine whether or not to resume the interview at a later time or terminate it entirely.

What are the benefits of this research?

There may not be immediate and direct material benefits for the interviewee at the moment. However, the research outcomes will create an awareness and understanding of the current child welfare services and the recommendations as well as other information from the study will be useful for developing policy briefs that will contribute to debates and new knowledge in the area.

Do I have to be in this research and may I stop participating at any time?

Your participation in this research is completely voluntary. You may choose not to participate and to stop participating at any time you want. If you stop or decide not to participate, you will not lose anything.

Is any assistance available if I am negatively affected by participating in this study?

Though this is not anticipated, should it be necessary, children (and adults) who might be emotionally affected by talking about previous personal life experiences will be supported to access professional counselling. A referral form is attached with contact details of accredited child therapists who have been requested by the researcher to offer such support should it be required.

Do I need to bring anything to the interview?

You may bring along any document that might help you remember details on the topic under discussion. However, if you make reference to some important documents during the interview I might ask for permission to use/review them at a later time during my research.

What if I have questions?

This research is being conducted by Irene K. Nyamu, a student at the University of the Western Cape. Her contact number is +254 722 472-678. If you have any questions about the research study itself, please contact Dr. Ina Conradie (Supervisor) at The Institute for Social Development (ISD), University of the Western Cape, her telephone number +27729916362

Should you have any questions regarding this study and your rights as a research participant or if you wish to report any problems you have experienced related to the study, please contact:

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APPENDIX 4: INFORMATION SHEET FOR PARTICIPANT OBSERVATIONS



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Project Title: Child Protection Responses and Transformative Social Protection in Kenya and South Africa: Can social grants improve the wellbeing of children affected by violence and neglect?

What is this study about?

This research project is being conducted by Irene **K. Nyamu**, a student at the University of the Western Cape. You are invited to participate in this project as someone with knowledge and experience about the research topic (child protection/child welfare services, child care and parenting, as well as social grants for children and families) in this country. The purpose of this research is to explore how children who are in contact with the child welfare system experience the services provided to them, the nature of services and how they could be improved, as well as whether or not you think of cash transfers/grants can be of any assistance to the families involved.

What will I be asked to do if I agree to participate?

I will spend time with you to observe how you conduct case management meetings, home visits and other activities that entail managing children's cases in your organisation/agency during my research period. The observation will involve collecting information about who is involved in activities you undertake, how frequently and length of time spent on the activities, what documents are used or developed out of the process, and how the information is used to make decisions.

Would my participation in this study be kept confidential?

All your personal information will be kept confidential and will remain anonymous if that is your choice. You will be required to sign a consent form to protect your privacy and confidentiality while participating in this study. The researcher shall not reveal the identity of the participants and will safeguard the confidential information obtained in the course of the study.

What are the risks of this research?

The researcher has taken utmost care to ensure no harm befalls any child or adult who voluntarily participates in this study and thus does not anticipate any intended risks to those involved. Nevertheless, the researcher recognises that there may be a small proportion of participants for whom talking about some of the personal life experiences touching on the study topic might trigger painful memories or emotional discomfort. In the event that such an outcome is manifested, the interview/discussions will be immediately suspended and counselling support and referral will be offered. In addition, the participant has the discretion to determine whether or not to resume the interview at a later time or terminate it entirely.

What are the benefits of this research?

There may not be immediate and direct material benefits for the interviewee at the moment. However, the research outcomes will create an awareness and understanding of the current child welfare services and the recommendations as well as other information from the study will be useful for developing policy briefs that will contribute to debates and new knowledge in the area.

Do I have to be in this research and may I stop participating at any time?

Your participation in this research is completely voluntary. You may choose not to participate and to stop participating at any time you want. If you stop or decide not to participate, you will not lose anything.

Is any assistance available if I am negatively affected by participating in this study?

Though this is not anticipated, should it be necessary, children (and adults) who might be emotionally affected by talking about previous personal life experiences will be supported to access professional counselling. A referral form is attached with contact details of accredited child therapists who have been requested by the researcher to offer such support should it be required.

Do I need to bring anything to the interview?

You may bring along any document that might help you remember details on the topic under discussion. However, if you make reference to some important documents during the interview, I might ask for permission to use/review them at a later time during my research.

What if I have questions?

This research is being conducted by **Irene K. Nyamu**, a student at the University of the Western Cape. Her contact number is +254 722 472-678. If you have any questions about the research study itself, please contact **Dr. Ina Conradie** (Supervisor) at The Institute for Social Development (ISD), University of the Western Cape, her telephone number +27729916362

Should you have any questions regarding this study and your rights as a research participant or if you wish to report any problems you have experienced related to the study, please contact:

Dr Sharon Penderis
Acting Director
Institute for Social Development
School of Government
University of the Western Cape
Private Bag X17
Bellville 7535

This research has been approved by the University of the Western Cape's Senate Research Committee and Ethics Committee.

APPENDIX 5: INFORMED CONSENT FORM FOR FOCUS GROUP PARTICIPANTS



University of the Western Cape

Private Bag X17, Bellville 7535, Cape Town, South Africa
Telephone : (021) 959 3858/6 Fax: (021) 959 3865
E-mail: pkippie@uwc.ac.za or spenderis@uwc.ac.za



UNIVERSITY of the WESTERN CAPE

Project Title: Child Protection Responses and Transformative Social Protection in Kenya and South Africa: Can social grants improve the wellbeing of children affected by violence and neglect?

I....., have had the opportunity to ask any questions related to this study, and received satisfactory answers to my questions, and any additional details I wanted.

I agree to take part in this research. I understand that my participation in this study is voluntary. I am free not to participate and have the right to withdraw from the study **at any time**, without having to explain myself.

I am aware that the information I provide might result in research which may be published. My name may be/ not be used (circle appropriate).

I understand that my signature on this form indicates that I understand the information on the information sheet regarding the structure of the questions.

I have read the information regarding this research study on

I understand that if I don't want my name to be used that this will be ensured by the researcher.

I may also refuse to answer any questions that I don't want to answer.

I give /do not give consent (circle appropriate) to record the interview/ our discussions, and have photographs taken.

By signing this letter, I give free and informed consent to participate in this research study.

Date:

Participant Name:.....

Participant Signature:

Interviewer Signature: Irene K.Nyamu

APENDIX 6: INFORMED CONSENT FORM FOR IN-DEPTH INTERVIEW PARTICIPANTS



Private Bag X17, Bellville 7535, Cape Town, South Africa
Telephone : (021) 959 3858/6 Fax: (021) 959 3865
E-mail: pkippie@uwc.ac.za or spenderis@uwc.ac.za



UNIVERSITY of the WESTERN CAPE

University of the Western Cape

Project Title: Child Protection Responses and Transformative Social Protection in Kenya and South Africa: Can social grants improve the wellbeing of children affected by violence and neglect?

I....., have had the opportunity to ask any questions related to this study, and received satisfactory answers to my questions, and any additional details I wanted.

I agree to take part in this research. I understand that my participation in this study is voluntary. I am free not to participate and have the right to withdraw from the study **at any time**, without having to explain myself.

I am aware that the information I provide might result in research which may be published, but my name may be/ not be used (circle appropriate).

I understand that my signature on this form indicates that I understand the information on the information sheet regarding the structure of the questions.

I have read the information regarding this research study on

I understand that if I don't want my name to be used that this will be ensured by the researcher.

I may also refuse to answer any questions that I don't want to answer.

I give /do not give consent (circle as appropriate) to record the interview/ our discussions, and have photographs taken.

By signing this letter, I give free and informed consent to participate in this research study.

Date:.....

Participant

Name:.....

Participant Signature:

Interviewer Signature: Irene K. Nyamu

APPENDIX 7: INFORMED CONSENT FORM FOR LIFE HISTORY INTERVIEW PARTICIPANTS



University of the Western Cape

Private Bag X17, Bellville 7535, Cape Town, South Africa
Telephone : (021) 959 3858/6 Fax: (021) 959 3865
E-mail: pkippie@uwc.ac.za or spenderis@uwc.ac.za



Project Title: Child Protection Responses and Transformative Social Protection in Kenya and South Africa: Can social grants improve the wellbeing of children affected by violence and neglect?

I....., have had the opportunity to ask any questions related to this study, and received satisfactory answers to my questions, and any additional details I wanted.

I agree to take part in this research. I understand that my participation in this study is voluntary. I am free not to participate and have the right to withdraw from the study **at any time**, without having to explain myself.

I am aware that the information I provide might result in research which may be published, but my name may be/ not be used (circle appropriate).

I understand that my signature on this form indicates that I understand the information on the information sheet regarding the structure of the questions.

I have read the information regarding this research study on

I understand that if I don't want my name to be used that this will be ensured by the researcher.

I may also refuse to answer any questions that I don't want to answer.

I give /do not give consent (circle appropriate) to record the interview/ our discussions and have photographs taken.

By signing this letter, I give free and informed consent to participate in this research study.

Date:.....

Participant Name:.....

Participant Signature:

Interviewer Signature: Irene K. Nyamu

APPENDIX 8: INFORMED CONSENT FOR PARTICIPANT OBSERVATIONS



University of the Western Cape

Private Bag X17, Bellville 7535, Cape Town, South Africa
Telephone : (021) 959 3858/6 Fax: (021) 959 3865
E-mail: pkippie@uwc.ac.za or spenderis@uwc.ac.za



UNIVERSITY of the
WESTERN CAPE

Project Title: Child Protection Responses and Transformative Social Protection in Kenya and South Africa: Can social grants improve the wellbeing of children affected by violence and neglect?

I....., have had the opportunity to ask any questions related to this study, and received satisfactory answers to my questions, and any additional details I wanted.

I agree to take part in this research. I understand that my participation in this study is voluntary. I am free not to participate and have the right to withdraw from the study **at any time**, without having to explain myself.

I am aware that the information I provide might result in research which may be published, but my name may be/ not be used (circle appropriate).

I understand that my signature on this form indicates that I understand the information on the information sheet regarding the structure of the questions.

I have read the information regarding this research study on

I understand that if I don't want my name to be used that this will be ensured by the researcher.

I may also refuse to answer any questions that I don't want to answer.

I give /do not give consent (circle appropriate) to record the interview/ our discussions, and photographs taken.

By signing this letter, I give free and informed consent to participate in this research study.

Date:.....

...

Participant

Name:.....

Participant Signature: -----

Interviewer Signature: Irene K.

Nyamu

APPENDIX 9: Preliminary in-Depth Interview Guide

Project Title: **Child Protection Responses and Transformative Social Protection in Kenya and South Africa: Can social grants improve the wellbeing of children affected by violence and neglect?**

Aim: For use during interviews with child welfare/protection officers, social workers, counsellors and other members of organisational child protection teams. The estimated time to be utilised is about an hour to one and a half hours. *These questions are preliminary. As I review court case files and helpline reports I might add or refine the questions*

A: Background Information of the participant

1. Could you tell me a little more about yourself? Your background and training?
2. What is your role and job functions in this work/within your organisation?
3. How long have you been in this position?
4. In what ways are you involved in child welfare/child protection work here in Kenya/South Africa? (Probe for details).

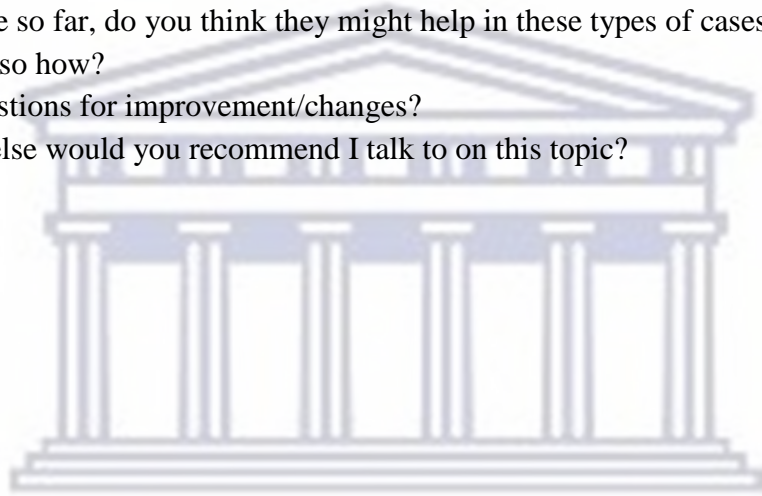
B: Technical Questions on Child protection Processes

5. What type of children's matters does your agency/organisation deal with? How long does it take?
 - a. Probe for level of involvement (policy, direct services, research or referral services)
 6. What are your programme approaches to child welfare /protection work? (Probe for specific policy frameworks or standard guidelines if any)
 7. In what ways and to what extent is your approach influenced by government policies and legal framework(s) if at all?
 8. How long have you used that approach and how has that approach worked for you/your organisation so far?
 9. Could you tell me more specifically how your community deals with the following forms of abuse when they occur?
 - a. *Physical abuse,*
 - b. *Domestic violence that affects children (children witnessing domestic violence between parents/guardians)*
 - c. *Child neglect?*
 10. Are the responses the same or do they differ where such abuse involves *parents/primary caregivers?*
 11. What are your views about how child welfare services/children's department deals with child maltreatment at the family level especially **neglect, physical and emotional** abuse and where **domestic violence** is a problem in the family or is likely to affect children?
 12. Why do you think the child welfare/children's department takes the action they do when abuse is reported at the family level?
 13. **DO** you think child welfare services could or should do things differently? If so, how? If not, why?
 14. Could you please tell me what process you follow to identify cases
- Probes**

- a. The processes: How do you work through each case? (Is there a standard manual and can you ask for access/permission to review?)
 - b. information needed, who collects/compiles, what time frames are acceptable)
 - c. When do you consider a child's matter to be concluded?
 - d. Who else you collaborate with, and in what areas?
15. What has worked well so far? Any Suggestions for changes/improvements

C. Technical Questions on Social Grants

16. Awareness about existing grants?
17. Beneficiaries and selection process
18. Are they given to children whose cases you handle? How much, when, where, frequency?
19. How useful have they been in assisting you to deal with the main reason why the child was put into contact with child welfare service?
20. If none so far, do you think they might help in these types of cases you deal with and if so how?
21. Suggestions for improvement/changes?
22. Who else would you recommend I talk to on this topic?



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WESTERN CAPE

APPENDIX 10: Preliminary Case History in-Depth Interview Guide

This tool will guide initial discussions and interviews that will be vital for case history building. The interviewees will be children, parents, family members, caseworkers and other people who have a good knowledge about the child whose history is being constructed. For some participants multiple interviews might be necessary. *These questions are preliminary. As I review court files and helpline reports and take part in some of the home visits additional questions may be generated.*

A: Background Information of the participant

1. Could you tell me a little more about yourself? Age, family history and what you do for a living?
2. How do you know child X and what is your relationship with the child?
3. In what ways have you been involved in the child's life and what has/have been your roles or involvement?
4. How long have you been in this role?
5. What do you know about the family of child X? Probe for family history, social status, community involvement etc
6. What circumstances led to child X coming into contact with child welfare and protection services?
 - a. Probe for what type of children protection issues are involved?
 - b. Probe for who the key actors in the case are and what their roles have been, and why were they involved?
7. To what extent were you informed about the procedures necessary in the handling of such a matter by child welfare services officers? What was the nature of that information and how useful did you find it to be?
8. What has happened in the case/matter so far? (probe for case progress and level of awareness of the processes, documentation available to the child and family)
9. How do you feel about the processes and the outcomes so far?
10. Could things have been done differently? If so, how?
11. Have you tried to get further/additional assistance from other agencies? Please provide details of who and where?
12. In cases of neglect: Are you aware of government grants that support families in difficult situations? Which ones and what do you know about them?
13. Have there been any attempts to link child X with such programs? How and by who and what was the outcome of the attempts?
14. In your view, how useful could such grants be in similar children's cases?
15. Do you have suggestions for improvement/changes that could be made to make the lives of children in similar situations better?
16. Who else would you recommend I talk to on this topic in relation to child X?

Thank you very much for your time.

APPENDIX 11: Participant Observation Guide

Aim: This tool will be used to observe and document the repertoire of activities, processes and events that constitute the Child Protection Practice: during Case Management Meetings, Home Visits and other meetings/Events to discuss children's cases. The **researcher's role** is that of a participant observer but this role might shift occasionally to passive- observer depending on the activity and the role that the helpline assigned me as an intern/visiting researcher. Photographs might also be taken to complete observations with consent from the participants

Key Observation points

Area of Observation	Preparation for the event/activity	Detailed Description of the Actual Activity	Closure/Conclusion and outcomes
1. Site/Location/Setting -Describe in detail your environment -Choice of setting/Purpose? -			
2. Activity: -What is going on? -Why/purpose? -For how long? -Content of discussions accompanying the activity			
3. Actors: -Who is involved -What are their roles?----Do their roles shift or not? -Who is			
4. General Attitude, mood and behaviour of the participants and occasion			
5. Other observations -Tools/materials used for the activity? -Why these tools/materials/documents -Who is using? why? - Outcomes of the activity			

6. Personal reflections of the researcher			
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APPENDIX 12 : PARENT’S CONSENT FORM



Private Bag X17, Bellville 7535, Cape Town, Sout Africa
Telephone : (021) 959 3858/6 Fax: (021) 959 3865
E-mail: pkippie@uwc.ac.za or spenderis@uwc.ac.za



Irene K. Nyamu, a student at the University of the Western Cape is conducting a research titled *Child Protection Responses and Transformative Social Protection in Kenya and South Africa: Can social grants improve the wellbeing of children affected by violence and neglect?* The purpose of this research is to explore how children who are in contact with the child welfare system experience the services provided to them, the nature of services and how they could be improved, as well as whether or not you think of cash transfers/grants can be of any assistance to the families involved. Your child has been identified as a knowledgeable participant on the study subject because of your experience with social grants and interactions with the child welfare services/department of children services. This form is to request for your consent for the child to take part in the study.

I....., have had the opportunity to hear more about the research, ask any questions related to this study, and receive satisfactory answers to my questions or additional details I wanted.

I agree to have my daughter/ son take part in this research.

I understand that her/his participation in this study is voluntary. The child is free not to participate and has the right to withdraw from the study **at any time**, without having to give reasons for the withdrawal.

I am aware that the information the child provides might result in research which may be published, but the child’s name may be/ not be used (circle appropriate).

I understand that my signature on this form indicates that I understand the information on the information sheet regarding the structure of the questions.

I have read the information regarding this research study on *child protection responses and social grants*.

I understand that if I don’t want my child’s name to be used that this will be ensured by the researcher.

I am aware that the child may also refuse to answer any questions that she/he does not want to answer.

I give /do not give consent (circle appropriate) to record the interview/ our discussions.

By signing this letter, I give free and informed consent for my so/daughter to participate in this research study.

Date:.....

Participant Name:.....

Participant Signature: -----

Interviewer Signature: Irene K. Nyamu

APPENDIX 13: INFORMED ASSENT FORM FOR CHILDREN (AGE 7-17 YEARS)



University of the Western Cape

Private Bag X17, Bellville 7535, Cape Town, South Africa
Telephone : (021) 959 3858/6 Fax: (021) 959 3865
E-mail: pkippie@uwc.ac.za or spenderis@uwc.ac.za



Project Title: Child Protection Responses and Transformative Social Protection in Kenya and South Africa: Can social grants improve the wellbeing of children affected by violence and neglect?

Investigator: Irene K. Nyamu

Institution: University of the Western Cape, South Africa

Introduction

This research project is being conducted by Ms. Irene K. Nyamu, a student at the University of the Western Cape in South Africa. Irene is an experienced community development worker and child rights advocate who has worked in the area of child protection for over 10 years. Irene is interested in social policy works that focuses on rights of children and young people. She is currently undertaking an academic research that looks at how children and their families experience child protection and welfare services when violation of children's rights occurs. You are invited to participate in this research because of where you live, your knowledge and understanding, as well as experience in relation to the study subject.

This informed assent form explains in more detail what your participation means and answers some of the questions you might have regarding the research project in order to enable you make an informed decision whether to participate or not.

Procedures

Your participation will involve responding to questions, taking part in focus groups discussions, and writing about yourself or drawing your experiences.

Who will participate?

Children between the ages of 7-17 years who live in certain neighbourhoods and have received assistance or services from the children's department, child welfare services or their associated partners in the last three years.

Benefits

There are no direct and immediate material benefits for participants. However, your contributions will be invaluable in providing useful information for understanding experiences of children and their families in regards to child protection services and how the services could be improved in the future to benefit children in difficult situations.

Confidentiality

All your personal information will be kept confidential and will remain anonymous. In the research report, pseudonyms will be used. Information obtained will only be accessible to the researcher. Data will be stored safely and protected from unauthorised access by use of passwords in the case of soft data and in safe lockable storage in the case of field notes, photographs, field diaries and or any other hard copy records.

Request

You are kindly requested to allow the interviewer to take photographs and tape record the conversations and information you give during the interview(s) in order to ensure what you are saying is correctly captured and used appropriately during the analysis and interpretation of the study findings. The recordings will be confidential and accessible only to the research team. If you do not agree to this, please feel free to inform the interviewer. You will not lose anything by declining a recorded interview.

What are the risks of this research?

The researcher does not anticipate risks to participants in this study and has taken utmost care to ensure no harm befalls any child or adult who voluntarily participates in this study. Nevertheless, in case talking about your personal life experiences in relation to your family situation triggers painful memories or emotional discomfort, it is within your right to terminate the interview immediately. The interviewer also has a responsibility to do so when deemed necessary even if the participant feels otherwise. You are also free to decide whether or not to resume the interview at a later time.

Is any assistance available if I am negatively affected by participating in this study?

The researcher has taken necessary precautions to ensure that any child who might be emotionally affected by talking about previous personal life experiences is supported to access professional counselling. You will be given a referral letter which is attached to this assent form, and also facilitated to visit an experienced and accredited child counsellor. The child counsellor selected for this research has over 15 years' hands-on experience providing therapeutic services to children dealing with difficult situations.

Must I participate and can I stop participating at any time?

Your participation in this research is completely voluntary and you do not have to participate if you are not interested-even if your parent has given consent to the researcher separately. You may choose not to participate and if you choose to and change your mind later, you can stop participating at any time you want. If you stop or decide not to participate, you will not lose any benefits or be asked for anything.

Are there any costs?

There are no costs incurred as a result of participating in this study. However, should there be any transport-related costs for you to attend a group discussion the costs will be borne by the researcher.

Do I need to bring anything to the interview?

Not at all, but if you wish you may bring along any document that might help you remember details of the topic under discussion. However, if you make reference to some important documents during the interview permission might be requested to use/review them at a later time during my research.

What if I have questions?

If you have any questions about the research please contact **Irene K. Nyamu**, who is the principal researcher and student at the University of the Western Cape. Her contact number is +254 722 472-678 (Kenya) or +27713284418. You can also contact her supervisor **Dr. Ina Conradie** (Supervisor) at The Institute for Social Development (ISD), University of the Western Cape, her telephone number +27729916362

Voluntary participation Statement and consent

I....., have had the opportunity to read and hear more about the research, ask questions related to this study, and received satisfactory answers to my questions and additional details.

I voluntarily agree to take part in this research, having understood what is going to be done, the benefits and my rights as a participant in the study.

I understand that my decision to participate has no risks and that there is counselling support available should I require it. I also understand that my identity will be concealed, and that I have the right to withdraw from the study **at any time**, without having to give reasons for the withdrawal.

I understand that by signing this form I indicate that I have been informed about the research in which I am voluntarily agreeing to participate. A copy of this form will be provided to me.

Participant Name:.....or Thumb print.....

Participant Signature: ----- Date:

Interviewer 's Name: Signature:.....

Principal Researchers Name & Signature: Irene K. Nyamu.....

NB: This research has been approved by the Senate Research and Ethics Committee of the University of the Western Cape, Ref Number



APPENDIX 14: COUNSELLING SUPPORT REFERRAL LETTER



University of the Western Cape

Private Bag X17, Bellville 7535, Cape Town, South Africa

Telephone : (021) 959 3858/6 Fax: (021) 959 3865

E-mail: pkippie@uwc.ac.za or spenderis@uwc.ac.za



UNIVERSITY of the
WESTERN CAPE

Specialist referred to:

MS. Florence Mueni

Child Therapist, Daraja Place Child Therapy Services

PO BOX 61718-00200, Nairobi

Email: darajaplace@gmail.com

Telephone: +254-722703396

Dear Ms. Florence,

This is to request you to provide specialised counselling services to the bearer of this form who took part/is taking part in a research study titled ***Child Protection Responses and Transformative Social Protection in Kenya and South Africa: Can social grants improve the wellbeing of children affected by violence and neglect?*** The purpose of this research is to explore how children who are in contact with the child welfare system experience the services provided to them, the nature of services and how they could be improved, as well as whether or not you think of cash transfers/grants can be of any assistance to the families involved.

Your services will allow the participants (especially children) who did not receive any, or sufficient psycho-social support previously to deal with any difficulties arising out of talking about their life circumstances which the research sought to explore.

Please feel free to contact me for any additional information that you think might be useful to assist the participant.

Thank you

A handwritten signature in blue ink, appearing to read 'Irene Nyamu', is written over a large, faint watermark of the University of the Western Cape logo.

Irene Nyamu

For any questions: Telephone number +254 722 472-678 or +27713284418.

Email; 3713865@myuwc.ac.za. or contact **Dr. Ina Conradie** (Supervisor) at The Institute for Social Development (ISD)

APPENDIX 14: COUNSELLING SUPPORT REFERRAL LETTER



Private Bag X17, Bellville 7535, Cape Town, South Africa
Telephone : (021) 959 3858/6 Fax: (021) 959 3865
E-mail: pkippie@uwc.ac.za or spenderis@uwc.ac.za



Specialist referred to:

Mrs. Joan van Niekerk
Independent Consultant: Child Rights and Child
Protection, & child counsellor, and former National
Coordinator, Childline South Africa
Email: darajaplace@gmail.com
Telephone: +254-722703396

Dear Joan,

This is to request you to provide specialised counselling services to the bearer of this form who took part/is taking part in a research study titled ***Child Protection Responses and Transformative Social Protection in Kenya and South Africa: Can social grants improve the wellbeing of children affected by violence and neglect?*** The purpose of this research is to explore how children who are in contact with the child welfare system experience the services provided to them, the nature of services and how they could be improved, as well as whether or not you think of cash transfers/grants can be of any assistance to the families involved.

Your services will allow the participants (especially children) who did not receive any, or sufficient psycho-social support previously to deal with any difficulties arising out of talking about their life circumstances which the research sought to explore.

Please feel free to contact me for any additional information that you think might be useful to assist the participant.

Thank you

Irene Nyamu.

Telephone number +254 722 472-678 or +27713284418.

Email; 3713865@myuwc.ac.za. If you have any questions about the research study itself, please contact **Dr. Ina Conradie** (Supervisor) at The Institute for Social Development (ISD),

APPENDIX 16: LETTER TO THE DEPARTMENT OF CHILDREN SERVICES

Irene Katunge Nyamu
PO Box 2486-00100, GPO,
Nairobi
Tel: +254-7224726788

To the Director, Department of Children Services,
Ministry of East African Community (EAC),
Labour & Social Protection.
Bishops Road, Social Security House.
P.O BOX 4326-00100, NAIROBI.
Tel. +254 (0) 2729800

Dear Sir,

RE: Request to Undertake Research on Child Protection Procedures within the Department of Children Services

My name is Irene K. Nyamu and I am a second year PhD student at University of the Western Cape in (UWC) South Africa. My research is titled *Child Protection Responses and Transformative Social Protection in Kenya and South Africa: Can social grants improve the wellbeing of children affected by violence and neglect?* The research aims to understand the key child protection interventions undertaken by children officers and social workers *in the best interest of the child* and their outcomes where abuse and neglect is reported and/or substantiated.

In this regard, I would like to seek your approval to undertake in-depth interviews and work closely in the field with children officers based at the National Helpline 116 as well as those serving low income and informal settlements in Nairobi including Kibera, Westlands, Dagoretti, Kayole, Pumwani and Makadara sub-counties. It is my expectation that my research will contribute in a positive way to national policy efforts within your department that aim to improve the overall wellbeing of children in the country.

Enclosed please find a short abstract that elaborates further on my research, copies of my data collection tools, and the ethical clearance from the UWC Humanities and Social Sciences Research Ethics Committee (HSSREC).

I look forward to your favourable response.

Regards,



Irene K. Nyamu

APPENDIX 17: CHILDREN'S INTERVIEW GUIDE

Aim: This tool will guide initial discussions and interviews that will be vital for case history building. The interviewees will be children aged between 7-17 years. Multiple interviews are envisaged in which the second interview will be a follow up on the same questions but utilising some of the information obtained from the first interview sessions.

Children have the option of a face to face interview or essay writing on sections B and C of the interview guide. For children between 7-11 years, the interview sessions will be interactive and make use of role-plays and drawings.

Guiding Questions

A. Background

1. Could you tell me a little more about yourself? (Name, Age, family background etc)
2. Who do you live with currently and where?
3. Are you in school at the moment?
4. If a school, probe for the name of school and grade, how long the child has been in the same school?
5. What do you like/not like about schooling?

Child protection Services

6. Have you been in contact with social workers/children officers or NGO agents acting on behalf of children's services/child welfare departments?
7. When and what was the reason for being in contact?
8. What services did you require and why did you require the services?
9. Could you tell me what exactly happened once you contacted them? (probe for what did the services or assistance include?)
10. How were the services offered and by who exactly?
11. Did you at any time have to go to court to testify
12. How long were they offered and what did you think about the services
13. Was your opinion sought before the services were provided or at any other time during the process?
14. What role (s) did you play during the process?
 - a. Who else in the family/community was involved in the matter? (Probe for key actors in the case are and what their roles have been, and why they were involved)
15. To what extent were you informed about the procedures necessary in the handling of such a matter by child welfare services officers? What was the nature of that information and how useful did you find it to be?
16. What has happened in the case/matter so far? (probe for case progress and level of awareness of the processes, documentation availed to the child and family)
17. Are there other specific ways you would have preferred to be supported by child welfare/Children's department officers?
18. Did your family or caregiver receive any money as part of helping you to deal with the difficult situation in your life? (If yes, how much and for how long?)

Outcomes and suggestions for improvements (Follow up Interview)

19. Start by clarifying any issues from the first interview session before proceeding with the remaining
20. How do you feel about the processes and the results so far?
21. Could things have been done differently? If so, how?
22. If you had a chance to decide on how you wanted this matter to be handled, what would you do differently and what would you not change?
23. Have you tried to get further assistance from other agencies? Please provide details of who and where?
24. What are your thoughts about the use of cash transfers to support children in similar circumstances as you?
25. Do you have suggestions for improvement/changes that could be made to make the lives of children in similar situations better?

Thank you very much for your time.

