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CHILD LABOUR : AN ANALYSIS

BY

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DEDICATION

TO MUM AND DAD:

***WITHOUT WHOM I WOULD NEVER BE
WHAT I AM OR WHERE I AM TODAY
THANK YOU FOR ALWAYS BELIEVING IN ME***

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ABSTRACT

The exploitation of minors is on the rise and in recent years, there has been an awakening in the world attention to the problem of child labour. International bodies have adopted conventions and declarations on the issue while almost all states have laws, services and other activities intended to restrain the economic exploitation of children and alleviate its effects. Despite these efforts, there exists a wide gap between laws and practice.

This paper focuses on an analytical review of child labour and it examines the underlying causes of child labour and its consequences for children and the society at large. In developing countries, the vast majority of children continue to contribute to family economy making child labour economically important. Steps must however be taken to alleviate it. Not all work is bad for children. Work that does not detract children from other essential activities such as leisure, play and education is not child labour. Child labour is work that impairs the health and development of children.

Children are exploited in nearly all sectors of the economy the main ones being agricultural, industrial and informal sectors which shall be discussed herein. Over the years, different kinds of action have been taken to protect working children against exploitation. Legislation prohibiting employment of children and regulating their working conditions has been the major instrument of intervention by states. Child labour laws are essential to deal with the worst forms of child labour where they exist and to provide minimum levels of protection where child labour is unavoidable. However, the fight against child labour can not be solely won through legislation. Policies and programmes are also very essential.

This paper shall provide an inventory of legislative and non-legislative responses already made by states and it shall examine the limitations and recommend steps to eventually combat child labour. Attempts to make child labour illegal have sometimes driven it underground where exploitation flourishes. Thus, effective protection of working children requires that compassionate vision and firm resolve be matched to a realistic appreciation of the situation, opportunities and constraints within which practical action can be taken.

INTRODUCTION

Child labour has been prohibited in most of the countries. However, it remains a widespread and growing phenomenon. The nature and extent of child labour, its forms and severity of its exploitation vary from one region to another.

The fight against child labour has been long and slow. Its harmful effects were first analysed in the Industrialised countries during the last century. In developing countries, children work to contribute to the family economy and participation in economic activity is often seen as one of the most significant facts of the childhood experiences. Child Labour had become an accepted part of the way of life and was not questioned. In Developed countries, most children work after school hours and during vacation to earn extra pocket money and not out of absolute economic necessity. However, this analogy varies in different regions.

Through the past centuries, child labour has been practised in virtually all countries. In developing countries it became most widespread during the colonial times. For example in South Africa, child labour was commonly used by the Europeans during the 17th Century especially in the wine and wheat farming area of the South Western Cape.¹ Although apprenticeship and slavery were officially illegal, they both continued into the 19th Century. Child labour forms had become an accepted way of life and was not questioned until the second half of the 20th Century. This is when there was a great awakening in most regions of the world.

Developed countries also had tales of child labour. In Britain for example, the effects of this practise were felt mostly in the late 19th Century. Thousands of British boys and girls were sent to Canada to work under indentures as agricultural labourers and domestic servants.² Many of the British children were taken away from their native country before the age of knowledgeable consent during the decade before the First World War, when the foundations of the national welfare state were being laid. Parr³ notes that in the half century after 1870, legal initiatives to redefine the rights and

¹ Child Labour in South Africa: A Review, *Anti-Slavery Society*, Report No.7 (1983) p.9

² Parr, J *Labouring Children* (Montreal: McGill-Queen's University Press. 1980) p.11

³ *Ibid.*, p.12

roles of children and the responsibilities of parents abounded in both sides of the Atlantic. Reformers argued that all young people ought to be allowed fourteen years' exemption from intensive contribution to the household economy, schooling at the cost of society, to prepare them for adulthood and humane treatment from their kin during this lengthened period of dependence.

It was during such an atmosphere that the International Labour Organisation (ILO) was formed. The protection of children was one of the priority tasks set for the organisation by the Preamble of the ILO Constitution of 1919. Various Conventions and Recommendations have been adopted by the ILO on child labour as shall be discussed herein. During the International Year of the Child, 1979, international attention became fully focused on the problem of child labour. Several international bodies became more concerned with the issue. These are the UN, UNICEF and ILO. In 1985, the UN Convention on the Rights of the Child was adopted. It includes child labour provisions. Child Labour is an issue that quickly gets to the heart of the development problem of poverty and inequality. It has become part of the human rights domain. The UNICEF is also a predominant agency for child welfare.⁴

One of the recent significant developments was in April 1995. The governing body of the ILO decided that a list of Core Conventions be the target of a campaign for the promotion of fundamental human rights conventions. The set of core standards arose out of a concern over the impact and effects that global economical forces were having on employment conditions.⁵ Starting from the World Summit on Social Development in 1995, four principles have been generally accepted by international organisations as the irreducible core of labour rights: freedom of association and the right to organise; prohibition of forced labour; prohibition on child labour and the non-discrimination principle.⁶

These rights reflect broad human rights values, not just considerations appropriate to labour law. The core labour standards, particularly freedom of association and the prohibition on forced labour, the latter which covers at least some aspects of

⁴ Fyfe, *A Child Labour* (Cambridge: Polity Press, 1989) p.7

⁵ Hepple, B 'New Approaches to International Labour Regulation' (1997) 26(4) *ILJ (U.K)* p.353

exploitative child labour, are possibly customary international law. Child Labour is also included in a wide range of international human rights treaties, not just ILO conventions. These core labour standards advocated by the ILO are now the subject of a declaration by the international labour conference.⁷

This declaration places all members under an obligation to observe core labour standards. The international labour conference declares that all members, even if they have not ratified the conventions in question, have an obligation arising from the very fact of membership in the organisation. They are obliged to respect, to promote and to realise in good faith and in accordance with the constitution, the principles concerning the fundamental rights which are the subject of those conventions, namely among others, the effective abolition of child labour.⁸

Though child labour exists in the Industrialised countries and emerging in many of the transition economies as well, it is most prevalent in the Developing regions. This is not only due to economic reasons but because that is where 87% of the world's children under 18 years live. Consequently, the focus of this paper shall be the Developing countries. However, pointers from the Developed countries shall be used. The most rampant forms of child labour that exist in Industrialised countries are child prostitution, pornography and child exploitation in the entertainment industry.

This paper is divided into four Chapters. The first chapter discusses the child labour concept and evaluates children's work and makes a distinction between constructive and destructive work as well as a general overview of its causes and effects. The types of hazards children face vary according to the occupation involved and the specific working conditions.

The second chapter shall analyse different sectors in which child labour is used. Children are exploited in almost all employment sectors. These include agriculture, mining, construction, manufacturing, deep-sea fishing, services sector, child soldiers,

⁶ Langille, B.A 'Eight Ways to Think about International Labour Standards' (1997) 31 *Journal of World Trade* p.31-32

⁷ The ILO Declaration on Fundamental Principles and Rights at Work. International Labour Conference, 86th Session. Geneva. June 1998

prostitution and domestic work among many others. This paper shall focus on three main categories: Agriculture, Manufacturing and the Informal sector. The study shall evaluate the conditions of work, the duties and the work hazards relating to working children. These sectors shall be discussed with reference to country case examples.

The third chapter deals with the response to child labour. Here, both the legal response and policies and programmes shall be discussed. The legal approach shall focus on International and National laws. The main International bodies that have taken the lead in responding to this dilemma are the ILO, UN and UNICEF. They shall be discussed in detail. These bodies have set out a guideline for the National laws through Conventions, Recommendations and Declarations. The main policies and programmes that are examined are education policies and consumer labelling programmes. These responses are based on the various recent developments in the international, regional and national fronts. However, despite such efforts, limitations impede their effective implementation. These limitations shall be discussed in relation to laws and the policies currently in place.

The final chapter evaluates different kinds of action that can be used to combat child labour and protect children against exploitation and other dangers to their physical, mental and social developments. There are different views as to how child labour should be combated. The reality that must be recognised is that in most societies, children will still need to work and therefore ways need to be devised combining work, welfare services, education and health. What is often reiterated in this chapter is that though laws are very important in the struggle against child labour, they should not be the only weapon. Effective abolition of this practise is a challenge to the International community and individual States should give this issue priority.

⁸ Cullen, H 'The Limits of International Trade Mechanisms in enforcing Human Rights: The case of Child Labour' in *The International Journal of Children's Rights* Vol. 1, 1999 p.5

CHAPTER ONE

THE CHILD LABOUR CONCEPT

1.1 DEFINITION

Child labour can be defined as work that is detrimental to the physical and mental development of children. Forms of child labour include children working in slave-like conditions in factories and mines, using dangerous chemicals in pesticide soaked fields, imprisoned in homes as domestic servants and working as prostitutes, or in guerilla armies.¹ It is further defined as work which interferes with a child's education, taking away their prospects for career advancement and exposing them to the adverse conditions of the work place while still in a growing phase.

Two major International Conventions, the ILO Minimum Age Convention, 1973 (No.138) and the UN Convention on the Rights of the Child set out the basis for a world wide definition of Child Labour. Basically, two conditions are set. One is an age limit. This may differ depending on the kind of work, whether it is a developing or Industrial country and on the age at the completion of primary education. Secondly, is the qualitative condition. Any that any work being undertaken should not be hazardous or interfere with the child's education or be harmful to his/her health or physical, mental, moral or social development. Convention 138 was adopted covering all sectors of economic activity. The Convention sets a number of minimum age levels of different types of work, thus defining the thin line between what should be considered Child Labour and work that fall outside the concept of Child Labour. The convention is accompanied by the Minimum Age Recommendation, 1973 (No. 146).

Not all work done by children is to be considered as Child Labour. This also leads to a discrepancy between definitions of being economically active or part of the labour force, according to the ILO definition and being a child labourer. Studies of children's work make a basic distinction between work in waged employment and

¹ Fyfe, A *Child Labour* (Cambridge: Polity Press, 1989) p.4

that undertaken within the context of the family. Typically, cooking, cleaning, child-care and domestic duties are undertaken to some extent by children in all societies. Such duties form part of the socialisation process and cannot be termed Child Labour.² But domestic work, becomes 'social exploitation' if it denies children their right to play, to learn and to enjoy a normal childhood. Child work can be a positive experience and in the best circumstances, children's work can prepare them for productive adult life. Through their work they can gain increasing status as family members and citizens. Child work can then be a painless and gradual initiation into adult life. What the law is trying to root out is child labour and not child work. A child may be economically active and not a child labourer. It may sometimes be difficult to draw a line between children's work and domestic duties as a part of the socialisation process, and child labour. A main indicator will always be if the work is at the expense of the children's education both in cases where children are kept entirely away from school and where children combine work and school in a way that their school performance suffers.

According to the ILO, the term Child Labour covers all economic activities carried out by persons less than 15 years of age regardless of their occupational status. However, it does not include household work performed by them in their parents' home, except where such work can be assimilated to an economic activity.

The ILO Convention No. 138 authorises the employment of children from the age of 12 or 13 in certain types of work such as light work under certain conditions and allows certain categories of employment or work and certain branches of economic activity to be excluded from its scope.³ The ILO shall be discussed in details later.

The current South African law prohibits employment of children under 15 years where no specific permission has been given to allow employment. A child is considered to be employed if she/he helps an employer in the employer's business in any manner, whether or not the child is paid for his work. The employer's business may include his house where the child is helping by domestic labour.

² Blanchard, F *Report of the Director-General* (Geneva: ILO, 1983) p. 18

³ ILO, 1995

In 1986, the UNICEF Executive Board laid down situations when child work becomes exploitative.⁴

- a) Starting full-time work at too early an age.
- b) Working too long within or outside of the family as a result, children are unable to attend school, where available, or to make the most of school due to fatigue or lack of time.
- c) Work resulting in excessive physical, social and psychological strain upon the child.
- d) Work and life on the streets in unhealthy and dangerous conditions.
- e) Inadequate remuneration for working outside of the family.
- f) Too much responsibility too early as in the domestic situation where children under ten may have to look after young brothers and sisters for a whole day thereby preventing school attendance.
- g) Work that does not facilitate the psychological and social development of the child. For example, dull and repetitive tasks associated with industries like handicraft.
- h) Work that inhibits the child's self-esteem for example, bonded labour and prostitution.

There are several categories of child work, some of which include domestic, non-domestic, non-monetary, bonded labour, wage labour and marginal economic activities.

In Asia, one common type of child labour is tied or bonded labour. The UN Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices similar to Slavery in 1956 defined debt bondage as the status or condition arising from a pledge by a debtor of his personal services or those of a person under his control as security for a debt. If the value of the services as reasonably assessed, is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

⁴ UNICEF 1986 Executive Board Paper, *When Does Work Become Exploitative?* P.3-4

In India, the Caste system reinforces and perpetuates debt bondage. Most bonded labour persists, in part because of the considerable sums of money needed even by the poor to celebrate weddings and festivals or to repay government loans.⁵

Most of the poor are illiterate and unable to calculate interest and other additional amounts to the debts therefore the moneylenders cheat them allowing the debt to continue through the generations. Parents have an absolute power over their children, which makes it possible for children to be pledged chattel-like to pay off debts. This practice goes on rampantly even with the knowledge of Labour Inspectors. In one case, many children under 14 years, were among 100 labourers found by a judge of the Supreme Court of India locked up at night in a cage. They were discovered in the Utter Pradesh village of Joshiyara where they were in bondage to the Continental Construction Company. The judge reported that the men and boys had been bonded with the full knowledge of the labour Inspectors who connived with the Company.⁶

According to recent experimental statistical surveys carried out by the ILO Bureau of Statistics, there are at least 120 million children between 5 and 14 years of age working full time in Developing Countries. This figure would increase to about 250 million if we include those in the same age group who work as a secondary activity.⁷

Definitional Problems

The notion of child labour is inadequate to analyse as it works from ingrained assumption of an immature specimen of the human race being exposed to a certain type of undesirable activity.⁸ The difficulty lies essentially in the fact that, at the empirical level, activities undertaken by children vary from one society to another and also according to class, gender and age group as well as their valuation. The difficulties also include: the distinction between suitable and unsuitable activities and its underlying valuation of work; assumed universality and gender neutrality of ideals of childhood.

⁵ Supra note 1 p.76

⁶ Daily Telegraph, 4 October, 1995

⁷ Ashagrie, K 'Statistics on Child Labour: A brief Report' (1993) in *Bulletin of Labour Statistics* (Geneva: ILO, 1996)

The assumptions underlying the notion of child labour are grossly inadequate to study the work performed by children in a rural setting where children working in remunerated employment are rather the exception than the rule, and many children can combine school and work. This is however not to say that the work of children in peasant societies would be in itself less objectionable or that it would be less exploitative. The focus should not only be on the nature and articulation of children's work but also on how it is valued, on the setting for which work is undertaken on the one hand and on the other, the ideological assumptions underlying it.

1.2 CAUSES AND EFFECTS OF CHILD LABOUR

A) CAUSES OF CHILD LABOUR

The general causes of child labour are overpopulation, economic differences between the many poor and the rich, high rate of labour migration abroad, failure of the education system to provide schooling for the large numbers of children and an increasing number of school drop-outs.

A 1991 Economic Reform Policy Document made by the Zimbabwe Government in relation to unemployment states that a frightening trend, closely linked to the prevalence of unemployment is the growth of child labour particularly in urban areas. A study done in the leather tanning industry in Egypt gave a statistical analysis of some of the causes of child labour as: households needed income (90%), children's income regular (56%), could not afford schooling (48%), and unemployment of the head of the household (20%).⁹

In Developing Countries, economic stagnation and unemployment, massive rural migration and accelerated urban growth, aggravated by the rising cost of living have increased poverty and therefore the occurrence of child labour. In Industrialised Countries, where there is economic recession and unemployment has risen, certain

⁸ Nieuwenhuys, O *Children's Lifeworlds: Gender, Welfare and Labour in the Developing World* (London: Routledge, 1994) p.16

⁹ Abdulla, A 'Child Labour in Egypt: Leather Tanning in Cairo', in Bequele, A and Boyden, J (eds.) *Combating Child Labour* (Geneva: ILO, 1988)

forms of child labour have re-emerged especially in the industrial and entertainment sectors.¹⁰

Child labour is sustained and exacerbated by unemployment, overcrowding, poverty, inappropriate investment and family and community disruption caused by the creation of a permanent reserve of labour.¹¹ Valentina Forastieri¹² puts forward the following challenge, "...without more equitable income distribution and general adult access to employment and as long as economic growth is seen in terms of a higher gross national product, the problem will remain."

The causes of child labour are two - fold. These are the demand for intensive labour and the readily available supply of labour.¹³

(i) Demand for Child Labour

There is a large demand for cheap labour. In the agricultural sector, employers opt for children because they can be hired for a fraction of what is paid to adult workers. The children are also plentiful in numbers in rural areas and already live on plantations therefore employers do not have to search far or offer them accommodation and transport.

Children are considered to be more docile and more pliant than adult workers. They can not stand up against the employer however terrible the working conditions and wages are, since they are not organised on lines of trade unions. The competition for the jobs is also very high among the children so none of them would like to risk loosing employment by having a showdown with the employer.

Children can be given demeaning jobs without much difficulty and are totally submissive to forces of exploitation. They are more active, feel less tired and more

¹⁰ World Bank, 1991 and 1993.

¹¹ 'Child Labour in South Africa' A General Review' *Anti-Slavery Society*, Report No. 7 1983. p.78

¹² Forastieri, V *Children at Work: Health and Safety Risks* (Geneva: ILO, 1997) p.3

¹³ By the Sweat and Toil of Children. Vol. 11, *U.S Department of Labour* (U.S. Bureau of International Labour Affairs, 1995) p.25

skilful in certain tasks. For example, in the carpet weaving and electronics industries, children work better because of the dexterity of their small fingers.

(ii) Supply of Child Labour

A large supply of available working children is a result of several economic and social factors, some of which shall be discussed below.

a) **Poverty**

It is estimated that in Africa, about every second household lives below the poverty line. The number has increased from 184 million in 1985 to 216 million in 1990 and it is expected to rise to more than 300 million in the year 2000.¹⁴ Nearly half of India's population subsists below the poverty line.

Economic compulsions weigh heavily on the conscious of poor parents and they collude with their children's employers in violating the law and putting their children under risks of compulsion.¹⁵ In such situations, families can hardly support themselves. They therefore turn to child labour and encourage their children to fend for themselves as early as possible and it is even better if they become a source of income for the family. Extreme poverty has forced children out of their homes to become at least partially or self-supporting especially when they are abandoned in the streets or orphaned.

In the Agriculture sector, the employers sometimes use systems of remuneration based on weight and this provides an incentive to use children to maximise earnings. Other payment schemes require a minimum amount of a crop to be collected in order for any wage to be paid therefore encouraging parents to employ their children.¹⁶

¹⁴ *Child Labour in Africa: Targeting the Intolerable*, African Regional Tripartite Meeting on Child Labour. (Kampala, Uganda 5th to 7th Feb. 1998)

¹⁵ Nangia, P 'The Situation of working children in India' in Myers, W. E. (ed.) *Protecting Working Children* (London: UNICEF, 1991) p.4

¹⁶ *Supra* note 13 p.26

Poverty also leads to a system of bonded labour which is prevalent in Asia. For an amount advanced by a creditor, the debtor has to work for the creditor until the amount is cleared. This debt is seldom cleared due to interest and a bonded labourer is therefore forced to labour indefinitely for no wages or for wages below the legal minimum. Large numbers of bonded labourers begin their lives as child labourers. As children, they are mortgaged to the moneylender for small sums of money. The cycle is at times intergenerational, the child labouring through adulthood and old age and then replacing his labour with that of his child, and the cycle goes on. The child has no choice in the matter of whether he will work.¹⁷

In general, the adverse economic trends, structural adjustments and monetary instability increase the poverty incidence resulting to an increase in child labour. The employment of children may supplement family income but this is only a short-term solution. In the long term, this may also contribute to keeping the children in poverty. This is because there is lack of affordable opportunities for further education and skill-training meaning limited prospects for upward or outward mobility.¹⁸

b) Educational Factors

In Many rural areas, schooling facilities are scarce and inaccessible. The long distance that must be travelled precludes attendance in many instances. In South Africa for example, due to the above factors school enrolment by August 1998, did not exceed 70% and more than 5 to 6 million children did not attend primary school.¹⁹

Children from poor families are frequently unable to pay school fees, purchase school uniforms, books and other school material. These parents not only must they meet these expenses, but they also loose the income that accrues from child labour. In the agricultural communities, the timing between school and agricultural seasons compels poor children to withdraw especially during times of sowing and harvesting.

¹⁷ Supra note 15 p.47

¹⁸ Jombo K. S (ed.) *Child Labour in Malaysia* (Kuala Lumpur: Forum, 1992) p.152

¹⁹ Kooijmans, J. *Definitions and Legal Provisions on Child Labour in Southern Africa*, ILO/SAMAT Policy Paper No.6 (Zimbabwe: ILO, 1998) p.8

Parents believe that children will receive more useful training by working on farms than they would in the classroom. School represents a drab and dismal picture and holds little attraction to the child. The increasing volume of unemployment among educated youth further undermines the faith of the poor in the efficiency and pay-off of education and they therefore favour working instead.

c) Attitudes of the Society

Child Labour is viewed as beneficial to the child, the family and the society in many places. It is an accepted norm within the social structure. Children growing up may be inculcated into a lifestyle centred around working and they know no other way of life.

Society may also relegate certain categories of people into doing medieval jobs. High concentrations of working children come from either specific castes, ethnic or religious minorities or domestic and foreign migrant populations. In India, the majority child workers come from the lower castes. In Thailand's fishing industry many are Burmese and in Pakistan many may be the minority Christians.

Society in general therefore contributes to child labour through omission, indifference, a lack of awareness, or the acceptance of child labour as a natural and customary way of life. In Indonesia, for instance, cultural values accept and even encourage child employment as an educational process that brings understanding of work, personal responsibility, self-discipline and job satisfaction.²⁰

d) Ineffectiveness of Protective Legislation and Government Policies

In almost all countries, legislation exists concerning the minimum age of admission to employment, and the employment of children. It is the ineffectiveness of enforcement of this legislation that allows child labour to persist. An effective inspection system has not been adequately developed for covered industries and legislation often

²⁰ *Child Labour in Indonesia* (Geneva: ILO, 1993) p.6

excludes traditional workshops, quasi-family undertakings, petty commerce, street trade and agriculture.

In India, the government officials do not regard the employment of children in cottage industries as child labour though working conditions in these shops are often inferior to those of the large factories.²¹

In many countries, a lack of surveillance, enforcement and intervention on the part of governments allow child labour to thrive. Even when violators are caught and prosecuted, penalties are often too small to induce employers to change their practices. Governmental Policies in many countries simply ignore the plight of children because the enforcement of legislation is very difficult and they may not be willing to spend too much money from the budget to do so since it is not lucrative in any way.

e) Demographic and Migratory Patterns

Due to the high urbanisation rate in many developing countries, the high inflow of people has led to increases in informal economic activities that often operate within severe financial constraints. This has contributed to an environment that is conducive to child labour. The migration to urban areas has also caused the rural areas to be depleted of labour, creating a situation where children have to perform the domestic and income earning activities.

In most Southern African countries about 50% of the population is under the age of 15 years, increasing the burden on the adult population. There is thus the compulsion especially among vulnerable households where dire circumstances dictate, to encourage children to work in low-income formal employment, in easy entry informal activities or communal areas.²²

²¹ Weiner, M. *The Child and the State in India* (U.K: Princeton University Press, 1991) p.4

f) The HIV/AIDS Pandemic

This pandemic and the related high death rates has resulted and will continue to result in high numbers of orphans and child-headed households. This disadvantaged group will under the present difficult economic circumstances have little option but to seek employment.²³

Finally, while most children work as part of a family unit, they may also work so that parents can reduce their own work burdens through the use of their children's work. Children may opt to become employed against their parents wishes rather than endure the 'eternal apprenticeship' of long hours without remuneration under the control of parents. The lure of an independent salary may also cause older children to seek paying jobs rather than to work without compensation on their family farms.

B) EFFECTS OF CHILD LABOUR

Almost every working environment involves one or several health and safety hazards. Children differ biologically from adults in their anatomical, physiological and psychological characteristics because of their process of growth and development. These differences may make them more susceptible to occupational hazards at the work place as compared to adult workers. The health effects can be more devastating for them, causing irreversible damage to their physical and physiological development including permanent disabilities with serious consequences to their adult lives.

Children suffer from long and arduous working hours, little health and safety protection and services, inadequate diets, rest and leisure and malnutrition making them more susceptible to infectious diseases. Some of the occupations such as in the entertainment industry and street trading, children are exposed to bad elements such as drug trafficking, theft, violence and other illegal activities. This can lead to a generation of gangsters and morally inept people.

²² Mhone, G.C.Z 'Child Labour in Southern Africa: Work and Work related Activities' in *Transcending the Legacy: Children in the New Southern Africa*, AEI/SARDC/UNICEF, Harare (1995) p.170-177

a) Retarded Physical Growth

According to an ILO Report in 1998, it was reported that working children turn out to be shorter, lighter and smaller adults than children in school.²⁴ Children using seats and work benches designed for adults may develop musculo-skeletal disorders such as chronic repetitive strain injuries, repetitive motion trauma, back problem and vibration induced disorders.²⁵ Others carry heavy or oversized loads such as coffee, tea and suffer from skeletal damage or impaired growth because they are undergoing the process of growth and development. Bone lesions and postural deformities also arise due to working doubled-up for example in carpet factories.

b) Illiteracy

Many working children drop out of school before even completing elementary education. Those who attend school do so when they are not working but the duration of children's attendance is short. The ability to concentrate and thrive in school when they must perform arduous physical labour before or after school may be severely taxed. This may result to many drop-outs and create a generation of illiterate people. Since the child labourer does not have a chance for formal education, the chances are low that he/she will rise above the economic level of his/her parents or get good employment. The poverty cycle then continues.

c) Occupational Injuries/Accidents

Children are more susceptible to accidents because they do not always perceive danger correctly. This is due to lack of information and experience or they have an impression of insecurity and vague danger, but may not always clearly perceive the relationship between an eventual outcome and the danger of a hazard, or they may come to the wrong conclusions.

²³ Supra-note 19 p.9

²⁴ Combating the Most Intolerable Forms of Child Labour: A Global Challenge. Amsterdam Child Labour Conference, 26-27 Feb 1997, p.7. *Child Labour: Targeting the Intolerable*, 1998 International Conference Report VI(1) p.3

²⁵ Supra note 12 p.21

Children working in the streets can be subject to the constant threat of traffic accidents and street violence. Repeated injuries to children who cut sugar cane in the plantations usually incapacitate them at an early age limiting them to an average working life of twelve years.²⁶

Children's physical proportions, working capacity and limitations are not taken into consideration in designing work methods, tools and equipment. For example, personal protective equipment does not fit children. They therefore work without it or use substitutes that do not work effectively resulting to accidents such as damage to eyes in the welding industry and injuries from falling objects. The effects of these occupational accidents live on with the children since they may be left maimed, blind, deaf and some even die. As a result, their productivity as adults is reduced since they can no longer fend for themselves and some may even require specialised care which is very expensive.

d) Occupational Diseases

As has been discussed above, children are more susceptible than adults due to a weak resistance system which may be further weakened due to malnutrition, anaemia and fatigue among many others. These diseases are caused by exposure to harmful agents or due to the nature of the work.

Hazards such as AIDS and other sexually transmitted diseases affect children in the sex industry or the children who work in the streets. These diseases often kill them or immobilise them before they reach adulthood. Dump and dusty working conditions may lead to the transmission of communicable and respiratory diseases.²⁷

Prolonged exposure to different toxic substances even to low concentrations may cause a diversity of effects. Valentina Forastieri²⁸ identifies some of the effects as neural-behavioural functional changes, hepatic, renal, skin, pulmonary and reproductive impairments. Children have a longer period of exposure to cumulative

²⁶ Supra note 13 p.1

²⁷ Supra note 1 p.23

²⁸ Supra note 12 p.23

hazards if they start working at an early age and exposed for a longer period. Exposure to for example, asbestos would increase the possibility of contracting chronic occupational diseases such as lung cancer in young adulthood instead of at an older age resulting to early death. Some authors such as Weisburger²⁹ have raised concern about the exposure of toxic chemicals at a very early age which may alter the body response to future toxic exposures.

e) **Psychological Hazards**

Working children are more vulnerable than adult workers because of a combination of psychological and social reasons among many others. Children are pushed into heavy responsibilities when they are too young to cope. They are motivated to start working and retain the job so as to contribute to the financial support of the family. Supporting a family is already a difficult task for adults and thus shifting or sharing this responsibility with children is placing on them too heavy a burden. As a result of regular employment or work, children are deprived of the time and opportunity to go through normal development at the most critical stage of life due to pressure for survival.

Work exposes children to the adult world and deprives them of their childhood and the sense of security through the knowledge that the parents will provide for them. They are exposed to bad elements when they are still impressionable and the likelihood is that most of them fall prey to these elements since they can not make firm and responsible decisions at that age. Children need motivation so that they can develop physically and mentally. Most of the jobs they undertake are monotonous and leave no room for growth, creativity and initiative.

In Conclusion, child labour damages children's physical and mental health. Because of their premature incorporation into the workforce, they often perform tasks which are not suited for their physical and mental abilities and needs. Child labour has numerous effects on the children and the society at large. Though most of the hazards

²⁹ Weisburger, J.H., *et al.* 'Liver Cancer: Neonatal Oestrogen enhances induction by Carcinogens' in *Science* (Washington, DC, 1966) No. 154

and effects are similar in all labour sectors, there are some specific hazards that affect particular sectors. These shall be discussed in the next chapter.

1.3 THE DEBATE

Several debates have arisen revolving around the child labour concept. Most of these debates are inter-related. Various dimensions and perspectives to these debates shall be discussed below.

- a) Elimination of child labour versus Protection of working children.
- b) How should child labour be approached?
- c) Protection of children versus Protection of children's rights.
- d) Should the State intervene?

a) Elimination of Child Labour Vs Protection of working children

One school of thought argues that children should be reserved primarily for study and play, with work consisting of light chores in the home. They claim the assumption that children's work in the context of the family is morally neutral is wrong. This assumption rests on an inadequate understanding of the social and cultural modalities of this work.³⁰ They maintain that even when children are not mistreated, their participation in the workforce weakens adult wages and employment and is thus a factor in generating the very poverty that forces them to work. The ultimate goal of action should be the elimination of all child labour.³¹

The other school of thought points out that work under appropriate protection and supervision, is an essential vehicle of juvenile socialisation, training and self-esteem. They hold that the economic participation of children is acceptable as long as it is consistent with healthy development and that the real problem is the special vulnerability of children when they enter the labour market.³²

³⁰ Supra note 8 p.9

³¹ Myers, W.E (ed.) *Protecting Working Children* (New York: UNICEF, 1991) p.3

³² Ibid.

They further point out that parents are believed to be able to effectively protect their children from excessive drudgery when the latter work under their supervision. Further, when these poor children are able to combine work with schooling it is taken as an additional proof of its suitability.³³ Though they support the elimination of child participation in hazardous work, they feel that youngsters wishing to work should have the right to do so and that the scarcity of employment opportunities suitable for minors is as much a problem as is the existence of exploitative working conditions. The proponents further claim that prohibiting child labour without first raising family real income from other sources will invite tragedy for the poor, creating even more destitute children. The central issue is how to protect the safety and development of working children.

b) Approaches to Child Labour

The child labour concept has been approached through various channels over the years. It has often been clouded by moral considerations as this is a very sensitive issue. According to Olga Nieuwenhuys,³⁴ there are three main historical perspectives from which this concept may be approached.

- (i) The Legal Perspective
- (ii) The Demographic Approach
- (iii) The Neo Classical Approach

(i) The Legal Perspective

The Legal approach emerged in the 19th Century Europe in response to a growing public concern about the need to control the disruptive effects of the employment of children by the factory system. The legislative approach proposed the dual goal of prohibiting children from working in factories and workshops and providing as an antidote, a national system of basic education. A broad spectrum of activities not directly connected with factory work, were left untouched by legislation, for example; housekeeping and child minding.

³³ Bouholiba, *A Exploitation of Child Labour* Special Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. (New York: UN. 1982) p.17

³⁴ Supra note 8 p.10

This approach distinguished between harmful and unsuitable work on the one hand and suitable work which would not impair the child's healthy development. This distinction is currently used in most of the child labour laws. This approach was however debatable as it treated Industrialised and developing countries differently. Children in the former category were viewed as primarily in need of protection against exploitation to which the factory system exposed them while in the latter, children working under the control of kin was praised as a form of socialisation.

(ii) The Demographic Perspective

This perspective emerged after the Second World War when new independent Third World States were formed. Working from the ingrained assumption of the children of the poor as non-working dependants, development economists and population experts cited the high dependency ratio in Third World countries as a factor that inhibited development.

A World Bank report of 1974 acknowledged that high fertility was part of a wider socio-economic environment in which, parents expect children to contribute to the family income rather than be educated.³⁵ Mamdani³⁶ argued that a variety of waged and non-waged tasks performed by boys and girls were complementary to those of adults and were necessary in the reproduction of the peasant family. This suggested that a peasant economy simply needed large numbers of working children. However, by the mid-seventies, the idea that the demographic explosion was the main source of the world's problems started losing credibility. This ideology resulted to the creation of the Neo Classical Approach as a critique to the demographic approach.

(iii) Neo Classical Approach

Very young children are sent to work in house-holds as it is believed not only to be beneficial but essential to the well being of the peasant family. A lively debate

³⁵ King, T et al. *Population policies and Economic Development*. World Bank Staff Report (Baltimore: John Hopkins University Press, 1974) p.3

³⁶ Maïndani, M 'The Ideology of Population Control' *Concerned Demography* No.4 (1974) P.13-22

ensued on the causal relation between high fertility and the utility of children in the peasant household evidenced that such general assertions are premature.

This approach rests on cost-benefit analysis. Caldwell³⁷ points out that a cost-benefit analysis of the importance of children in the rural poor overlooks the historical, social and cultural role of children in society. Also, the use of the concept of the household as an unproblematic unity has generally led to the negation of internal contradictions within the family in particular, those among male and female and seniors and juniors. Proponents of the Neo Classical Approach criticised the Demographic Approach on the grounds that it was focusing exclusively on the micro setting of the peasant household failing to provide an overall analysis of the wider socio-political parameters in which the actions of its members are embedded.³⁸

The Neo Classical Approach has acknowledged that legal and political institutions lend adult males considerable bargaining power within the family and gives them leverage, not only to engage in remunerated work outside the ambit of the home, but also to dispose of the cash returns of their hobbies.³⁹ Some recent research undertaken from this perspective has highlighted how gender and age differences interact to contribute to children's subordination. Work undertaken by girls is often not perceived as child work for the reason that girls' childhood is very short.

c) Protection of Children Vs Protection of Children's Rights

This debate is between the 'Liberationists' and the 'Protectionists'. Those interested in protecting children and those interested in protecting children's rights.⁴⁰

One school has stressed that children require protection by special rights tailored to their needs as children. One question that arises is 'how can you talk about rights inherent in people who are unable to exercise them?' The Protectionists argue that what one should be concerned about is requiring adults to meet their obligations or

³⁷ Caldwell, J.C 'The Mechanisms of Demographic change in Historical Perspective' *Population Studies* Vol.35 (1981) p.5-27

³⁸ McGuire, R.H. et al. 'Patterns of Household Structures and the World Economy', *Review* X (1) p.75

³⁹ Supra note 8 p.23

⁴⁰ Franklin, B (ed.) *The Rights of Children* (Oxford: Basil Blackwell, 1986) p.17

duties. If children are given a right to work, they, like adults will require protection from poor and dangerous working conditions, but this should not erode their autonomy and choice in other matters.⁴¹

White⁴² avers that if one focuses on the labour element of exploitation due to their status as minors in society, a paradoxical and ambiguous position is reached. It is believed that children are more exploited because of their status. White suggests that much more might be achieved if working children could be assisted in securing basic workers' rights.

Much of the Liberationist's approach to children's rights turn on the notion that children should not be treated as a special category, but should share the rights adults enjoy. If children work, they should have the right to join trade unions.⁴³ For the Liberationist, Protectionism can be translated into Paternalism which as they claim, is a trap to be avoided. Goddard and White in their book on child workers state the following, "... despite the evidence of a high capacity of children in Third World for social and economic independence, few reformers are sufficiently free from their paternalism to press for a genuinely greater autonomy and self-organisation of working children."⁴⁴

d) State Intervention

This perspective brings out the issue of the relationship between diffusion of mass education, the introduction of compulsory education and the abolition of child labour. Myron Weiner⁴⁵ points out that historically, there was a link between compulsory education and child labour laws. With the diffusion of mass education, state compulsion was introduced to deal with those children whose parents chose to place their children into the labour force rather than into school.

⁴¹ Ibid.

⁴² White, B 'The use and abuse of Child and Juvenile Labour in Developing Countries: An Introductory Note with a focus on Agriculture'. (Unpublished PAPER, 1985) P.9

⁴³ Morice, A: 'The Exploitation of Children in the Informal Sector: Proposals for Research' in *Child Work, Poverty and Underdevelopment* (Geneva: ILO, 1981)

⁴⁴ Goddard, V and White, B 'Child Workers and Capitalist Development: An Introductory Note and Bibliography' in *Development and Change* Vol. 13 No. 4 (London: Sage Publications, 1982) p.472

The state intervention to remove children from the labour force was often politically contentious. Many regarded it as improper or unrealistic to compel the parents of the poor to send their children to school. The notion that children ought not to work, that they ought to be in school, and that the state should assure both, was in some societies rejected by both conservatives and leftists of the 19th Century, each from different perspectives.

Some argued that child labour was inherent in the system of capitalist exploitation and that parents needed the income of their children. On the other hand, there were those who argued that industry needed low-wage child labour and that the state ought not to disrupt the social order by educating poor children beyond their station. They further stated that education provided by schools was ill-suited to the needs of the poor and that child labour relieved the State of caring for the poor. Others pointed to the unenforceability of child labour legislation and on a more philosophical level to the inappropriateness of State interference in the rights of parents.

Opposition to State intervention was thus tied to conceptions of children and work, to the question of the rights and obligations of the state versus the rights and obligations of parents, and the character of the capitalist order itself.

Below are some contemporary views with regard to State intervention in the child labour practice particularly through compulsory education.

One argument against compulsory education was that education would make the poor unsuited for the work that society requires. English conservatives argued that schooling was inappropriate for the working class, whose children could be better off by acquiring skills as apprentices.⁴⁵ The British Parliament sought to reconcile education with work in the lower classes by creating a system of part time education. The 1833 Factory Act provided that children employed in the Textile Industry were to receive two hours of schooling, six days a week. This was just the beginning of State's intervention.

⁴⁵ Supra note 21 p.114

⁴⁶ Supra note 21 p.115

A second objection was that child labour is necessary for the well being of the poor when the state is unable to provide relief. Thus, in a country with large numbers of poor people and inadequate poor laws, the state ought to promote the employment of the children of the poor rather than remove them from the labour force. The more that can be done to place children into the workforce the greater the likelihood that poverty could be ameliorated.

A third argument is that without child labour, certain industries would be forced to close, out-competed by more efficient industries at home or abroad, and that exports would then fall and unemployment increase. The threat of International competition was used against legislative reforms.

Others believed that child labour was the result of capitalism and the technologies it created. Karl Marx, the leading exponent of this view, argued that child labour is a source of profit to employers and is thus inherent in a capitalist system of wage labour.⁴⁷ Marx returned to two central arguments which were, first, that the new technologies increased the demand for cheap and unskilled labour and second, that the decrease in the rate of profit led to increase their exploitation of labour. In a letter to the leaders of the German Social Democratic movement, Marx took issue with their proposal to press the German Government to prohibit child labour. He wrote, "a general prohibition of child labour is incompatible with the existence of large-scale industry and hence an empty, pious wish."⁴⁸ Marx also took issue with the view that parents exploited children. He said that it was not the misuse of parental authority that created the capitalist exploitation of children's labour, but on the contrary, it was the capitalist mode of exploitation which, sweeping away the economic basis of parental authority, made its exercise degenerate into a mischievous misuse of power.⁴⁹

For Marx, then, state intervention to abolish child labour and implement compulsory education was meaningless within a capitalist system. Only the removal of capitalism could end the evils associated with child labour.

⁴⁷ Karl, M *The Marx-Engels Reader* Robert C. Tucker (ed.) (New York: W. W. Norton. 1978) p.353

⁴⁸ *Ibid.*, p.541

⁴⁹ *Ibid.*, p.415

However, time proved Karl Marx wrong. The participation rate of young people in the labour force in many industrial capitalist countries has declined, partly the result of a growing demand for an educated and skilled labour force and partly the result of increased school enrolments and attendance. The growth in manufacturing technology, the associated demand for skilled workers, and the expansion of opportunities for middle-class employment all made education more attractive. As a result of this, many States have made education compulsory, at least at the elementary/primary level.

Some have further argued that child labour laws could not be enforced since the number of manufacturing establishments and small shops was so large.

Finally, the most powerful argument came from those who were of the opinion that the state ought not to interfere with the rights of parents to choose what is best for their children. One of the opponents of this view was John Mill⁵⁰ who argued the following: Firstly, since education was necessary for a child to fit him to perform his part well in life, parents were as obliged to provide their children with instruction and training for its mind as they were to provide food for its body. Secondly, that education was necessary for the members of the community in general who are liable to suffer seriously from the consequences of ignorance and want of education in their fellow citizens.

The various groups that have participated in the debate on child labour legislation are religious institutions, trade unions, political parties and labour, education and health ministries. Most states now have legislation on various aspects of child labour and on the implementation of the laws. This shall be discussed in detail in the next chapter. In **conclusion**, the change in laws and legislation on child labour in particular depends on the attitudes of those within the state apparatus and upon those outside who can successfully influence state policies.

⁵⁰ Mill, J. S *On Liberty* (1859) in *The English Philosophers from Bacon to Mill* (New York: Modern Library, 1967) p.128

CHAPTER TWO

SECTOR ANALYSIS

“Child waged labour is... qualitatively different from activities realised within the home, or at least within the domestic enterprise. While work as an agrarian setting has traditionally been carried out within the context of household production, in industry and related sectors it is generally realised within an employer-employee structure. When children are incorporated into this structure they are more vulnerable than adults. Whereas in agrarian societies children benefited from parental protection, they are often denied that protection in industry, mining or services on the streets” (Bequele, A and Boyden, J (eds.) *Combating Child Labour*, (Geneva: ILO, 1988) p.2)

Not all forms of child labour are considered exploitative or abusive. Certain types of work including legitimate apprenticeships or helping parents in a family business can be formative learning experiences for children. The type of child labour that is the focus of current international eradication efforts is abusive commercial exploitation of children, which is either hazardous work or work that prevents young children from receiving an education.

The vast majority of child workers are unpaid family workers employed in small production units of the urban informal sector and the rural traditional sector. Though the share of urban child labour is increasing steadily with the rapid urbanisation of developing countries, the participation rates of children in economic activity remain globally much higher in rural areas.

Children work in many sectors and according to an ILO report, 70% of economically active children work in agriculture, 8% in manufacturing, another 8% in wholesale and retail, 8% in forestry and hunting, 7% in community, social and personal services, 4% in transport, storage and communication, 2% in construction and mining and 1% in the quarrying industry.¹

¹ Child Labour in the World' fact-sheet

Children are found working in nearly all facets of the economy. However, this paper shall limit itself to analysing the agricultural, industrial/manufacturing and the informal sectors.

2.1 THE AGRICULTURAL SECTOR

In the agricultural sector, children often begin work at a very young age. They perform tasks related to planting and harvesting of crops. Many are traditionally employed in family enterprises and others work in large-scale commercial plantations. In many of these plantations, children work alongside their parents. The remuneration method may be by weight or the quantity of the product collected or in some cases minimum amounts of a product must be collected in order for any compensation to be paid. Therefore, the more the hands, the more the family gets.

Children work from between four to twelve hours a day in the peak seasons. Most of them earn 'child' wages which are below the minimum wage and this is usually one-half to one-third of what is paid to adults doing comparable jobs. In Egypt's cotton fields most children earn US\$1.00 a day or less² and in Guatemala, children pick and sort beans and carry heavy sacks of coffee for eight to twelve hours per day and earn US\$5.00 per day.

This work frequently interferes with their education. Some large plantations and farms operate their own schools. The quality of education varies. Some meet or exceed government educational standards while others offer minimal education and structure school schedules to maximise the amount of time students can devote to working in the field, (for example in Zimbabwe). In these situations, different groups of children may be offered differing educational opportunities. In Negros, Philippines, children of skilled plantation workers often attend school full time and work in their free time while children of the unskilled workers do not receive any schooling.³ Children frequently miss classes and even forced to give up schooling. In Guatemala, a large

² 'Egypt's Young Return to Cotton Fields' (1997) p.23

number of children withdraw from school and migrate with their families to assist in the harvests.

Due to the seasonal nature of agriculture, it is difficult to ascertain the total number of children working in this sector. It is estimated that in Mexico, children from age 7 to 14 make up 30% of day labourers,⁴ and in Kenya, during peak seasons, close to half of the workforce planting, weeding and harvesting on sugar estates is by children.⁵

Some of the tasks that children are engaged in include herding, milking cows and goats, planting, weeding, harvesting coffee, tea, sugarcane, pyrethrum, carrying loads to factories, loading hay on to high wagons, working around corn loaders and cutting hay among others. The main hazards are machinery, biological and chemical exposures and dust-related and infectious diseases.⁶ Some suffer from snakes and insect bites. Heavy lifting, carrying and prolonged stooping and bending affects the musculo-skeletal development of children.

Children from some countries in Asia and Latin America hold flags to guide planes spraying pesticides as they fly over the fields and this places them at a higher risk than adults. They usually perform this task without protective equipment and clothing therefore they are directly exposed to poisoning through the skin and respiratory routes. Pesticide exposure poses a considerably higher risk to children than to adults as the developmental organ systems are more vulnerable than those of adults with the same level of exposure. Some studies have linked pesticide exposure to an increased risk of cancer, neuropathy, neurobehavioural effects and immune system abnormalities. Some exposure can have other long-term adverse health effects. Whole population studies in Asian developing countries have suggested that deaths

³ 'By the Sweat and Toil of Children: The use of Child Labour in U.S Agricultural Imports and Forced and Bonded Child Labour' Vol.11 (U.S Department of Labour: Bureau of International Labour Affairs, 1995) p.35

⁴ Lourdes, S Munohierro. 'La familia jornalera: Senadel nino en situacion especial mento dificil' *El trabajo infantil en Mexico* (Veracruz: University of Veracruz, ILO, UNICEF, 1996) p.28

⁵ Federation of Kenya Employers. 'Child Labour in Commercial Agriculture in Kenya.' Working Paper No.1, ILO/IPEC Sub regional technical workshop on Child Labour in Commercial Agriculture, Dar-es-Salaam, Tanzania, (August 27-30, 1996) p.4-6

⁶ Forastieri, V *Children at Work: Health and Safety Risks* (ILO: Geneva, 1997) p.94

from pesticide poisoning are higher than official estimates exceeding three million cases a year.⁷

An epilepsy epidemic in the Lakhumpur Kheri district of India has been attributed to the toxicity of the pesticide Benzene Hexachloride which is used as a grain preservative.⁸

One rather unusual hazard has been reported in Brazil. According to Brazilian welfare groups and unions, close to 150,000 children are employed during the country's six-month orange harvesting season. They pick oranges in severe heat for as long as twelve hours a day. Children's hands are dyed green and their fingertips are sometimes eroded by citric acid from oranges and toxic pesticides. In some cases, damage to their fingertips is so severe that children are later refused identification cards due to a lack of fingerprints.⁹

Fishing and deep-sea diving may also be placed in the agricultural sector. This form of exploitation is common in the Philippines, Indonesia, Thailand and Burma.¹⁰ Children are made to swim and beat on coral reefs to scare fish into nets. There are several fishing ships employing up to three hundred boys between the ages of 10 and 15. Divers reset the net several times a day therefore children are in the water for up to 12 hours a day. Deaths and injuries are common. Some are attacked by predatory fish and others may suffer from decompression illness due to hypoxia from exposure to high atmospheric pressure. They are exposed to gastro-intestinal and other communicable diseases on board the vessels, which are congested and have poor sanitary conditions.

Agriculture is the most commonly exempted sector from minimum age requirements though it has a majority of child labourers. Article 5 of Convention No.138 specifies that the basic minimum age shall be applicable as a minimum to, among other area,

⁷ Jeyaratnam, J and Chia, K.S (eds.) *Occupational Health in National Development* (Singapore. World Scientific Publishing Company, 1994)

⁸ WHO, *A One Way Street? Report on Phase one of Street Children Project* (Geneva, 1993) Doc. WHO/PSA p.7

⁹ Davison, P et al 'Children as Young as Five Suffer in Picking Fruit for our Orange Juice'. *The Independent Newspaper*, September 28, 1998

¹⁰ Rialp, V *Children in Hazardous Work in the Philippines* (Geneva: ILO, 1993)

'plantations and other agricultural undertakings mainly producing for commercial purposes, but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers'. Exceptions of this kind in many cases are a result of limitations in the scope of minimum age laws rather than of specific legal exemptions.¹¹

In some national laws, the exemption of agriculture is qualified by the wording "unless dangerous work is involved." In Peru, legislation exempts from minimum age requirements those agricultural activities in which mechanical devices are not used. Juveniles are also prohibited from working on civic holidays or Sundays. This is not the situation in reality.¹²

There are a few countries such as the U.S and France where specific activities in the agricultural sector are included in the list of hazardous activities requiring a higher minimum age for admission to employment. These activities include handling of agricultural chemicals.

On the whole, legislation on agriculture is very general and vague. Most countries do not have specific definitions for what hazardous activities mean. As a result, children are not adequately protected and are left exposed to exploitation. It also does not mean that where a child is working in a family undertaking or under the authority of a parent, he/she will not be exploited and exposed to harmful substances. These parents may be ignorant of the hazardous effects their children may suffer or they simply have no other choice than work for survival. The laws relating to the agricultural sector are therefore limited and children are not fully protected from exploitation both in the commercial and in the non-commercial sector.

¹¹ Sinclair, V and Trah, G 'Child Labour: National Legislation on the minimum age for admission to employment or work' in *Conditions of Work Digest: Child Labour, Law and Practice* Vol.10 1991 p.23

¹² Boyden, J 'Working Children in Lima, Peru' in Myers, W (ed.) *Protecting Working Children* (UNICEF, 1991) p.241

2.2 THE INDUSTRIAL SECTOR

This sector is very wide and includes a number of different industries. Child Labour mostly occurs in small workshops or home-based work. Large or medium sized establishments sometimes subcontract certain production tasks to small workshops or home workers who in turn make use of child labour since it is cheap. Such arrangements enable producers to skirt child labour laws in countries where such work sites are exempt from legislation.

The industrial sector includes mining, construction and manufacturing. The manufacturing industries that are most commonly affected are the cottage industries. Examples of these include: Textile workshops, carpet weaving, garment and leather industries, ceramic and glass factory work, matches and fireworks industries, slate making, pint shops, metal work, brick making, button making and precious stones and gem industries among others.

a) **The Mining Industry**

In this industry, 20% of child labour is done illegally.¹³ The minimum age for working in mines in most countries is between 14 and 18 years old though in some countries, permission to use children in mines start at the age of 7 years. Children are in high demand in mines because of their small size enabling them to fit in the tunnels and crevices easily. They work in quarries, open cast mines or in small underground mines

Children are more exploited in small-scale mines where there are no limits in the length of daily working time or occupational safety and health regulations. According to a 1996 survey by the African Community Publishing and Development Trust, very few children from small-scale mines are able to attend school. The only children who go to school are those fortunate enough to live near a government school or those who

¹³ Supra note 6 p.95

are sent away from the mines to grandparents so that they can go to school in the communal areas.¹⁴

Children in this industry suffer a variety of physical hazards. They risk injuries in the mines from falling objects, cave-ins and respiratory infections. They are further exposed to high humidity levels to extreme high or low temperatures and mercury poisoning is frequent in gold mines.

b) Carpet Weaving Industry

This is a traditional craft. It is widespread in Asia where bonded child labour is used. These children may work up to 20 hours a day, 7 days a week often sleeping, eating and working in the same small, damp room and are often locked in at night. Carpet weavers start at an early age due to the low cost of their labour, but they also retire early because of their working conditions. They have a high proportion of respiratory tract infections which are associated with the duration of exposure, poor lighting and bad postural conditions.¹⁵

In Egypt, the carpet industry is located in the western suburbs of Cairo, close to the pyramids. The carpets are mainly sold to tourists or exported and the workers are aged 10 to 14 years. Not all attend school and some even work a full day from 8:00am to 6:00pm in contravention of Egypt's labour laws. In Morocco, the carpet industry is thought to be a large-scale employer of children. This is attributed to the nimble fingers of the children therefore being the most suited employees.

Although child labour is unlawful in Pakistan 50,000 children aged between 4 and 12 were reported to be working in small carpet weaving workshops subsidised by the state in 1992. The private sector employed some 500,000 children.¹⁶ In Karachi and Hyderabad 50% of those children died of overwork and illness.

¹⁴ Bjorne, G and Stokke, L.J *Child Labour in Africa: Poverty or Institutional Failure? The case of Egypt and Zimbabwe* (Fafu Institute of Applied Social Science, 1997) p.20

¹⁵ *Ibid.*, p.33

c) Textile Industry

This is one of the most widespread industries. In 1993, ILO conducted a survey of the Cairo's textile industry. The survey revealed that 25% of the workers in these firms were children under the age of 15, 73% of the children worked in excess of 12 hours a day and earned an average of US\$8.00 a month.¹⁷ This is a violation of labour law in Egypt which prohibits children working after 7.00pm and before 6.00am with a minimum of six hours, provided this is interrupted by a break. It is further prohibited to assign children to work for more than four consecutive hours.

Children are exposed to a variety of accidents and diseases. Some of the injuries include losing fingers or hands which occurs when manipulating unguarded machinery.

d) Matches and Firecrackers Industry

Children under 7 years of age are involved in almost all tasks in the production of matches.¹⁸ Characteristics of these work places are exposure to chemicals, minerals and asbestos, poor ventilation and overcrowding which results to high risk of respiratory diseases, dermatitis, poisoning and risk of burns or even death from fire or explosion.

In Guatemala's Firecrackers Industry, children risk burns, amputations, death and exposure to gun- powder. This may lead to respiratory illness, eye irritations causing itching, tearing and burning.¹⁹

In **General**, hazards associated with child labour in manufacturing result from poor work environment that contribute to illness and inadequate safety measures to protect children from work-place accidents. In Peru, common graves of child workers were uncovered. The corpses revealed that the youths had died of disease and work

¹⁶ International Case Law. Spring 1992, p.87

¹⁷ Supra note 14, p.35

¹⁸ Kothari, S 'There's Blood on those Matchsticks: Child Labour in Sirakasi. Bombay' in *Economic and Political Weekly* Vol.XVIII, No.27, July (Bombay, 1983)

accidents such as falls and contrusions.²⁰ In such a situation, this reveals that children are not treated like humans but like objects and machines to work and when they die, they are just disposed off and are replaced by new 'machines'.

Despite the minimum age legislation, child wage labourers continue to exist. These small-scale enterprises defy the inadequate number of factory inspectors. In Thailand, both minimum age and minimum wage legislation is contravened with impunity. Child workers are passed off as relatives and labour inspectors bribed. In India, since the enactment of the 1986 Child Labour Prohibition and Regulation Act, large sporting goods factories generally employ adult workers. However, children are still found stitching and assembling soccer balls, volley balls and boxing and cricket gloves in their homes or in small stitching centres where their work will not be in violation of Indian Child Labour Law.²¹

Although the Industrial sector is normally covered by minimum age legislation, a few countries such as Pakistan, Bangladesh, Myanmar and The Syrian Arab Republic, exempt small enterprises with fewer than ten or twenty employees. The term 'hazardous work' in most legislation is limited to a general definition of 'dangerous, dirty, unhealthy or detrimental to morals'. This definition is too broad and can easily be circumvented. However, there are a few countries such as Austria where hazardous occupations are listed in detail.

2.3 THE INFORMAL SECTOR

The evaluation of the informal sector shall be limited to the services industry. This sector has been relegated by legislation for a very long time. Due to lack of specific legislation and enforcement mechanism, it is the fastest growing child labour sector.

¹⁹ *Analysis of Boys and Girls Employed in Fireworks Industry of San Juan Sacatepequez and San Raymunda* (Guatemala City: Ministry of Labour and Social Welfare/ILO, 1996) p.39-56

²⁰ *Supra* note 3 p.4

²¹ *A Sporting Chance – Tackling Child Labour in India's Sports Goods Industry* (London: Christian Aid, 1997) p.4

Herein, domestic service, street trading and commercial sex work shall be discussed. Many of the children in this sector are bonded workers, sold by parents or relatives or even trafficked.

a) Domestic Service

Domestic servants are often hidden from public view because they work in private households. They are usually poor girls from rural areas who are new to the urban environment and they are given or sold to families or distant relatives to serve as house-helps. Domestic workers are acquired or recruited in various ways. Some are recruited by brokers, placed by a friend or acquaintance, sent by their parents, offered by parents for a cash advance, adopted or even kidnapped.

Children domestic servants perform household chores such as cleaning, laundry, washing dishes, gardening, shopping, cooking and taking care of children and pets. It is difficult to estimate the number of child domestic workers because of its informal and hidden nature. In Brazil (1989)²² there were some areas whereby nearly one-third of the domestic workers were children. In Philippines, over 300,000 children and adolescents are believed to work as domestic servants.²³ Majority of the child workers are aged between 12 and 17 years though in some countries they may be younger. In Kenya, over 10% of child domestic workers are estimated to be 10 years old.²⁴

Children suffer a wide range of hazards. In Colombo, a survey indicated that domestic servants under 15 years of age worked an average of 50 hours a week. Girl domestic servants constituted the majority of all children working very long hours each day.²⁵ They undergo psychological pressure as most are isolated from their family and friends and are further isolated from the employer's family. They eat and sleep at different times and places. Some are not paid at all, as they are seen to have been given the favour of accommodation, food and residence in town. Others work to

²² Fyfe, A *Child Labour* (Cambridge: Polity Press, 1989) p.114

²³ U.S Embassy-Manila, Unclassified Telegram NO. 02110, February 20, 1998

²⁴ 'Targeting the Intolerable' p.14

²⁵ Kneel, F.M *Young Workers, Street Life and Gender: The Effect of Education and Work Experience on earnings in Colombia* (Cambridge, Massachusetts, Harvard University), doctoral thesis

repay debts of their parents. In such cases, the child's pay is either kept by the employer or taken directly to the parents.²⁶

They are prejudiced against schooling and majority of them do not attend any school at all since they are not allowed to do so by the employer and also due to lack of time.²⁷ There are reports of child abuse including sexual harassment of girls by male employers. In Lima, Peru, traditionally, these girls are available to the sons of the family and if they become pregnant they are turned out, forcing many into prostitution to care for their illegitimate children.²⁸

A survey on household helpers carried out in Nairobi, Kenya by the WHO showed that out of 500 domestic servants between the ages of 6 and 15 years, 90% suffer from severe emotional distress, symptoms of withdrawal and regression, premature ageing, depression and low self-esteem.²⁹ Most of these children had sleeping problems, exhibited phobic reactions to their employers, wet their beds and in some cases behaved older than their chronological age.

Domestic workers are marginal and without legal protection in most cases. This situation is aggravated by the fact that households are not considered workplaces and authorities are not entitled to enter the premises to investigate labour activities. These are private homes. This sector is not included in legislation concerning hazards to the morals of young persons. For example, in the Haitian Child Labour Law, children who work as domestic servants are exempted. Apart from a limited number of provisions requiring that domestic workers be allowed to return home at night, only one country, Denmark provides for a higher minimum age for work in domestic services in private households. However, there has been public awareness of the grim situation that faces the domestic workers such that action is being taken. Recently, in South Africa, laws and regulations were introduced to that effect. Nevertheless, child workers should be given special consideration as they end up being exploited more than the adult workers in the same position.

²⁶ 'Domestic Workers in the Kathmandu Valley' in *Child Workers in Asia* Vol.10, No.1, Jan-March (Bangkok: Child Workers in Asia,1994) p.8-9

²⁷ Loewenson, R *Child Labour in Zimbabwe*, Study Report. Harare, 1992

²⁸ *Supra* note 22, p.115

²⁹ WHO *Children at Work: Special Health Risks* (Geneva,1987) Technical Report Series No.756

b) Commercial Sex Workers (Prostitution)

ILO has defined child prostitution as “the act of engaging or offering the services of a child to perform acts for money or other consideration”.³⁰ There are at least one million child prostitutes under the age of 18 world-wide according to Valentina Forastieri³¹ and the majority of them are concentrated in Asia, where the buying and selling of children has become big business.

The child prostitutes join this sector through various ways. Some are knowingly sold by their parents to recruiters so as to augment family income while others are recruited under false pretences of marriage or jobs. Others are offered jobs by recruiters in the restaurant, hotel or entertainment industry and then forced to prostitute themselves. There are also instances where runaway children are lured into prostitution to survive on the streets.

In recent years, the demand for prostitution in developing countries has been enhanced by the advent of mass tourism and in some cases, sex tourism and commercialisation of sex.³² Travel agencies arrange package holidays in which sexual experiences are an explicit part of the arrangement. Young girls are preferred because it is believed that they are free from sexually transmitted diseases.

In Philippines, recent estimates indicate that about 75,000 children are engaged in prostitution. Children sell sexual services on the street or work through pimps, brothels and parent-contractors.³³ Recruiters tour the provinces and convince mothers to allow their children to work in a store or restaurant but upon reaching the town they are initiated into prostitution.³⁴ As a result, they become prisoners of a large and profitable industry willing to sexually exploit children to satisfy a demand for child prostitutes.

³⁰ *The Sex Sector: The Economic and Social Bases of Prostitution in Southeast Asia* (Geneva: ILO, 1998) p.170

³¹ *Supra* note 6, p.107

³² *Supra* note 22, p.115

³³ *Supra* note 30, p.172

³⁴ *The Filipino Child Link*. June 1985

In Lima, boys and girls engage in prostitution, although only very exceptionally are pre-pubertal children involved. Most operate on the streets, working outside theatres, cinemas, restaurants and hotels and in the summer, on the beaches.³⁵ In South Africa, organised child prostitution can be found in and around taxi and trucking routes, around harbours, in domestic services and on the street.³⁶ Marshall and Herman³⁷ argue that sex tourism using children is on the increase partly due to the myth that sex with a virgin or a young girl will cure or prevent AIDS.

Children engaged in this form of labour are at serious risk. They suffer from physical, mental, psychological and emotional abuse. They risk drug addiction, early pregnancy, abortions and the related complications that may arise and social alienation. The most severe health risks are AIDS/HIV, sexually transmitted diseases and even death. With the world-wide spread of AIDS, they are at a higher risk as they are considered to be safer sex partners and this has resulted to a high demand of child prostitutes.

There is lack of sufficient legislation to curb this problem. Even where the legislation is present, the enforcement mechanisms are not sufficient or well developed. In Thailand, the government has tried to eliminate child prostitution but all in vain. Estimates of children involved vary from 20,000 to 800,000.³⁸ In an attempt to solve this problem, the government introduced The Prostitution Prevention and Suppression Act of 1996. This Act widened the definition of 'brothel' and increased penalties for brothel owners and procurers and traffickers of children. It imposes penalties for officials who fail to enforce the law and for parents who sell their children into prostitution.³⁹ In 1997, the Measure in Prevention and Suppression of Trafficking in Women and Children Act was introduced. It focuses on the need to protect and

³⁵ Ismordes, A. *Prostitucion en Lima*. Report presented to seminar 'La Familia, La Infancia, y la Juventuden el Desarrollo Nacional' (Lima, 1967)

³⁶ *Child Prostitution in Southern Africa: A search for Legal Protection*, Workshop report (Pretoria: Network against Child Labour, March 26-28, 1996) p.24-25

³⁷ Marshall, A and Herman, V. *Child Sexual Abuse in South Africa* (Cape Town: Resources Aimed at the Prevention of Child Abuse and Neglect – RAPCAN, march 1998) p.104

³⁸ ECPAT 'End of Child Prostitution in Asia Tourism: An Introduction to ECPAT' (Bangkok, 1995) Mimeo

³⁹ 'Thailand Country Study Towards a Best Practice Guide on Sustainable Action against Child Labour' (Bangkok: ILO, 1987) p.30

provide food, shelter and reparation to victims of trafficking.⁴⁰ Thailand is one of the few countries that has broadened legislation to include child prostitution in detail. Other governments are encouraged to do likewise as this is an epidemic that needs to be addressed soon.

c) Street Trading

Categories of the children street traders include: those who sell in permanent or temporary stationary spots at or near street corners, gates of public and private buildings, fuel stations, those who peddle from place to place mainly along streets and roads and those who sell their goods from door to door. Some of these children go home in the evening while others are termed 'street children.' Street children are defined as those children for whom the street more than their family has become their real home, a situation in which there is no protection, supervision, or direction from responsible adults.⁴¹

In Zimbabwe, most child traders are between the ages of 9 and 13. They work for 9 to 12 hours a day and only one third attend school.⁴² The children are involved in selling vegetables, sweets, fruits, eggs, some are shoe shiners, parking attendants, others wash cars or sell newspapers and magazines.

In Nigeria, several old laws prohibit all children below 14 years of age and girls below 16 years from trading in the streets. Traders are often in conflict with local government officials who attempt to enforce the law. These traders are usually arrested and arraigned before a special tribunal then fined or given a jail sentence. Children are not kept in permanent custody though some are referred to social welfare agencies which cater to youth having social problems.⁴³ Children kept in custody even for short periods lose valuable school days and are traumatised by the experience.

⁴⁰ Measure in Prevention and Suppression of Trafficking in Women and Children Act B.E. 2540 (1997) Section II

⁴¹ UNICEF, Ideals Forum, 1982

⁴² Sachikoye, L.M *Child labour in hazardous Employment: The Case of Zimbabwe*, Consultancy Report Series No. 18. Zimbabwe Institute of Development Studies, Harare

⁴³ Oloko, B.A 'Children's Work in Urban Nigeria: A Case Study of Young Lagos Street Traders' In Myers, W.E *Protecting Working Children* (UNICEF, 1991) p.13

This encounter with law enforcement officers may constitute an undesirable training in how to indulge in illegalities and not be caught.

The most frequent hazards are exposure to undesirable elements such as vehicle accidents, exposure to heat, noise, cold and dust, exposure to carbon monoxide from the fuel of vehicles and exposure to violence and criminal activities. There is lack of washing and toilet facilities. Children living in the streets may be linked to the illicit drug industry and they may be used in the production and marketing of drugs.

Most countries do not have laws governing labour relations, working conditions and occupational health for street traders. There are no defined work places or contracts of employment.⁴⁴ In addition to enacting laws, the governments should broaden the scope of policy to include juveniles working in the informal sector.

In **Summary**, it should be noted that the scope and extent of child labour is very wide since children are involved in nearly all labour sectors in the economy. It is worth pointing out briefly that one form of child labour that has in the recent years come to the fore-front is the participation of children in military action. It is now viewed as a dangerous form of work under the ILO.⁴⁵ This form of child labour is widespread especially in warring nations such as Sudan, Iran, Iraq, Rwanda and Burundi among many others. International bodies have stepped in to try and protect these children because they are at great risk. Some parents send their children to join the army as they are given some money in exchange but in most cases, the children are drafted against their will. They have no choice in the matter.

⁴⁴ Supra note 14, p.21

⁴⁵ *International Children's Rights Monitor*, 1985/2.2

CHAPTER THREE

RESPONSES TO CHILD LABOUR

Over the years, the problem of child labour has gained prominence. This has been due to the continued campaigns through the media,¹ publications, Non-governmental Organisations and the International bodies in general. In addition, human rights movements along with trade unions are part of what has been called a new social internationalism, which has been instrumental on publicising issues such as child labour. It is also partly through the debate on the inclusion of a social clause in GATT that child labour has come to be discussed in several international forums. Child labour issues involve the most vulnerable persons in the world and therefore have the power to capture the imagination on the way that sometimes technical battles over trade unions recognition can not.² As a result of this, there have been various responses to this issue.

The child labour problem has been brought to the fore-front and countries can no longer deny its existence. The International bodies have put pressure on the states to do something about the ever growing problem. The response has been on both the legal and the non-legal fronts.

The legal response shall be discussed with reference to the international standards and the national standards. The international standards have been set mainly by the U.N, ILO, UNICEF and UNCHR. The ILO is the main body that deals with child labour and it has adopted various conventions in this regard. The UN has also adopted its own conventions that deal with child labour and the most ratified one is the 1989 UN Rights of the Child Convention. The universality of this convention proves that child issues are now being treated as part of human rights.

¹ Eddy Lee, "Globalisation and Labour Standards: A European Review" in Lance. A et al. *Human Rights, Labour Rights and International Trade* (Philadelphia: University of Pennsylvania Press, 1996) p.51

² Cullen, H 'The Limits of International Trade Mechanisms in enforcing Human Rights: The Case of Child Labour' *The International Journal of Children's Rights* Vol.7 (1999) p.2

National standards are mainly geared towards application of international standards envisaged in the treaties. Governmental responses to the problem of child labour vary. Some governments enact exemplary laws abolishing or at least regulating child labour. Others create a maze of regulatory schemes governing the employment of children fraught with loopholes and exemptions. Some have no intention to have their laws enforced. Many governments claim that they lack the financial and other resources to successfully battle the exploitation of child labour and therefore fail to ratify the international conventions. Governments also lack the political will to enforce child labour laws, train labour inspectors, implement health and safety regulations and even strengthen the educational system. The non-legal response deals with programmes and policies both on the national and the international levels and these include IPEC, Consumer labelling and codes of conduct.

3.1 THE LEGAL RESPONSE

3.1.1 INTERNATIONAL LABOUR STANDARDS

The international norms on children's and young person's work concentrates on three issues: minimum age of employment; working conditions and protection of health.³

Over eighty conventions, declarations and other binding and non-binding international instruments contain provisions that explicitly or implicitly apply to children. According to Cantwell⁴, this heterogeneous collection is totally unsatisfactory, both in terms of its in-built incoherence and because of the vast areas not covered.

Several International conventions bar children from performing work that is likely to be hazardous, that interferes with a child's education or that harms a child's health or physical, mental, spiritual or moral development. Nevertheless, the use of illegal child labour is widespread.

Child labour laws are essential to deal with the worst forms of child work where they exist and to provide minimum levels of protection where child labour is unavoidable.

³ 'Protection of Children and Young Persons in International Labour Law' *International Case Law* Spring 1992 p.83

The International responses to be discussed herein are envisaged in International bodies such as the UN, ILO, UNICEF and UNCHR. These bodies have adopted various conventions and declarations which act as a response to the need of either abolishing child labour or creating regulations to protect them at work.

(I) INTERNATIONAL BODIES

A) UNITED NATIONS (UN)

The name 'United Nations' was devised by the United States President Franklin D. Roosevelt and was first used in the 'Declaration by the United Nations' of 1st January 1942, during the Second World War, when representatives of 26 nations pledged their governments to continue fighting together against the Axis Power.

The United Nations Charter was drawn up by the representatives of 50 countries at the UN Conference on International Organisation which met at San Francisco from 25 April to 26 June 1945. Those delegates deliberated on the basis of proposals worked out by the representatives of China, The Soviet Union, The UK and The USA at Dumbarton Oaks in August – October 1944. The Charter was signed on 26th June, 1945 by the representatives of the 50 countries. Poland, which was not represented at the conference, signed it later and became one of the original 51 member states.

The United Nations officially came into existence on 24th October 1945, when the Charter had been ratified by China, France, The Soviet Union, UK, USA and by a majority of other signatories. The United Nations Day is celebrated on 24th October each year. (Extracted from: Basic Facts About the United Nations, Sales No. E.95.1.31). Over the years, UN has adopted conventions and declarations on the rights of a child and on promotion of slavery and similar practices.

⁴ Cantwell, N 'Children's Rights in an Adult Society' in *Future* (UNICEF Regional Office for South Central Asia) p.9

a) Rights of a Child – Child Labour

The first comprehensive international instrument on child issues is the Geneva Declaration of the Rights of the Child. It was adopted in 1924 by the Assembly of the League of Nations. The declaration was cast in terms of duties declared and accepted by all nations and according to which the child must be given the means requisite for its normal development, both materially and spiritually.

Following the above instrument, in 1959, the United Nations adopted the Declaration of the Rights of the Child on 20th November 1959. The general principles are that: the child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental or moral development.⁵ The declaration is however concerned with generalised principles or moral entitlement and does not extend to children's enabling rights. It is not a legally binding instrument and there exists no enforcement mechanism.

In 1966, the General Assembly of the U.N. adopted the International Covenant on Economic, Social and Cultural Rights. It urges that children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.⁶ However, it only gives a general outline with no details. It does not mention a minimum age for accession to employment.

In 1989, the United Nations Convention on the Rights of the Child was adopted. It goes beyond the scope of the earlier UN conventions and gives details which had been lacking before. It provides for extensive protection to be guaranteed to all children below 18 years. It also provides that measures to protect children should include effective procedures for the establishment of social programmes to provide

⁵ *Human Rights: A Compilation of International Instruments* ST/HR/1/Rev.2. Principle 9 (New York: UN, 1983) p.130

⁶ *Ibid.*, p.5 Article10(3)

necessary support for the child. The right of the child to education⁷ and to rest and leisure and to participate freely in cultural life and arts⁸ are provided. Article 32 specifically refers to child labour. It recognises the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development. State parties are required to take measures to include a minimum age for admission to employment, appropriate regulation of the hours and conditions of employment, and appropriate penalties or other sanctions.

Article 44 provides for a committee on the rights of the child whose duty is to examine the reports which the state parties submit on a regular basis with regard to the implementation of the provisions of the convention. The committee transmits to U.N special agencies such as the ILO any report from state parties which contain a request, or indicate a need for technical advice or assistance.

The convention on the rights of the Child (1989) is the most universally ratified human rights convention. Only two member states, the U.S.A and Somalia are not yet parties to the convention. It protects children from economic and sexual exploitation among other things. More than fourteen states have incorporated provisions of the convention on the rights of the child into their constitutions while about 35 have passed new laws conforming to the convention or amended laws related to child abuse, child labour and adoption.

In 1990, two other important U.N documents were adopted. These are the 1990 World Declaration on the Survival, Protection and Development of Children, adopted at the world summit for children on 30th September 1990 and a Plan of Action for implementing the World Declaration adopted at the same summit. One of the commitments in the Declaration is the amelioration of the plights of millions of children who live under especially difficult circumstances of which special protection of the working child and the abolition of illegal child labour forms one of the means.

⁷ U.N Convention on the Rights of the Child, 1989, Article 28

⁸ Ibid., Article 31

a) Contemporary forms of Slavery

The United Nations Working Group on Contemporary Forms of Slavery classified the sale and sexual exploitation of children as contemporary forms of slavery.⁹

One of the instruments in this area is the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of others, 1949. This convention came into force on 25th July 1951. Article one provides for parties to agree to punish any person who to gratify the passions of another, “procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person and or exploits the prostitution of another person, even with the consent of that person”.

In 1956, the Supplementary Convention on the Abolition of Slavery, The Slave Trade and Institutions and Practices similar to Slavery was adopted. This convention specifically covers debt bondage and serfdom. It also covers any practice whereby a child or young person under the age of 18 years, is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person of his labour.

Party States are required to take all practicable and necessary legislative and other measures to bring about progressively as soon as possible the complete abolition or abandonment of debt bondage and serfdom. Debt bondage is defined as, ‘the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined’.

Serfdom in this convention is referred to as the condition or status of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate service to such other person, whether for reward or not, and is not free to change his status.

⁹ *Child Labour: Targeting the Intolerable* Report VI (1) International Labour Conference, 86th Session, (Geneva, 1998) p.27

In 1996, the United Nations Committee on the Rights of the child set up to monitor the implementation of the 1989 convention. It adopted a recommendation stressing that the child affected by situations of sale, prostitution and pornography should be considered mainly as a victim.

In Stockholm 1996, there was a world congress meeting against commercial exploitation of children. It represented governments of 119 countries together with Non-governmental organisations, the End Child Prostitution in Asian Tourism (ECPAT) campaign, UNICEF and other agencies within the family of the UN.¹⁰ It reaffirmed the convention on the Rights of the Child by stating that every child is entitled to full protection from all forms of sexual exploitation and sexual abuse.

B) UNICEF AND UNCHR

UNICEF (United Nations Children's Fund) was established in 1946 on a voluntary basis. It began as a temporary relief operating mainly in Europe, and in 1953 its mandate to work exclusively in the developing world became firmly established.¹¹ In 1982, its main emphasis was child survival and development revolution. During this period, it began to concentrate on child labour.

In 1986, the report presented to UNICEF Executive Board covered a review of working and street children, children in armed conflict and in situations of natural disaster and those subject to abuse. UNICEF's intention in the child labour area was to build non-institutional programmes for street children. However, UNICEF has had to face obstacles in relation to finances. It goes to governments for financial support and since the child labour issue is politically sensitive, this threatens its annual budget thus, for a long time, it concentrated more on other child issues. In 1986, UNICEF's involvement in child labour increased. It developed a programme on children in especially difficult circumstances.

¹⁰This is commonly known as the Stockholm Declaration and Agenda for Action Against Commercial Sexual Exploitation of Children

¹¹Fyfe, A. *Child Labour* (Cambridge: Polity Press, 1989) p.135

In 1993, the United Nations Commission on Human Rights (UNCHR) devoted attention to child labour by adopting a programme of Action for the elimination of the Exploitation of Child labour.¹² It called upon all states to ratify the 1989 UN convention on the rights of the child. Article 32 paragraph 2 provides the following, "State Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, state parties shall in particular: provide for a minimum age or ages for admission to employment; provide for appropriate regulation of the hours and conditions of employment and provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article."¹³

This programme of action also calls upon states to ratify the ILO's minimum age convention and invites ILO to extend greater assistance to the developing countries to facilitate their increased participation in standard-setting activities and in the implementation of ratified conventions.¹⁴

C) THE ILO

ILO was founded in 1919 as part of the League of Nations. It has a tripartite system of representation of governments, employees and workers organisations. ILO conventions and Recommendations as International instruments are the result of joint effort through the various stages of preparation, discussion and finally adoption at the international labour conference. Since its inception, the protection of children from work and at work has been its basic aim.¹⁵ This has made ILO the leading body fighting for the cause of child labourers.

The regulating and protective work of ILO has been expressed in terms of International standards. These standards or conventions are binding on those member states who ratify them. Once ratified, signatories have to provide annual reports on

¹² UNCHR. 'Report on the forty-ninth session. 1 Feb. to 12 March, 1993' E/CN.4/1993/122 (E/1993/23) Geneva, United Nations

¹³ Ibid., p.236 paragraph 16

¹⁴ Ibid., paragraph 17

their compliance according to article 22 of the ILO Constitution. Article 24 and 26 allows for consideration of complaints against a state for failure to live up to the instrument in question. An ILO convention once ratified takes on the binding force of an international treaty. Member states are required to report, when so requested by the ILO Governing Body, on the position of their national law and practice in respect of conventions that they have ratified and of recommendations. This characteristic is conducive to ILO's influence on national law and practice. Another such characteristic which acts as a channel through which ILO standards can reach their national destinations is through technical co-operation projects, which must as a rule refer to relevant conventions and recommendations as guidelines, particularly when they involve the drafting of legislation.

The International Labour Conference of the ILO treats employment of children and young persons with detail and specificity. Over the years, it has adopted a series of conventions and recommendations dealing with the employment or work of children and young persons. Some of these conventions are discussed below.

a) Minimum Age Conventions

Between 1919 and 1973 various conventions dealing with child labour were adopted. Many of them regulated the age and conditions of work in specific labour sectors and occupations.¹⁶

During the very first session of the International Labour Conference in 1919, the Minimum age (industrial) convention (No.5) was adopted. The minimum age for admission of children to Industrial employment was fixed at 14 years. It excluded family enterprise and technical schools.

In the following year, the Minimum Age (sea) convention No.7 was adopted. It stipulated the minimum age to be 14 years for children employed on vessels. Convention No.58 of 1936 increased the minimum age to 15. In 1921 Convention No.

¹⁵ Lansky, M 'Child Labour: How the Challenge is being met' *International Labour Review* Vol.136 (1997) No.2 (Summer) p.235

¹⁶ Weiner, M *The Child and The State in India* (UK: Princeton University Press, Oxford, 1991) p.88

10 dealing with children in the agricultural sector was adopted and it set the minimum age to be 14 years. It allows children to be employed out of school hours. The Minimum age (non-industrial employment) convention No.33 of 1932 set the minimum age of 14 years but allows children over 12 years to be employed outside of school hours in light work.

Most of the conventions have been revised several times. In 1937, the minimum age of admission of children to industrial and non-industrial employment was raised from 14 to 15 years (Convention No, 59 and 60) and the work of children in family enterprises was made conditional on the protection of their health.¹⁷ Most of the basic conventions exclude work in family enterprises and permit other specific exceptions. Those targeting particularly hazardous occupations or sectors set higher standards. For example, Convention No 123 of 1965 sets the minimum age at 16 years for underground work. The conventions raise the minimum age to 18 years for arduous work in high-risk environment,¹⁸ for trimmers and stokers and work involving exposure to radiation¹⁹ or dangerous chemicals.²⁰ (See table 1 for a list of other minimum age conventions).

At its 181st Session in 1970, the Governing Body of the ILO reached the conclusion that the basic convention on minimum age for admission to employment could no longer be an effective instrument of concerted international action to promote the well being of children. In spite of the ILO's earlier efforts, it was evident that child labour was a widespread and persistent phenomenon.²¹ All existing instruments on minimum age were found to be of restricted applicability, concerned with limited economic sectors or specific occupations. Accordingly, the ILO undertook a major revision and consolidation of standards leading to the adoption of the Minimum age Convention, 1973 No. 138

¹⁷ Article 2, paragraph 2 of Convention No.59

¹⁸ Convention No. 15 of 1921

¹⁹ Convention No: 115 of 1960

²⁰ Convention No. 136 of 1971

The Minimum Age Convention, 1973 (No.138)

This instrument was adopted with the aim to establish a general instrument on the minimum age of employment with a view to achieving a total abolition of child labour. It applies to all sectors of economic activity and like the earlier conventions, it covers children whether or not they are employed for wages. This convention, coupled with Recommendation 146, is the most comprehensive international instrument and statement on child labour. But this is not to say that it does not have limitations. It provides general and specific guidelines on when, where and under what conditions children may or may not work; and on what types of policies countries should adopt in order to pursue the objective of the effective abolition of child labour.²²

The objective of this convention is to ensure that the effective abolition of child labour in the long-run and to secure the progressive raising of the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.²³

The convention requires ratifying countries to specify a minimum age for admission to employment that should not be less than the age of completion of compulsory schooling and not less than 15 years.²⁴ The convention directly ties a country's establishment of minimum age of work to the completion of compulsory education.

The convention is flexible and conditioned by national circumstances and the level of the standards already achieved in each country. Where a country has not yet sufficiently developed its economy and educational facilities, the minimum is 14 years. However, such a country is required to explain in its regular reports to the ILO the reasons for the continued application of this lower level. The flexibility of the convention is also exhibited by allowing minimum ages for 'light work'. Article 7 allows for a minimum of 13 to 15 years and a lower level of 12 to 14 years. Light work is defined as work which is not likely to be harmful to the children's health or

²¹ Minimum age of admission to employment. Report IV(1) International Labour Conference, 57th Session (ILO: Geneva, 1972)

²² Bequele. A 'Emerging Perspectives in the struggle against child labour' in Myers. W.E (ed.) *Protecting Working Children* (New York: UNICEF, 1991) p.88

²³ Convention No. 138, article 1

development and not prejudicial to school attendance. This category is an exception to the rule of 14 to 15 years.

The convention sets an 18-year minimum standard for 'hazardous work.' This is work that is likely to jeopardise the health, safety and morals of young persons. Forms of hazardous work include those concerning dangerous substances, agents or processes (including ionisation, radiation), lifting of heavy weights and underground work. Exceptions are permissible for workers aged 16 to 18 years provided that they are adequately protected and trained.²⁵

Recommendation 146 states that where admission to types of employment or work which are likely to jeopardise the health, safety or morals of young persons is still below 18 years, immediate steps shall be taken to raise it to that level.

Despite the effort to have a conclusive convention, this convention has **limitations**. It admits exclusions from application with regard to limited categories of employment in respect of which special and substantial problems of application arise. (Article 4) Some of these categories include employment in family undertakings, domestic service in private households and some types of work performed without the employer's supervision. A significant share of the world's child labour and exploitation occurs in these settings. Joost²⁶ avers that excluding particular categories should only be resorted to when application is not feasible for such reasons as legal difficulties and difficulties in enforcement.

Article 5 specifically applies the convention to plantations and other agricultural undertakings mainly for commercial purposes but excluding family and small-scale holdings producing for local consumption and not regularly hired workers, limiting the scope of law. Further, this article permits developing countries after due consultation with the social partners to initially limit the scope of the convention by specifying the branches of activity or types of undertakings to which the convention will apply.

²⁴ Ibid., Article 2

²⁵ Ibid., Article 3

The convention allows for the exclusion of work done in specified schools, vocational or technical training. Article 8 allows individual exceptions to be made by the competent authorities after consultation of workers and employers for purposes such as participation in artistic performances.

To date, the convention has been ratified by 77 countries. However, India, being one of the largest developing countries with prevalent child labour activities has not ratified it. This impedes the success of the convention.

Another limitation is that the convention does not set priorities for national action, but leaves this to the national authorities. A 1996 ILO document noted that although the convention does allow the authorities of (developing countries) the possibility of temporarily excluding certain branches of activity or types of undertakings from the application of its provisions, these possibilities do not appear to reflect adequately the concern to target national efforts primarily on the most intolerable forms of child labour.²⁷

According to Joost,²⁸ the above approach recognises two important facts which are firstly, that while the provisions of the Minimum Age convention provide an effective framework for fighting child labour, additional standards are required to specify priority areas which need immediate action. Secondly, the size of the problem of child labour is such that a determination must be made as to where to begin taking action against the phenomenon.

In conclusion, legislation that specifies a minimum age of entry to employment, prohibits child employment in certain occupations or activities and regulates employment where it is legally permitted has vital objectives. It helps establish labour norms and standards to which society can aspire and which can be used as a framework for policy. It provides a yardstick for evaluating performances and progress. Further, this legislation provides a way of moving towards a common set of universal standards and ensuring that certain absolutes enshrined in International

²⁶ Kooijmans, J *Definitions and Legal Provisions on Child Labour in Southern Africa* ILO/SAMAT Policy Paper No.6 (Zimbabwe, Harare: ILO, 1998) p.5

²⁷ *Child Labour: What is to be done?* ILO DOC. ITM/1/1996 (Geneva, June, 1996)

covenants and standards with regard to human dignity and human rights, including the rights of children are observed and respected.²⁹

Convention No. 138 revises all previous conventions on the subject. It closes conventions Numbers 5,7,10 and 15 for further ratifications when all parties thereto have consented to such closing by ratification of convention No. 138 or by a declaration communicated to the ILO.³⁰ (Other ILO Conventions are listed on Table Two).

b) Forced Labour Conventions

Forced Labour is an infringement on human rights as one is stripped of the right of freedom. It is tantamount to slavery.

The Forced Labour Convention, 1930 (No.29) partly covers the elimination of the most intolerable forms of child labour. It is the most widely ratified, with 150 ratified, with 150 ratifications as at August 1999. This reflects the fundamental importance of the right of the human person to be free.

The Abolition of Forced Labour Convention, 1957 (No.105) also holds a major position with 141 ratifications. Practically all or the most serious and reprehensible instances of child labour unfortunately occur in violation of the right established by these conventions.³¹

Convention No. 29 aims at suppressing the use of forced and compulsory labour. The convention defines this as any work which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily. The convention applies to all persons, including children and it is thus applicable to some of the most intolerable forms of child labour such as children in bondage and their exploitation and pornography. However, it is of limited use in

²⁸ Supra Note 26 p.6

²⁹ Supra Note 22 p.71

³⁰ 'Protection of Children and Young Persons in International (Labour) Law' *International Case Law* Miscellaneous Spring 1992, p.85

³¹ Dao, H.T 'International Labour Standards and their Implementation' in *Conditions of Work Digest, Child Labour: Law and Practice* Vol.10 No.1, 1991 (Geneva: ILO, 1991)

combating the full scale of intolerable forms of child labour since it specifically covers only forced labour.

It is only from the mid 1980's that the ILO's efforts to combat child labour began to elicit broader international support, with a proliferation of publications on the subject, more systematic media coverage of abuses and violations and growing involvement by concerned individuals, groups and non-governmental organisations.³²

c) Labour Inspection Conventions

Labour inspection came about as a by-product of the measures to protect children from work. The laws provide for labour inspectors to act as an enforcement mechanism to help curb the child labour problem. The inspectors are meant to inspect industries and ensure that they are not violating any labour laws and if so, report them to the necessary authorities. The first laws to combat child labour and the basic texts on labour inspection run parallel to each other.³³

In 1919, the Treaty of Versailles which created ILO laid down in Article 427 that each state should make provisions for a system of inspection...in order to ensure the enforcement of the laws and regulations for the protection of the employed. In the same year, the Labour Inspection (Health Service) Recommendation (No.5) was adopted. It recommended member states to establish a system of efficient factory inspection and a government service especially charged with the duty of safeguarding the health of workers.

In 1947, the Labour Inspection Convention (No.81) was adopted. It is divided into two parts: Labour inspection in industry and labour inspection in commerce. It provides that each ILO member shall maintain a system of labour inspection. It exempts mining and transport undertakings or part of such undertakings. Article 3 lays out the functions of the systems of labour inspection to be:

³² Supra note 15 p.237

³³ Derrien, Jean-Maurice 'Labour Inspection and Child labour' in *Conditions of Work Digest, Child Labour: Law and Practice* Vol. 10 No.1, 1991 (Geneva: ILO, 1991) p.85

- a) To secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, for example, provisions relating to hours, wages, safety, health and welfare.
- b) To supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions.
- c) To bring to the notice of the competent authority defects or abuses not specifically covered by the existing legal provisions.

The convention calls upon the members to ensure that the number of labour inspectorate is sufficient to secure the effective discharge of its duties.³⁴ For efficiency purposes, the labour inspectors are prohibited from having any direct or indirect interest in the undertaking under their supervisions and penalties for violations should be provided for by national laws and regulations.

Several labour inspection conventions and recommendations have been adopted over the years.

In 1969, Labour Inspection (Agriculture) Convention (No. 129) was adopted. Labour inspection in this convention applies to the following categories of persons working in agricultural undertakings: tenants who do not engage outside help, sharecroppers and similar categories of agricultural workers; persons participating in a collective economic enterprise, such as members of a co-operative and members of the family of the operator of the undertaking, as defined by national laws or regulations. Article 6 states that the function of the labour inspection system shall be to secure the enforcement of the legal provisions relating to conditions of work; to supply technical information and advice and to bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions. The convention further provides in Article 26 for a publication of an annual report on the work of the inspection services. These reports shall be transmitted to the Director General of the ILO. This acts as a means of monitoring the progress. Despite agriculture being one of the main employers of child labour, this convention has been ratified by only 38 countries. This shows that the convention is not universally

³⁴ Article 10 Convention No. 81

accepted and states do not apply it. This limits the effectiveness of most of these conventions.

The labour inspectorate is responsible for ensuring the application of legal provisions and particularly those on the employment of children and young persons. These include legal measures that establish a minimum age for admission to employment and work and which lay down rules governing dangerous work, night work and the working hours of children.

In a 1985 survey on labour inspection, the ILO committee emphasised that however advanced it may be, a country's labour legislation is liable to remain dead if there is no system of labour inspection to enforce it. This is particularly important in terms of economic recession when the improvement of working conditions tend to be pushed into the background.

The International Year of the Child

The International Year of the child was as a result of a declaration issued in 1979. It reiterated the ILO's commitment to the elimination of child labour. It provided the first real opportunity for the ILO and other agencies to focus world attention on the elimination of child labour. The ILO declared that pending the attainment of elimination of child labour, it would work for the improvement of the conditions of working children.

The Director-General of the ILO in his declaration concerning the International Year of the Child stated that, a child is not a 'small adult' but a person entitled to self-fulfilment through learning and play so that his adult life is not jeopardised by his having to work at an early age. He further stated that governments should take all necessary social and legislative action for the progressive elimination of child labour and pending the elimination of child labour, it must be regulated and harmonised.

In 1983, the annual report of the director-general of the ILO, Francis Blanchard was devoted to the issue of child labour. He noted the close correspondence between school attendance rates and the incidence of child labour. Minimum age of

compulsory education should be tied to the minimum age of admission to employment.

The International Year of the Child played a major role in bringing International agencies together to fight child labour. The UN agencies now all collaborate together. In November, 1985, the UN held a seminar in Geneva on ways and means of achieving the elimination and the exploitation of child labour in all parts of the world.

(II) CONSTRAINTS OF IMPLEMENTING

Combating Child Labour requires a comprehensive set of policy measures implying a general improvement in economic conditions since poverty is the main underlying cause. International Labour Law is limited in this context since without supporting socio-economic changes, it may lead to greater underground/secretive work and more exploitative work situations.

One major problem is the definition of child labour itself. This makes it difficult to determine even the scope of the exercise in terms of ages and activities. The notions of 'child' are not the same everywhere. There are different perspectives regarding the age at which childhood ends and the child's role in the family and society. According to Fyfe³⁵ methods of upbringing and socialisation vary therefore it is difficult to formulate an international set of children's rights. Some countries in defining child labour, include children working in either paid or unpaid work while others count only full-time paid labour. Others do not classify students as child labourers no matter how many hours they work outside the home while others count students working even one hour a week as employment.

International norms may require to give different priority according to time and place and ways of achieving the goals of child labour elimination. This makes it complex since laws have to be flexible creating a lot of loopholes.

Most International bodies rely on donor support for their activities. Their effectiveness is limited where large countries refuse to donate. The U.S.A stated that

³⁵ Supra note 11 p.166

only those states that ratify the convention No.138 should contribute to the costs. Being a potential large donor, this reduces the effectiveness of ILO since U.S.A has not ratified the convention.

There is lack of reliable national statistics on the problem. Without this, the ILO, UN and the other bodies can not effectively know how widespread the problem is or how successful the laws are. Rough extrapolations are made from the difference between the number of school-age children actually attending school and the total number of that age group to find the number of working children. This method is of limited value since some children attend school on a part time basis while others migrate making it difficult to keep a tab on them. The countries that may have statistics are reluctant to give the International bodies since they do not want international attention as this might mean reducing the cheap child labour and consequently getting reduced profits or raising the market price of goods.

Fyfe³⁶ also notes that the sensitivity with which governments view child labour has encouraged a cautious approach by the ILO. Despite its tripartite structure, it is governments who really count. They pay the bills and they count for more in difficult economic times.

3.1.2 REGIONAL INSTRUMENTS ON CHILD LABOUR

The existing legal measures which use International mechanisms to promote the abolition of child labour have been adopted by regional blocks such as the European Community and the North American Free Trade Agreements. Some of these mechanisms include legislation providing minimum age, work regulations and trade sanctions.

³⁶ Ibid., p.135

a) **THE EUROPEAN COMMUNITY**

The European Social Charter

It has provided for a minimum age of employment. It differs from the ILO Minimum Age Convention in that it provides a higher minimum age for access to employment and children who are related to the employer are not excluded from the protective standards.

Article 7 paragraph 1 sets the minimum age for employment at 15 years subject to exceptions for children employed in prescribed light work without harm to their health, morals or education.

The Charter further prescribes a higher minimum age of admission to dangerous or unhealthy work. However, this age is not specified. Young children who are subject to compulsory education shall not be employed in work that would prejudice their education.

b) **THE UNITED STATES OF AMERICA**

The United States has been active in adopting legislation providing for trade sanctions against countries that fail to observe labour standards including prohibition of child labour. Some of these legal instruments shall be discussed below.

(i) **The Additional Protocol to the American Convention of Human Rights (The 'Protocol of San Salvador')**

This convention does not mention a general minimum age for accession to employment. However, a number of economic, social and cultural rights are added to the convention. Night work is prohibited for persons under the age of 18 years. (Article 7 paragraph f) With regard to young persons under 16 years of age the work shall be subordinated to the provisions regarding compulsory education and in no case shall work constitute an impediment to school attendance or a limitation on benefiting from education received.

(ii) The U.S Federal Trade Act of 1974

Under this statute, the United States could offer additional trade preferences to countries in the region which respect internationally recognised workers' rights. Section 502(a) of the Act defines internationally recognised workers' rights as the rights of association, the right to organise and bargain collectively, a prohibition on the use of forced labour or compulsory labour, a minimum age for the employment of children and acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health. Though the coercive power of withdrawing trade preferences was not used, the governments argued that the process of negotiating agreements with the relevant countries to grant the trade preferences led to improved observance of labour standards in some of these countries.

(iii) The Overseas Private Investment Corporation

This is another mechanism used to promote core labour standards. In 1985, it provided that it could not insure investments by U.S companies investing in developing countries unless the investment was in a country with respected certain labour standards.³⁷

A further method of using national law to enforce labour standards such as minimum age legislation is through extra-territorial application of domestic laws. American courts are willing to apply national human rights standards to circumstances which occurred elsewhere in the world. For example, a recent Court of Appeal decision allowed workers, including former child workers, from South Africa, who had been exposed to asbestos to sue an English company under English law. This was despite the fact that the mine where the exposure had taken place was in South Africa and run by a subsidiary.³⁸

³⁷ Cullen, Holly 'The Limits of International Trade Mechanisms in enforcing Human Rights: The Case of Child Labour' *The International Journal of Children's Rights* No.7, 1999 p.8

³⁸ 'UK Firms to face judgment on Lethal Foreign Industries' *Observer*, 23 August 1998

(iv) **The North American Agreement of Labour Co-operation (NAALC)**

It is also known as the labour 'side agreement' and is attached to the North American Free Trade Agreement. (NAFTA)³⁹ The aim of the NAALC is to ensure that each state party enforces its own labour legislation. However, the agreement does not allow state parties to create a right of action in their own countries against other state parties for failure to observe NAALC, which means that it could not form the basis of the extra-territorial action. Each state party must establish a National Administrative office which among other tasks, receives communications from interested parties that another state party is not enforcing its labour laws.

If there is any violation of NAALC, trade sanctions or fines may be issued if the state party does not implement the action plan recommended by the arbitral panel. The major effect of this procedure is the exposure of unfair labour practices to public awareness and public opinion.

One limitation is that in order for a violation to be found, there must be a persistent pattern of failure effectively to enforce child labour rules. Furthermore, Article 49 exempts a state party from responsibility if the failure is found to result from either reasonable enforcement, discretion or bona fide resource allocation. Potentially, this exempts almost any failure to enforce labour standards. Given that the non-enforcement of child labour laws in many countries is due to lack of sufficient labour inspectors, it is difficult to see how non-enforcement of such laws could be found to violate NAALC.

Trade Sanctions – Arguments

As indicated above, America has responded to the issue of child labour mainly by use of trade mechanisms. There are however a number of reasons for concluding that trade mechanisms can never be the primary method of resolving the child labour problem. Proponents of trade sanctions argue that the traditional methods of enforcing international human rights law are inadequate to ensure that standards such

³⁹ (1993) 32 ILM 1499

as the prohibition on child labour are respected.⁴⁰ Opponents argue that trade sanctions can not address the cause of child labour by simply taking goods produced with child labour out of circulation.⁴¹

On this issue, the ILO has been reluctant to advocate trade sanctions with respect to child labour or other core labour standards. It is argued that sanctions risk being counter-productive, driving child workers into more hazardous work rather than getting them out of work altogether.⁴² Nevertheless, there may be extreme circumstances where, taken on a multilateral basis, trade sanctions may be an appropriate short-term response though such an option is almost certainly legally unavailable.⁴³

3.1.3 NATIONAL LABOUR LAWS

The International Standards envisaged in the ILO and UN Conventions are intended to be the basis for which national standards are laid. The major instrument of intervention by governments in their campaign against child labour has been legislation prohibiting the employment of children below certain age and defining the conditions under which they may be legally allowed to work.

Most countries have legislation on at least one aspect of child labour. A point of deliberation is how this legislation can be applied effectively to provide protection to working children and enable countries to move towards the elimination of child labour. Despite the fact that states have their own laws, most of the countries that have ratified the international treaties have legislation and enforcement mechanisms that fall short of meeting the expected standards. According to an ILO survey of 1997, most of the countries had legislation prohibiting work for children below the age of 14 or older in some sectors.

⁴⁰ Tonya, M.A 'Baby Steps Towards International Fair Labour Standards: Evaluating the Child Labour Deterrence Act' *Case Western Review Journal of International Law* (1992) 24 p.639-640

⁴¹ Lee, e and Servais, J.M 'The Social Clause in Trade Agreements: Wishful Thinking or an Instrument of Social Progress?' *International Labour Review* (1989) 128 p.423

⁴² ILO, *Child Labour: Targeting the Intolerable*, Document prepared for the Nov. 1996 meeting of the ILO Governing Body

⁴³ *Supra* note 37 p.29

(I) ASPECTS OF NATIONAL LAWS

a) **Minimum Age**

The minimum age for employment varies among countries. Some fix the basic minimum age for all economic sectors but in most, the age threshold varies according to sector or activity. For example, in Peru, a minimum age of 14 applies to children working in commercial agriculture, 15 for industrial, commercial and mining activities and 16 for commercial fishing.⁴⁴ On the other hand, the 1987 Indian Child Labour (Prohibition and Regulation) Act, though it prohibits employment of children in certain occupations and processes and regulates the conditions of work in other jobs, it imposes no age limit on the employment of children.

Many countries differentiate between light work and hazardous work. The laws reflect the fact that the nature of the work the child is engaged in can have a significant impact on her/his safety, health and overall development. Consequently, a higher minimum age is fixed for the so called hazardous work.

In Zimbabwe, the Labour Relations Act, 1997 bans all employment of children under 12 and all employment of children between 12 and 16 not specifically permitted in the Act as light work. South Africa on the other hand in the Basic Conditions of Employment Act 1997, Chapter 6 states that light work should not be performed by children below the age of 15 years. The minimum age for hazardous work in Brazil, South Africa and Tanzania is 18 years and in Brazil it ranges up to 21 years.⁴⁵ This illustrates how countries vary in their legislation.

Dangerous or hazardous work is not easy to define. Some countries such as the Philippines provide a very comprehensive list of occupations while others like Brazil, prohibition is stated in general terms. Examples of hazardous occupations include: underground or underwater work, work on construction sites, working in places where

⁴⁴ 'Children and Adolescents Code, 1992: Article 54' as cited in *Codigo de las Ninogv Adolescentes* (Lima: Ministry of Justice, 1993)

⁴⁵ *Child Labour: Targeting the Intolerable* Report VI(I) (International Labour Conference 86th Session, Geneva: 1998) p.41

alcohol is produced or sold, night clubs, tanneries, tunnels, confined places and work involving the manufacture, preparation or handling of chemicals.

b) Regulation of Working Minors

Other than prohibiting minors from working, some laws regulate the working minors. Child Labour in some countries regulate conditions of work for minors who have reached the basic minimum age for employment. This includes the number of working hours, times when they can work and even break provisions.

In Peru, children between the ages of 12 and 14 are not permitted to work more than four hours a day or 24 hours a week.⁴⁶ Mexican law requires that 14 and 15 year olds be provided with a one hour break after every three hours of work and prohibits their employment in overtime work.⁴⁷ Other countries such as Egypt, Kenya, Brazil and Philippines prohibit youths below a certain age from working at night.

There may also be provisions requiring minors or their employers to obtain employment authorisation from labour officials. In Kenya, for instance, the Ministry of Labour requires that an employer receive written permission from an authorised officer prior to hiring a child under the age of sixteen years. All such permits must be renewed annually.⁴⁸ The implementation of such a law is rare. In Peru, in order to receive authorisation, the work must not interfere with regular school attendance, and must have a medical certificate. The Ministry of Labour also requires proof of identity and proof that the child is enrolled in school. The authorisation expires on the date the minor child comes of age.⁴⁹

In India, the law also sets limits on the number of hours children can work continuously, limits the number of days of employment and restricts the times of work. The Central and State Governments are permitted to set rules for cleanliness in

⁴⁶ Supra note 44, Article 67 p.34

⁴⁷ Federal Labour Law, 1995, Article 177 and 178

⁴⁸ 'The Employment Act (Cap 226), 1976 and the Employment (Children) Rules, 1977 as cited in *Fédération of Kenya Employees 'FKE' Guidelines on Employment of Children* (Nairobi: FKE, August 29, 1996) p.2

⁴⁹ *El Peruano - Normas Legales* (Sept. 3, 1994) 125694

the place of work and employers are required to maintain a register with the names and birth dates of all children they employ.

c) Penalties

Penalties are provided for in laws of various countries for violations of their child labour provisions. Penalties vary. Some include fines, jail terms or other kinds of sanctions.

In Zimbabwe, violating the legislation (Labour Relations Act, 1997) could lead to fines of up to Z\$2,000 or imprisonment up to 12 months. The South Africa's Basic Conditions of Employment Act (BCEA) of 1997, provides for a maximum penalty of three years in jail for those who illegally employ children. It is also an offence to assist an employer who contravenes the BCEA or to discriminate against a person who refuses to allow a child to be employed.⁵⁰

In Egypt, provincial governors may rescind the license of a workshop that hires children under 14 years of age. Education is very highly placed and it is the right of every child to be taken to school. Parents and employers can be sent to prison for up to one month or fined from 200 to 500 Egyptian Pounds (US\$59 to US\$147) for not allowing children to go to school.

Some countries such as Brazil have state level laws addressing child labour. In 1997, the Sao Paulo State Assembly enacted a Procurement Law barring all companies that use child labour from bidding a public contract with the state and making the legal representative of the company responsible for any infraction of the law.⁵¹

d) Labour Inspectorate – National Reality

The ILO calls upon labour inspectors to apply fairly advanced legislation on the minimum age for admission to employment. The reality is that in most countries labour inspectors work in an environment where child labour is a question of survival for both the child and the family.

⁵⁰ 'Child Labour' South African Department of Labour (Pamphlet, March 1998)

⁵¹ *A History of Action 1990-1997* (Sao Paulo: Abring Foundation for Children's Rights, 1998) p.52

The labour inspectors who try to apply laws to protect children from work encounter many problems and may decide not to combat the economic and cultural resistance. They prefer to devote themselves to other work such as settlement of individual and collective disputes which are submitted to them by trade unions. Some national laws establish lists of dangerous types of work which are prohibited for children but labour inspectors are not informed and therefore, they do nothing. There is lack of communication between institutions protecting the children.⁵²

In some countries, labour inspectors are active and legal provisions and implementation mechanisms are in place. Here, inspectors visit work places to ensure that no underage children are working and that adolescents of working age have the necessary documentation and are working under proper conditions. For example in Philippines, the Department of Labour and Employment conducts routine and complaint-driven inspections to follow up allegations of illegal child labour. Violations are then reported to the court system.⁵³

However, most of the enforcement strategies are not effectively implemented. For example, inspectors generally investigate only those areas in which they have received complaints or there are newspaper reports. This is the case in Thailand.⁵⁴ In recent developments, some countries are taking action to address enforcement issues by increasing the number of inspectors, providing and improving training and targeting inspections in certain sectors. Other countries are improving co-ordination of enforcement efforts. The Tanzanian Ministry of Labour and Youth Development with support from ILO/IPEC has been training labour inspectors on child labour so that they can better integrate child labour in to their regular work.⁵⁵

(II) CONSTRAINTS OF IMPLEMENTATION

Though most countries have ratified the ILO and UN conventions on child labour, their legislation often falls short of meeting the standards. The objectives of the

⁵² Supra Note 33 p.91

⁵³ U.S Embassy-Manila, unclassified telegram No. 014481, November 20, 1997 and U.S Embassy-Manila unclassified telegram No 02110, 1998

⁵⁴ *Country Report on Human Rights Practices for 1997* (Washington, DC: U.S Department of State, 1997) p.917

International treaties was to motivate countries to establish a minimum age for admission to employment, provide appropriate regulation of hours and employment conditions and provide appropriate penalties to ensure that children are not economically exploited.⁵⁶ In reality, this is not the case. The ILO itself has exemptions in its law which amount to limitations and consequently, the national laws take up these limitations too. Some states have not ratified the International conventions as they do not want to be bound by them. To many governments, the determination and/or regulation of light work constitutes a major obstacle to the ratification of convention No. 138.

The main areas in which national legislation and practice fall short of the standards set in the convention No. 138 are the scope of coverage of relevant provisions, the minimum age and the effective enforcement for the provisions.

A large number of countries have adopted legislation which applies only to persons working under a contract of employment, thus excluding unregulated forms of employment in which children are often engaged. Legislation frequently excludes children working in family enterprises or employed in domestic work, or those employed in street trading on their own account or on a commission basis or temporary and casual work.⁵⁷

Relevant legislation in most countries does not apply to all sectors of economic activity and frequently does not cover some of the aspects which should be covered as a minimum under the convention No.138. Sometimes only major industries or factories are covered, while small factories or small enterprises may be excluded from coverage. Agriculture is frequently excluded although plantation work may be subject to minimum age provisions. In Kenya for example, the Employment Act (Cap 226) and the Regulation of Wages and Conditions of Employment Act (Cap 229) excludes agriculture though this is the sector where the majority of children are reported to work.⁵⁸

⁵⁵ *IPEC Action in Tanzania* (Geneva: ILO/IPEC, 1997) p.8

⁵⁶ 'By the Sweat and Toil of Children: Efforts to Eliminate Child Labour' (U.S Department of Labour, Bureau of International Labour Affairs, 1998) Chapter 3

⁵⁷ *Supra* note 45 p.33-34

⁵⁸ Oyuga, B; Suda, C and Mugambi, A *A Study of Action against Child Labour in Kenya: Towards a Best Practice Guide on Sustainable Action against Child Labour for Policy Makers.* (Nairobi: ILO/IPEC, 1997) p.27-28

Other limitations to the laws are found in the minimum ages. These ages vary from sector to sector. In Bangladesh there is no uniform minimum age for employment. Several laws specify different minimum ages according to types of establishment and sector.⁵⁹ The general minimum age and age fixed for certain sectors in some countries is lower than 14 years which is the ILO recommended age for countries whose economies and educational facilities are insufficiently developed.

Countries have taken limited measures to protect young workers in the area of hazardous work. This is as a result of having a broad definition of work and no specific measures on how to eliminate these.⁶⁰ There is still a lack of awareness of the need to protect the health and safety of working children. Two prevalent difficulties concern the annual repetition of medical examinations of young workers and the measures for the vocational guidance and physical and vocational rehabilitation of children and young persons who are found to be unsuited for work or to have physical disabilities or limitations. This has been provided for in Convention No. 77 and 78. Very few countries have incorporated this into their legislation.

Enforcement mechanisms are lacking in many statutes. Effective enforcement mechanism is lacking in especially the agricultural, domestic and the informal sectors. In South Africa for instance, the Department of Labour and of welfare are responsible to ensure that children are protected from child labour but have in the past been unable to enforce the law effectively. They have kept no record of prosecution of employers breaking the law. In addition, it is difficult to prosecute these employers since people are usually reluctant to testify in child labour cases. The family of the child worker may need the income earned by the child and these children may be prepared to work. Further, employers may threaten the parents who consider testifying against them especially if the parents work for the same employer as the children.

Many countries are plagued with a number of constraints and limitations in labour inspectorate as which is one of the law enforcement mechanisms. Firstly, there is lack

⁵⁹ Rahman, W *Child Labour in Bangladesh: Its Context and Response to it* (Dhaka: IOL/IPEC, May 1998) p.7

⁶⁰ Supra Note 22 p.76

of resources. The inspectorates are often understaffed, under-funded, lack transportation, inappropriate training of inspectors, unsuitable premises and lack of legal and technical documentation. In Tamil Nadu, a state in India, has a population of over 60 million and the department of labour only has 29 inspectors. These few inspectors can not adequately do their job by covering all sectors. Secondly, the Labour Inspection system presently has a multiplicity of tasks. In addition to dealing with child labour, they also deal with women issues, occupational safety, health and working at home. The same labour inspection body has to respond to various issues and this deviates them from their main purpose. Thirdly, there is lack of co-ordination between the various labour inspection bodies. Child labour issues are under different authorities and ministries such as Industry, agriculture, transport and mining. This makes it difficult and impossible for the few labour inspectors to co-ordinate with all these bodies. Fourthly, corruption acts as a major obstacle. Inspectors sometimes choose not to remove children from work or impose fines when they find violations. In Thailand, inspectors tend to negotiate promises of better future behaviour by violators of child labour laws rather than seeking prosecution and punishment. Finally, few countries evaluate their laws and consequently, there is little accountability.

These obstacles stand in the way of effective implementation such that the initiatives taken to strengthen the labour inspection system seem inconsequential. For instance, there are programmes where independent bodies document and report human rights violators including child labour. This is a good step forward though more strategies are required. There is a wide gap between law and practice. In the formal sector which includes large enterprises, child labour has been reduced as a result of using highly mechanised or capital intensive technologies. Nevertheless, child labour continues to be prevalent in the unorganised sectors despite national legislation.

3.1.4 CURRENT LEGAL DEVELOPMENT

Over the years, ILO's convention No. 138 has not received as much support as had been anticipated. This convention was to be the main child labour regulating convention. Without universal ratification, it means that the main objectives will not be achieved. In particular, no Asian country with the exception of Nepal has ratified

it although Asia accounts for about 60% of child labour world wide. There is a major problem when considering banning child labour because in each culture there is a different concept of what labour constitutes in terms of damage to the children's development.⁶¹

ILO began placing priority on the most intolerable forms of child labour and from about 1996, the idea grew culminating to the suggestion of adopting a new ILO Convention on this issue.

During the ILO 1996 session, the conference adopted a resolution on the elimination of child labour. This stressed the need to immediately abolish the most intolerable aspects of child labour such as employment of children on slave-like and bonded conditions, dangerous and hazardous work and the commercial sexual exploitation of children. The aim of the new standard setting was to bring the worst forms of child labour into sharper focus and set priority for action.

It became clear that a new instrument was necessary which would be expressly directed against extreme forms of child labour. Convention No. 138 would thus be supplemented and not replaced. Many states find convention No. 138 too complex to apply in detail and therefore hesitate in ratifying it. The new instrument would thus focus on the worst forms of child labour and would fill the gaps in the current international legal instrument on the subject and set clear priorities for national and international action.⁶² Though the UN Convention on the Rights of a child and other international instruments contain relevant provisions, this new instrument would enhance national and international action and bring the weight of the ILO supervisory machinery to bear on compliance.

Further, it was felt that the size of the problem of child labour is such that a determination must be made as to where to begin taking action against the phenomenon. It was stated in the ILO, 1998 International Labour Conference that;

⁶¹ Lesley, R 'Child Labour : A form of modern slavery ' in World Federation of the Sporting Goods Industry (Committee on Ethics and Fair Trade) *The Way Forward* Proceedings of the Conference on Human Rights held in Vierbier (Switzerland) 3-4 Nov.1995. London, Brasseys p.35

⁶² Hansenne, M *Combating the most Intolerable Forms of Child Labour: A Global Challenge* Statement to the Amsterdam child labour Conference. 26-17 Feb. 1997. p.2

“Choices must be made about where to concentrate human and material resources. The most logical and humane strategy must therefore be to focus scarce resources first on the most intolerable forms of child labour such as slavery, debt bondage, child prostitution and work in hazardous occupations and industries, and the very young, especially girls. This approach has the additional advantage that policies designed to reach the children most in need are likely to benefit other working children...”⁶³

The elimination of the most intolerable forms of child labour is partly covered by the Forced Labour Convention, 1930 (No.29). This convention has currently been ratified by 150 countries. The convention applies to all persons, including children. It is thus applicable to some of the worst forms of child labour such as children in bondage and their exploitation in prostitution and pornography. However, it covers only forced labour in children thus it is limited in combating all categories of intolerable forms of child labour.⁶⁴ In light of the changed understanding of the child labour issue which distinguishes child labour and child work, as well as the failure of existing standards to attract extensive support from countries with serious child labour problems, ILO felt the need for a new convention.

The New ILO Convention

The new ILO convention would focus on the most intolerable forms of child labour, apply to all children under the age of 18, oblige ILO member states to suppress immediately all extreme forms of child labour, including all forms of slavery or practices similar to slavery, the sale and trafficking of children, forced or compulsory labour, including debt bondage and serfdom, the use of children for prostitution or in pornographic activities and the engagement of children in any kind of dangerous work.⁶⁵

On 17th June 1999 at the ILO conference, 87th session in Geneva, the new ILO convention No.182 was adopted in conjunction with recommendation No.190. This

⁶³ ILO (1998) at n.2

⁶⁴ Supra Note 26 p.7

⁶⁵ Supra Note 62 p.2

convention concerns the prohibition and immediate action for the elimination of the worst forms of child labour.

This convention considers that the effective elimination of the worst forms of child labour require immediate and comprehensive action. It takes into account the importance of free basic education and the need to remove the children from all such work and to provide for their rehabilitation and social integration while addressing the needs of their families. The term child refers to all persons under the age of 18 and the convention is not flexible on this issue.

Article 3 (Convention No. 182) defines the term 'worst forms of child labour' in broad terms. This comprises of:

- a) All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children in armed conflict.
- b) The use, procurement or offering of a child for prostitution, in the production of pornography or for pornographic performances.
- c) The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties.
- d) Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Like all ILO conventions, this convention is subject to consultation with the organisation of employers and workers in order to determine national laws. Member states are called upon to establish or designate appropriate mechanisms and implement programmes of action to eliminate the worst forms of child labour as a priority.

Despite the fact that this convention has outlined what it means by the worst forms of child labour, some types of work have been left out. For example, work done underwater or at dangerous heights, work with dangerous machinery, equipment or tools, exposure to extreme temperatures, noise levels or vibrations and work involving particularly long hours during the night or without the possibility of returning home each day (for example, girls in domestic service). However the convention tries to

include all forms of child labour generally, in article 3 paragraph (d) by stating that work likely to harm the health, safety or morals of children is prohibited.

Article 7 of the Convention provides that member states shall apply penal sanctions and other sanctions to ensure its effective implementation. Education is tied to the elimination of child labour as in other conventions. This convention pinpoints how the 'rescued' children are to be treated and what measures countries should take to integrate them into the society. It provides for rehabilitation and social integration of children removed from the labour market and where possible members are asked to ensure access to free basic education for such children. Girls are to be given special attention by taking into account their situations.

Convention No. 182 consolidates the legal position on slavery-like practices and child prostitution and serves to advance the practical commitment to ensuring that children enjoy protection at least against many forms of hazardous work as part of the transition towards the elimination of child labour as called for in convention No.138 This convention requires states not only to enforce an abolition of extreme forms of child labour but also requires them to provide assistance and rehabilitation to children removed from such work.

3.2 POLICIES AND PROGRAMMES

Numerous programmes and policies have arisen in the recent years. This has been mainly due to the increased media attention to child labour. Public debate has as a result been enhanced placing the issue on international policy agenda and on the agenda of individual countries.

The increased efforts by donor agencies and governments to contribute to workable solutions has encouraged more Non-governmental organisation to pay attention and dedicate resources to this issue. A number of governments are co-operating with international organisations such as the UNICEF and the ILO to establish plans of action to combat child labour. This includes conducting national surveys on child

labour, establishing more schools and non-formal education programmes for children and publicising the hazards of child labour.⁶⁶

Governments are recognising the need to compliment the traditional approach of exclusive reliance on legislation and enforcement with action programmes aimed at dealing either with the conditions of child workers at the national level or in specific sectors, industries or communities.

Below, various programmes and policies both at the international and national level shall be evaluated. These include the current developments and initiatives that governments are taking to address the child labour issue. In spite of the wide range of initiatives being taken, child labour has continued to increase and this shows that the efforts are not sufficient. For example, even where compulsory primary education has been legislated and where the relationship between the strength of the educational system and the lower levels of economic exploitation of children is commonly accepted, governments often fail. There is a gap that has been created between the outline of policies and programmes and their goals and what has actually been implemented and how this response has actually fulfilled its goal.

3.2.1 INTERNATIONAL FORUM

International organisations that deal in children issues both directly or indirectly have expanded their commitment and the number of projects to eliminate child labour. Both the ILO and the UNICEF are major activists in this area and they have established various programmes such as the IPEC, educational strategies and proposals aimed at reducing bonded labour in the industrial arena through consumer labelling. International financial institutions such as the World Bank have begun to evaluate how their programmes and actions may impact the situation of children.

Various international conferences have discussed child labour as a priority in their agenda. The 5th Conference of Labour Ministers of Non Aligned and other

⁶⁶ 'By the Sweat and Toil of Children: The Use of Child Labour in American Imports' Volume I (U.S. Department of Labour, Bureau of International Labour Affairs)

developing countries hosted in India in January 1995 held that child labour is a moral outrage and an affront to human dignity and are pro-actively committed to eliminate this practice in terms of the international labour conference 1979.⁶⁷

Examples of International conferences focusing on child labour which brought together representatives of governments, workers, employers and Non governmental organisation of industrialised and developing countries were held at Stockholm (1996), Amsterdam (1997) and Oslo (1997). A number of regional meetings and conferences were also held during this period and these resulted in a variety of action agendas to combat child labour.

Non governmental organisations have been lobbying the UN system to adhere to principles enshrined in their instruments and to take more effective action against child labour. For example, the Geneva-based Defence for Children International have taken up the human rights dimension of child labour and effectively lobbied UN agencies to pay more attention to the issue.

In 1998, over 1,400 Non governmental organisations around the world showed their concern for the plight of child workers by supporting the historical Global March against child labour. This march travelled for six months through more than sixty countries across Africa, Asia, Europe and America.⁶⁸ The goals of the global march were to raise awareness about child labour issues, urge governments to ratify and enforce laws protecting children and providing them education, demand the immediate elimination of the most exploitative forms of child labour, promote positive actions by employees and consumers, ensure the proper rehabilitation of child labourers and mobilise greater national and international funding to support education for all children.

⁶⁷ Delhi Declaration: *Item 5.8 – Elimination of Child Labour* (Delhi: Final Documents, Fifth Conference of Labour Ministers of Non Aligned and other developing countries, 1995)

a) ILO – International Programme on the Elimination of Child Labour (IPEC)

IPEC is now conducting many projects throughout the world and many countries have requested technical co-operation with it.

IPEC was launched in 1992. It aims at strengthening national capacities to address the problem of child labour and to encourage a world wide movement to combat it. A government's commitment is expressed in its signing of a memorandum of understanding with the ILO. Characteristic of many ILO programmes, IPEC's strategy rests on the commitment of individual governments to address child labour in co-operation with employers' and workers' organisation and any other organisations.

The strategy of IPEC includes policy development, programme development, awareness raising and direct action. It emphasises preventive measures and tries to build sustainability into demonstration programmes, while assessing their potential for integration into the regular programmes and the partner organisations. These organisations are aided to adopt measures aimed at preventing child labour, withdrawing children from hazardous work and providing alternatives and improving working conditions as a transitional measure towards the elimination of child labour.⁶⁹

The priority target group of the IPEC are children who are particularly vulnerable. These are children working under forced labour conditions and in bondage, children working in hazardous occupations, very young children (under 12 years) and working girls.

IPEC has further sharpened its focus on priorities by launching a new programme for "Action against the most intolerable forms of child labour" (AMIC). This specifically supports programmes aimed at the immediate eradication of bonded child labour, the commercial exploitation of and trafficking of children, child labour in domestic services, child labour in hazardous work in commercial agriculture and child labour in dangerous industries, occupations and working conditions.

⁶⁸ 'By the Sweat and Toil of Children: Efforts to Eliminate Child Labour' (US Department of Labour, Bureau of International Labour Affairs, 1998) Chapter 1

⁶⁹ Supra Note 41 p.250

IPEC programmes are divided into two categories. There is the action programmes which deal with specific issues and the mini programmes which help partner organisations to carry out preparatory activities for possible future action programmes, awareness-raising activities and evaluation and audits of IPEC activities.

The programmes focus mainly on hazardous work. This is understood to cover exposure to chemicals, extreme temperatures, dangerous tools, machines and/or work-place, heavy loads and STD/AIDS. Hazardous conditions under the IPEC cover physical hazards such as physical violence, psycho-social hazards which refer to intimidation, isolation, no contact with family and friends, night work and excessively long working hours. Although IPEC involves itself mostly in services and manufacturing sector, about one-fifth of the programmes as of 1996 involved children working in agriculture and related activities.⁷⁰

IPEC has had a major impact on the countries involved. For example in Tanzania IPEC has co-operated with the Government and a national policy has taken shape and is under implementation.

IPEC concentrates more on preventive measures since they are more cost effective than remedial measures. This has been an area which poses as a limitation to its effectiveness. The programme may succeed in withdrawing children from hazardous work but where do they go after this. The eradication of these forms of child labour presuppose measures to 'rescue' children from work and rehabilitate them. This is a challenge to the IPEC. The remedial measures require infrastructure to accommodate the children but IPEC has limited resources to deal with this. As a result, IPEC is one-sided. One of its major preventive measure constitute support of basic education with strong emphasis on non-formal education, apprenticeship and skill-development programmes. IPEC requires more support to ensure a well-rounded programme that prevents and also rehabilitates children already in the working force.

In order to deal with the problem of lack of child labour information and adequate data, IPEC launched statistical information and monitoring programme in April 1997.

⁷⁰ ILO-IPEC 'Children Wage War on Child Labour' in *Children and Work* (Geneva, 1996) No.2 November

The project aims at providing technical and financial support in carrying out child labour surveys, setting up national data banks and disseminating information at the national and international levels.⁷¹ It further aims at establishing a data bank on institutions and organisations acting against child labour, child labour projects and programmes, national legislation and indicators and industrial level action including codes of conduct.

IPEC-supported programmes act in alliance with non-governmental organisations, governments, employers and workers organisations. It must be noted that policy approaches to child labour are still fragmented and mostly lack adequate comprehensiveness.

b) UNICEF

The UNICEF has been working with governmental and non-governmental partners to promote universal access to quality and affordable education and the removal of children from exploitative work.

c) Bureau of International Affairs (ILAB)

ILAB is a section of the U.S Department of Labour. It has funded several programmes since its inception in 1995. Some of these include monitoring of the removal of children from the garment industry in Bangladesh and placing them in schools. ILAB has also supported programmes in Northern Thailand to prevent children from being lured into exploitative child labour and child prostitution.

Further, ILAB has financed a national statistical survey on child labour in the Philippines and sponsored an African Regional Workshop to formulate measures and activities to improve working conditions of children on plantations. These as just but a few examples of the programmes that ILAB has implemented as a response to the child labour dilemma. These programmes have gone a long way in the war against

⁷¹ ILO *Child Labour Surveys: Results of Methodological experiments in four countries 1992-1993* (Geneva: ILO-IPEC/Bureau of Statistics, 1996)

child labour and ILAB sets a good example for other organisations to take initiative and assist those who may not have the resources to help themselves.

3.2.2 NATIONAL INITIATIVES

a) **Educational Policies**

The ILO and other international organisations tie a link between elimination of child labour and education. They encourage countries to improve their educational policies and encourage children to attend school rather than go to work.

Some governments are introducing legislation to make primary school compulsory. For example in Zimbabwe, there is a policy of free and compulsory primary education for all children. Others are raising the number of years children are required to attend compulsory school. In Egypt this has been increased to 8 years.

Some organisations are developing and implementing programmes to assist child workers and their families by establishing small, non-formal education programmes for the children. In Bangladesh, there was an agreement to phase children out of the garment factories and place them in school while adult relatives are given preference to fill jobs vacated by children.

Some of the initiatives aimed at overcoming some of the impediments to educational attainment include; efforts to improve primary school infrastructure and increase children's access to primary education through provision of free schooling, school meal programmes, free transportation, flexible school hours, flexible locations and economic initiatives. These are also the main reasons why children do not attend school and opt to work. Thus these initiatives aim to make education accessible, affordable and reduce the opportunity cost of sending children to school.

Brazil has developed initiatives to make school more accessible and improve the quality of primary education. In 1997, the *Livra Didatico* project invested U.S\$ 142.5 million in the acquisition of books to be distributed to schools. In addition, primary school teachers have been trained and the government spent U.S\$ 73.1

million and a fund development for these teachers was initiated to increase their low wages.⁷²

Some countries are experimenting with back-to-school programmes encouraging working children and adolescents to attend or complete primary school. This works as a rehabilitative programme where 'rescued' children are not left without work and education. This encourages the children by showing them it is not too late to go back to school and start all over again. In Philippines,⁷³ a child labour project has been developed whereby there is a programme for teaching modules for out-of-school working children, remedial instruction programmes for in-school children and technical and vocational skills training. It attempts to reduce the number of drop-outs and improve achievements in elementary schools by providing tutoring for dropouts and out-of-school youth so that they are able to obtain primary and secondary school equivalency.

Other educational initiatives involve flexible schedules that allow working children the opportunity to both work and study. This is aimed at the children from poor families where they have to work for survival. It ensures that these children receive education so that the poverty cycle is discontinued. In Peru, a number of schools have established three shifts; morning, noon and night to allow working children to combine work and schooling.⁷⁴ There is also a new curriculum which permits teachers to make instruction more relevant to children's needs and interests. This is by applying what a child has learnt at work and building up on it in school lessons. This will motivate children as they will see the relevance and importance of school.

Some governments are compensating poor families for the loss of income that results when children go to school instead of working. Economic incentives can help reduce child labour and keep children in schools. One of the most popular incentive is providing meals for children. In South Africa, the primary school Nutrition Programme fed nearly 5 million students in 13,000 schools in 1996.⁷⁵ In some cases,

⁷² *Child Labour in Brazil* (Brasilia: Presidencia da Republica, Camara de Politica Social, 1997) p.48

⁷³ Facts and Figures p.19

⁷⁴ *El Trabajo Infantil en el Peru* p.48-49

⁷⁵ Address by Siphon Pityana, Director General, South African Department of Labour, to the International Conference on child labour, Oslo, Norway (October 1997)

food incentives are given directly to families who send their children to school. This has been implemented in Bangladesh⁷⁶ and Brazil.⁷⁷ It aims at increasing attendance by supplementing the income of poor families.

Some countries like Brazil and Mexico offer school vouchers or cash stipends. These eliminate, reduce or subsidise school fees. They additionally offset the income lost by having children attend school instead of working.

Governments have to take the initiative to get involved in such programmes for there to be a difference. However, many governments are unwilling and sight economy as a reason. They claim that they can not afford such programmes. Non governmental organisations alone can not effectively organise such programmes because they have limited resources. This therefore is a major constraint to implementation.

Most of the above initiatives are recent and the impact can only be assessed by future increases on the number of children attending and completing schools. However, this is a positive response and shows that some governments are willing to spend time and money to eradicate and reduce child labour.

b) Consumer Labelling Programmes

Consumer labelling programmes have been initiated to prevent production and sale of products made under exploitative conditions. Information on such products is disseminated. Many multi-national corporations are developing codes of conduct to prohibit the use of child labour.

UNICEF has championed this campaign and on May 23, 1995 it adopted an institution-wide procurement policy prohibiting the purchase of any product from a supplier found to violate national and international child labour laws.

⁷⁶ *Child Labour in Bangladesh: Its content and Response to it* (Dhaka: ILO/IPEC, May 1998) p.13

⁷⁷ 'O Futuro Mouis Perto' *CIDADANIA* (Brasilia, Secretaria de Assistencia Social, No. 1 January – March 1998) p.1

Consumer labelling programmes are found in various industries such as the carpet industry, leather footwear industry and even in the Tea Industry, which shall be discussed herein.

(i) Leather Footwear Industry

The two main child labour programmes are based in Brazil. These are the Abrinq Foundation for Children's Rights and the Pro-child Institute.

The Abrinq Foundation created a child-friendly programme in April, 1995. For companies to join, they must meet the following criteria:

- a) Make a formal commitment not to use child labour as defined by the Brazilian Law.
- b) Promote this commitment to its network of suppliers and clients.
- c) Create or support programmes to educate and train children.

One of the limitations of this foundation is that it does not have any formal monitoring procedures but conducts investigations of alleged child labour violations by member companies.⁷⁸

(ii) The Carpet Industry

In this industry, many of the carpets are hand-knotted and children are exploited because their fingers are small and can create intricate and delicate patterns. This industry is widespread especially in India and therefore many of the consumer labelling programmes have been established there.

The main child labelling programmes for carpets are RUGMARK, Kaleen, STEP and Care and Fair. RUGMARK and Kaleen are product labels that are affixed to individual carpets while STEP and Care and Fair are company certification programmes. When companies meet the expected standards, they are given

⁷⁸ 'By the Sweat and Toil of Children: Consumer Labels and Child Labour' (US Department of Labour, Bureau of International Labour Affairs, 1997) Volume IV

certificates. Participating companies therefore use the labels for advertising and marketing purposes but not on individual carpets.

a) RUGMARK

It is the most widespread and advanced programme. It was established in India in 1994 and expanded to Nepal in 1995. It is a voluntary certification program providing market-driven incentives for carpet manufacturers to produce without child labour.

The RUGMARK foundation is supported by non-governmental organisations and UNICEF. It grants a license to use its logo to the manufacturers who:

- a) Legally commit themselves not to employ children under 14 years.
- b) Pay their workers at least the official minimum wage.
- c) Make available lists of loom units and sources from which they procure carpets.
- d) Agree to unannounced inspections by RUGMARK inspectors.⁷⁹

The main objectives of the program are to: cease the use of child labour in the carpet industry; establish an independent professional and internationally credible monitoring and certification system for carpets manufactured without child labour; and rehabilitate and educate former child carpet workers. The programme is funded by exporters and importers. Importers must pay one per cent surcharge on the free on board (f.o.b) price of the carpets. The money is used by UNICEF to fund educational and vocational programmes for the former child workers. For example, in Nepal, RUGMARK operates three rehabilitation schools.

The inspection and monitoring programme is still new though it has made a substantial difference. As of June 1997, the Indian RUGMARK Foundation had found 1,060 children working illegally. Monitoring is enforced through an elaborate system of licensee approval, random inspections and carpet tracking. Once it is

⁷⁹ 'By the Sweat and Toil of Children: The use of Child Labour in US Agricultural Import and Forced and Bonded Child Labour' Volume 11 (US Department of Labour, Bureau of International Labour Affairs, 1995) p.15

certified that all RUGMARK regulations are being carried out, the RUGMARK label is placed on the back of each carpet and displays a carpet with a smiling face.

b) Kaleen

The Kaleen labelling program was established in 1995. This programme is based on: a commitment of the exporters towards the elimination of child labour through a code of conduct; registration of looms by the exporters; inspection by an independent agency and punitive action against defaulters; collection from all exporters a fee for child welfare activities and periodic review by the steering committees headed by the commissioner for the department of handicrafts.

Though the program has very good objectives, it is not as efficient as RUGMARK especially when it comes to monitoring the industries. However, this program is also assisting greatly in the fight against use of child labour in the carpet industry.

These carpet labelling programmes though important have faced constraints to effective implementation. As a result of the widespread public awareness of the use of child labour in the carpet industry, it has become common for individual manufacturers, exporters or importers to affix their own child labour-free labels on their carpets without ensuring adequate monitoring procedures are in place. Such labels have been found on Indian carpets for sale by both small and large international retailers.

(iii) Tea Industry

In the tea industry, social labelling is limited to fair trade labelling organisations. These programmes originated in Europe and are now found in a number of tea-consuming countries. Fair trade labels inform consumers that products have been produced and traded under certain conditions.⁸⁰

⁸⁰ Supra Note 78

Commercial plantations producing fair trade tea are prohibited from employing children under the age of 14. Producers must agree to give monitors free access to their estates and make available any records that might be required in order to verify information provided. The basic criteria used by fair trade labelling organisations is:

- 1) Participation by the producers in decisions regarding the use of the fair trade premium.
- 2) The promotion of longer term trading relationships to enable producers to plan for the future with some security.
- 3) The payment of a fair price covering production costs plus a fair trade premium.
- 4) Provisions for advance payment or credit so that producers do not go into debt before sales can be realised.

Licensees place fair trade labels directly on tea boxes, individual tea bags and/or tags.

c) Corporate Codes of Conduct

Just like social labelling, goods made with child labour are allowed to circulate but consumers are encouraged to avoid such goods and to choose instead goods made under fair labour conditions. Manufacturers of such goods in the long-run end up with losses and as a result, aim at improving their labour conditions and child labour is reduced or abolished. For example, in 1995, the US government adopted a voluntary code of conduct called the Model Business Principles, including a pledge to avoid child and forced labour.

The aim of such a code is to move consumer pressure towards demanding better treatment for workers. For instance, the Christian Aid's Change at the check-out campaign seeks to encourage supermarkets in the UK to adopt ethical principles in their purchasing of food from developing countries. It further seeks to implement codes of conduct with suppliers of own-brand products to be monitored independently. In 1997, it issued a report on an update on the progress towards its goals. The report included a model code of practice, including a requirement that employment of children should be in line with the basic principles of ILO Convention No. 138.

In **summary**, all these types of mechanisms vary in meaning and scope. Some provide assurances that goods have not been made by children, others signify that the producers, importers or exporters of goods are contributing to social programmes for their workers and their families. It is important to note that unless there is a monitoring program that addresses production of these units, child labour-free claims can not be guaranteed. These mechanisms may also not be very effective unless a large number of consumers express their preferences against goods produced with child labour.

There are various other programmes that have been initiated targeting at-risk children and offering rehabilitative services to 'rescued' child workers. Efforts include public awareness campaigns, non formal education, skill training, economic incentives, employment opportunities for the families of working children and re-unification of trafficked children with their families.

For example, in Kenya, Sinoga Women and Child Labour Resource Centre⁸¹ was created to raise awareness about child domestic workers and help girls engaged in domestic services in Nairobi. The program provides skill training, basic education, counselling, legal advice and a rescue shelter for girls who are abused by their employers. Many such programmes run all over the world.

Responses to Child Labour – Conclusion

The response towards the elimination of child labour has been enormous. Governments, international organisations and non-governmental organisations are all working together to build a better tomorrow for the children. The response increased after 1979, the international year of the child. During this year, there were campaigns exposing the dilemma of child labourers. The media and publications have also been an eye opener.

As a result of this, legal mechanisms have been introduced both in the international and national levels. It has been noted that legislation can not work alone and

⁸¹ Supra Note 58 p.119-122

therefore programmes and policies have been developed. All these responses aim at preventing or reducing child labour and also rehabilitating the former child labourers.

Despite all these efforts, child labour is still a worrying phenomenon and it seems that the mechanisms in place still need to be boosted up to cope effectively with the problem. The next chapter shall evaluate some steps recommended to help combat the exploitation of children in the working environment.

CHAPTER FOUR

COMBATING CHILD LABOUR

The process of combating child labour can not be fulfilled overnight since its causes are engrained deeply in the society. Action against child labour if it is to be significant must come from within states and be supported from outside.

There is now wide acceptance of the idea that child labour is a violation of human rights especially where it involves exploitative or hazardous circumstances or conditions of work. The argument now is focused on the most appropriate means by which the problem can be addressed.¹ Views differ as to whether the best way to eliminate child labour is outright and immediate abolition, or a gradual and progressive raising of the minimum age for admission to work or employment combined with protective measures for those children who continue to work. In a resolution adopted by the international labour conference 1979, the ILO called for social and legislative action to progressively eliminate child labour and during the transitional period until the elimination, to regulate it.

There are various schools of thought which are against an active strategy of combating child labour. Below, four schools of thought shall be discussed which show contrasting views and strategies for combating child labour.

4.1 CONTRASTING VIEWS AND STRATEGIES

a) The Marxist Radical Perspective

This approach sees child labour as a manifestation and a result of the exploitation and inequality in incomes and wealth that are characteristic of capitalist systems. In this system, exploitation of labour is essential for the survival and profitability of profit-

¹ Cullen, H 'The Limits of International Trade Mechanisms in enforcing Human Rights: The Case of Child Labour' *The International Journal of Children's Rights* Vol.7 (1999)

maximising enterprises. As long as these conditions persist, legislative and other efforts by governments are unlikely to succeed.

From an employer's point of view, child labour is one of the most stable forms of labour. They do not strike or disrupt production. They are cheap to hire and easy to fire. In some country studies, for example Egypt, employers assert they would continue employing children even if there was a legal ban and others said their employment would continue even if their wages were raised to adult wages.²

This approach is correct in anticipating that the work of children becomes redundant and unnecessary with technological process. In reality, this is confirmed because child labour is concentrated in small enterprises and is less frequent in large enterprises which use more advanced technology.

Assefa Bequele³ points out two problematic aspects of this approach. Firstly, this approach insists on a total restructuring of economic and political power as a necessary condition for change or social problem. Such restructuring may take a long time or require violent revolutionary action. Therefore this perspective amounts to a prescription of inaction for those who do not take up the revolutionary cause. It is pointed out that change and social progress can be brought about even under non-radical conditions and without resorting to violent actions. Secondly, the commitment to the rule of law is not the monopoly of a particular political persuasion thus it is not true that governments are so sold out to powerful capitalists that it is impossible to work with them in the defence of social rights.

b) The Evolutionary Approach

This perspective states that child labour is the result of mass poverty and underdevelopment. This problem is aggravated by the lack of schooling opportunities or the poor quality of schooling. Child Labour could lead to early skill

² Abdalla, A 'Child Labour in Egypt: Leather Tanning in Cairo' in Bequele, A and Boyden, J (eds.) *Combating Child Labour* (ILO: Geneva, 1988)

³ Bequele, A 'Combating child labour: Contrasting Views and Strategies for very poor countries' in *Conditions of Work Digest 'Child Labour: Law and Practice'* Vol. 10 No. 1 (ILO: Geneva, 1991) p.9

acquisition. The main emphasis is that child labour can not be abolished as long as poverty persists.

The proponents aver that legislation prohibiting child labour is likely to lead to clandestine employment and therefore greater exploitation. They say the best that can be done is to legitimise child employment and ensure that child workers are provided with legal protection.

c) The "Abolish-It-Now" Perspective

This school of thought advocates for immediate abolition of child labour. Employers in large and medium-sized enterprises who might feel threatened by competition from enterprises operating in an unregulated labour market and employing child labour are one of the proponents. Other proponents include lawyers, workers, non-governmental organisations who insist on a strict interpretation of the law or the constitution, which in almost all cases guarantees the protection of children and prohibits their employment below a certain age. Workers in industrialised countries may fear job losses as a result of the shift of industries to countries which supply cheap labour.

Some in the group even oppose the provision of protective measures on the ground that these measures could perpetuate and legitimise child labour. Protection can not be provided against something that is legally prohibited. The disadvantage of this approach is that it hinders practical programmes providing some kind of protection and services to child workers from becoming operational.

d) The Critique of the Poverty Argument

It has been accepted that the elimination of poverty requires sustained and rapid economic growth. The complete or effective abolition of child labour requires the elimination of poverty. The issue here is how rapid does growth have to be, and what level of per capita income has to be reached before anti-poverty objectives are seriously addressed and child labour abolished.

It is nevertheless possible, as can be seen from the experience of some developing countries, to bring about significant reductions in the incidence of child labour and

extend protection to working children even at low levels of per capita income and development.⁴

There is a moral imperative and there are absolutes arising from the inherent dignity of the human person and recognised in international treaties irrespective of their level of development.⁵ It is pointed out by Bequere⁶ that in the contemporary world of extensive interactions in information and knowledge, economies can not take complete precedence over universally accepted basic human rights and values. To do otherwise could in the long run be most perilous for government and society at large.

4.2 RECOMMENDATIONS

The past few years have brought unprecedented public awareness of the problem of child labour and broad consensus on the need to do something about it. The issues however remain complex. At the inter-governmental level, the problem of child labour has been caught up in a politically charged debate on human rights, labour standards, ethics and international trade. This partly accounts for the relatively slow progress being made toward concerted international action to tackle the problem.⁷ The socio-economics and sheer scale of child labour world wide are still such that there is no easy solution to the problem.

The complexity of the problem of child labour means that a range of remedies is probably necessary.⁸ It is believed by some that child labour is a natural extension of what children have always done. Children were socialised from an early age towards displaying a productive role in society. While this has historical relevance, it is generally agreed that the current socio-economic situation has changed the context, demanding a re-evaluation of the positive and negative effects of children's work.⁹

⁴ Ibid., p.12

⁵ ILO: Child Labour, Report of the Director General to the International Conference, 1983 p.20

⁶ Supra Note 3 p.12

⁷ Lansky, M 'Child Labour: How the Challenge is being met' *International Labour Review*, Vol. 136 (1997) No.2 (Summer)

⁸ Grootaert, C and Kanbur, R 'Child Labour: An Economic Perspective' (1995) 134 *International Labour Review* p.188

⁹ Grimsrud, B and Stokke, L *Child Labour in Africa: Poverty of Institutional Failures/ The Cases of Egypt and Zimbabwe* (Fafo Institute for Applied Social Science, 1997) p.17

Before any action can be taken, it is important to identify priority areas. Top priority should be to prevent and eliminate the participation of children in those economic activities which are most detrimental to them. The elimination of child labour should be seen as a process which should be undertaken at the national level through an improvement in education, combating poverty and increasing standards of living among other things and also at the individual level where a child should move progressively towards rehabilitation.¹⁰

A systematic examination of the main hazards faced by children employed in specific occupations could lead to the development of perspective and protective measures. There should be identification and use of sources of information. Data collection is necessary in order to:

- a) Design interventions directed to protect working children. It is necessary to know where children are found and whether they are concentrated in any given sector.
- b) Appraise rates of injury and illness among working children to guide the direction of potential intervention.
- c) Obtain accurate information on type of injury in relation to type of work and working conditions in order to propose preventive programmes.
- d) Assess, using scientific evidence, the effects of hazardous work and estimate specific high-risk situations by field observations for development of measures to detect and prevent hazards.
- e) Evaluate the outcome of impaired working conditions of children when specific hazards are estimated from certain types of work, compared to when they are not.

With a view to combating child labour, countries can divide their action into short-term, medium-term and long-term action. Short-term action involves the use of sanctions and threats in manifestly hazardous situations. The medium-term action aims at improving the working conditions of children since it is not possible to dismiss all child workers immediately as this would reduce them to an even worse situation. This action acts on factors which can diminish the overall burden and constraints that are felt by children. Progressive reduction in the working hours should be achieved and change in the organisation of work so that adults perform

¹⁰Forastieri, V *Children at Work: Health and Safety Risks* (ILO: Geneva, 1997)

heavy maintenance work. This action also aims at improving the work environment and facilities by insisting on the minimum conditions set out in law. The long-term action is the final abolition of child labour.

This is a systematic way of dealing with child labour and it is a long process. Discussed below are other recommended means of combating child labour.

a) Strengthening the Legal Framework

The most traditional approach to the protection of working children has been through legal remedies. Most countries have fairly progressive child labour legislation in force. There are three main principals to follow in regulating child labour. Firstly, set a general minimum age for all types of labour, secondly define different age limits for different industries and finally define different age limits for different types of work. Specific legislative action should be taken against extreme forms of child labour such as slavery, forced or compulsory labour, prostitution and pornography. A higher minimum age for dangerous work should be provided for and legislation on hazardous work should designate in precise terms which work is considered to be hazardous.

The main problem is enforcement of the laws. Some countries have designated their child labour legislation mainly for show, but have never moved seriously to enforce it. Others have legislated in good faith, but have been unable to provide the resources, structure, or political force necessary to achieve reasonable implementation.¹¹

Children should be taught about laws and policies regarding their work and they should be provided with contacts for reporting violations and seeking help. This is because by themselves they can do very little. Families should also be informed of the laws and their responsibility under the law. To ensure enforcement is possible, laws should be adapted to local realities and there should be reinforcement of implementation capacity and will. Laws should not just be transplanted from other legislation and hope that they work but there should be careful research to ensure that the laws can be implemented.

¹¹ Myers, W.E (ed.) *Protecting Working Children* (UNICEF: New York, 1991) p.161

According to Standing¹² '...legislation with effective bite will only be likely when child labour has actually become a marginal factor on the overall drive to capitalist accumulation'.

National legal standards can be used as a framework for policy. Priority should be given to legislation affording appropriate protection to children and setting age limits, duly enforced by an effective system of registration, monitoring and inspection. Labour inspection systems should be improved. This is one of the major means of law enforcement and as discussed in earlier chapters, it has been plagued with limitations. To improve enforcement, it is essential to strengthen labour inspection and focus efforts on the most vulnerable groups of children and those activities which expose them to hazards. There should be a move to training of inspectors and law enforcement officials and enactment of stricter penalties.¹³

The procedures for filing complaints should be simplified. The complexity, and expense of the procedure deters families from filing complaints. The judicial system should develop a friendly dispositions towards such cases and not treat the complainant at a criminal.

The legislation ought to expand its scope to include the informal sector so that labour inspectors may have the right to inspect private homes to ensure domestic servants are not being exploited. The whole labour inspection system should be over-hauled and provide it with all the necessary resources to operate effectively. This includes providing transport, accommodation, employing more inspectors and training them. The Labour inspectorate will have to find a balance between its supervisory function and its advisory role. It will have to develop its educational function, diversify its means of action and participate with other institutions in the dissemination of information and in the provisions of training. For example, train teachers to provide children with information about minimum rights and about simple protective measures at work. Select target groups and teachers to help give its activities a greater multiplier effect.

¹² Standing, G 'State Policy and Child Labour: Accommodation versus legitimation' in *Development and Change* Vol.13 No.4 (London: Sage Publications) p.618

The implementation of a coherent labour inspection policy for the conditions of employment and work of children will involve modification in the organisation of the inspection services in most labour inspection systems. It will involve redistribution of functions in the inspection system, grouping together certain services and making others more specialised and improving co-ordination within labour administration and with other institutions. In addition, labour inspectors should learn how to communicate with the child labourers whom they are responsible for protecting. They should also learn how to communicate with employers, workers representatives and with other institutions concerned.

Action should be designed to provide both appropriate enforcement measures as well as facilities and specialised attention which are needed to provide a smooth transition for children from work to school and from school back to work at an appropriate time. At community level, change is enhanced and reinforced by national legislation and other regulations aimed at influencing behaviour concerning risk factors and their control.

b) Education

Universal education is widely viewed as one of the most effective instruments for combating child labour. It is believed that no country can successfully eliminate child labour without first enacting and implementing compulsory education legislation.¹⁴ Education is both a means and an end. Weiner¹⁵ states that all advanced industrial countries and those contemporary developing countries that have made education compulsory regard education not as a right but as a duty.

Education is an important instrument for absorbing children away from the labour market. It removes children from the work force and provides them with an alternative use of their time. Quality basic education, particularly at the primary level improves the lives of children and their families and contributes to the future growth

¹³ ILO *Child Labour: Targeting the Intolerable* (International Labour Conference: Report VI (I), 1998) Chapter 5

¹⁴ Bequela, A and Myers, W.E *First Things First in Child Labour: Eliminating Work Detriment to Children* (Geneva: ILO/UNICEF, 1995) p.123

¹⁵ Weiner, M *The Child and the State in India* (Princeton: Princeton University Press, 1991) p.180

and development of a country.¹⁶ Despite the benefits of education, in 1995 about 20% or 145 million of the world's children between 6 and 11 years old (85 million girls and 60 million boys) were out of school and most of these children were thought to be working.¹⁷

To be effective in eliminating child labour, education must be useful, accessible and affordable. There should be increased availability of educational facilities and provision of incentives for increased access by deprived socio-economic groups.¹⁸ Quality of education needs to be improved so as to increase the attractiveness of schooling and justify its costs. The real economic cost of schooling must to the extent possible be reduced. Education is a social right, and the poor must not be deprived of that right because to their disadvantaged economic position and the associated explicit and /or implicit costs of schooling. Schemes in this area include school feeding programmes as discussed in the earlier chapter.

After-school programmes and other special programmes such as remedial education, vocational training and skill development in community-based projects and health education should be encouraged. This is information on prevention of accidents through a school curriculum. The school curriculum should be flexible to accommodate the working children. This is by having flexible hours and also teaching subjects that will benefit children in the long run and not only theoretical subjects. The subjects should be aimed at improving what they have learnt at work. Special agricultural training and apprenticeship systems ought to be established and designed to suit the specific educational needs of children.

Education and child labour laws should reinforce and compliment one another. Education laws and policies can reinforce child labour laws by keeping children in schools and away from the work place. Child Laws in turn, can be a useful tool for

¹⁶ 'Strategies for Eliminating Child Labour: Prevention, Removal and Rehabilitation' (Oslo: International Conference on Child Labour, ILO/UNICEF, October 1997) p.12

¹⁷ Supra Note 3

¹⁸ 'Child Labour: Law and Practice' *Conditions of Work Digest* Vol.10 (1) 1991 p.13

retaining children in school, helping governments achieve their universal basic education objectives.¹⁹ Compulsory education should be encouraged.

The age of completion of compulsory schooling should be harmonised with the minimum legal working age. This is because where the permitted age to leave school is lower than the minimum age for employment, children are left idle waiting to attain the proper age and this may lead to mischief and economically, the country will be wasting labour resources. On the other hand, if the minimum age for employment is lower than the prescribed school-leaving age, there exists the danger that children will engage in work that interferes with their education.²⁰ The legislation should ultimately provide for compulsory education and programmes which ought to be developed to encourage parents to send their children to school.

c) Public Awareness and Mobilisation

Raising Public awareness is an essential step in the child labour campaign. The past is used as a pointer and guide. Public awareness campaigns enlighten the public firstly, that a problem exists and secondly, of the laws and regulations themselves.

Effective advocacy entails combating not only ignorance and indifference about the situation, but also attitudes of active prejudice, fear, denigration and repression with which the public and authorities often regard working and street children. Awareness campaigns about hazards, situations of children and what can be done are recommended. Other than enlightening the public only, children should also be made aware of what is happening and be involved in the campaign.²¹ For example, through drama where children enact what actually happens in work places.

To effect changes and sustain them, there must be continued pressure from outside the government. These include campaigns by human rights groups and non-governmental organisations. They need to expose abuses and dereliction of duties

¹⁹ 'By the Sweat and Toil of Children: Efforts to Eliminate Child Labour' (US Department of Labour, Bureau of International Labour Affairs, 1998) Volume V

²⁰ Kooijmans, J *Definitions and Legal Provisions on Child Labour in Southern Africa* (ILO: Harare, Zimbabwe, 1998) Southern Africa Multidisciplinary Advisory Team (ILO/SAMAT) Policy Paper No.6 (August, 1998) p.16

essential if governments are to give teeth to the law and fulfil their obligations to ensure that the child receives the best that society can give.²² It is necessary to take action within the public sector to overcome the influence of vested interests and to ensure that substantial changes penetrate the bureaucracy and gain a consistency of their own so that they are able to survive the departure of the individuals who originated or supported them.

Well-planned awareness-raising campaigns should be conducted through the media, at schools and in the work place. Effective use of media is required because reaching a larger sector of the population has a higher probability of success.²³ The message should be simple and refer to verified work places where children are employed in abusive conditions and do away with hearsay. Dissemination can be done through radio (in local dialects/languages), in television, films, videos, comics and picture books, workshops, seminars and drama. One has to be familiar with the target audience so as to use the most effective form of dissemination. Public opinion may also be mobilised into action by taking public officials and other key persons for example journalists along on unexpected inspections to places where children work.

Market-based initiatives such as consumer labelling and codes of conduct may be used in creating public awareness. These initiatives have become widespread and they have been given extensive coverage by the media. This has played an important part in exposing exploitation of children. States should take advantage of this and use them for the benefit of eliminating child labour. This has also mobilised broader political support for international action aimed at stopping it by means of a more comprehensive strategy, one that takes full account of the complexities and long-term nature of the problem. Such initiatives are recommended and encouraged.

It is through the development of public awareness that these partial, market based schemes may in turn strengthen the political constituency for constructive action by governments. This includes the ratification of international labour standards, the

²¹ Supra Note 11 p.153

²² Supra Note 18 p.22

²³ Supra Note 10 p.74

provision of universal education and adequate terms and conditions of employment for adults, thereby offering children a better future as adults.²⁴

Public awareness campaigns set a forum for discussion since whenever there is a public outcry through the media, governments usually take steps to ensure that something is done so that they do not lose favour with the public.

Alec Fyfe provides a model for a contemporary campaign against child labour and it is set out below.²⁵

- 1) Investigation: This is the first step of acquiring information through research by mass media, non-governmental organisations, trade unions, universities, governments and international agencies.
- 2) Analysis: The information needs processing to arrive at plausible explanation concerning causes, consequences and measures to be taken.
- 3) Exposure: Such interpretation needs a public airing.
- 4) Dissemination: Wider dissemination is then needed to generate greater public awareness.
- 5) Mobilisation: Those groups most likely to act such non-governmental organisations and churches are mobilised.
- 6) Pressure: Through campaigns, pressure is put on the authorities to act and eradicate the worst abuses of child labour and to protect and improve the welfare of child workers in line with internationally agreed standards.
- 7) Action: Positive action which can be anticipated would include adoption of ILO Standards, better labour inspection, punitive measures against employers guilty of the worst practices, improved provisions of health, welfare and education services for those children most at risk.
- 8) Evaluation: All action needs evaluation especially if it is not successful the first time. Once one finds out what went wrong with the campaign he/she can marshal new information and 'loop back' again with a fresh attempt at dissemination and mobilisation.

²⁴ Supra Note 7 p.255

²⁵ Fyfe, A. *Child Labour* (Cambridge: Polity Press, 1989) p.143

This model is recommended to the organisers of campaigns. For any effective campaign, the organisers should use the method best suited to the target audience.

d) Economic Measures

Child labour is the product of mainly poverty and underdevelopment. An attack on child labour is an attack on poverty and vice-versa. Most children work because they need the money for survival. Economic issues are therefore the main causes of child labour since without money, they can not go school and have to work.

To reduce the incidence of child labour, employment training, placement for adults and cost-of-living reduction activities are recommended. There should be adoption of readjustment and economic development policies that protect and benefit the poor. These will reduce child labour since the parents and families will no longer require their income contribution. In addition, support for income generating projects for working children and their families should be implemented. Self-help groups should be encouraged and banks should loan them money to develop projects by giving them minimal interest rates and security requirements. This will help raise their economic standing in society. Further, training courses such as business management, marketing and agriculture should be offered freely to these families so as to equip them with educational skills and also improve their income earning capacity.

Market based schemes can contribute directly to reducing child labour since some of them focus on improving poor working conditions and raising adult income wages. (For example, RUGMARK). With raised wages, the adults are better able to support their families.

e) Policies and Programmes

The primary value of policies and programmes arise from the fact that they can compliment and reinforce legislation efforts and public policy in the fields of education and employment. They have potential to exert and sustain public pressure in the extension of protection of working children. Policies aimed at promoting adult

employment, raising incomes and improving living standards must be the basis for long-term action to abolish child labour.

There are numerous existing policies and programmes and the main emphasis here is to ensure that they are improved and effectively enforced.

No single action can have a significant impact unless it is developed in the context of a national policy. The national policy should emphasise on effort to promote the welfare and sound development of children. Organisations working for the defence of human rights, employers' and workers' organisations, the parents and other members of a society all have an important role to play. To be effective, such a policy should go beyond the mere statement of goals and establish specific measures to combat child labour, along with the commitment of necessary resources and a clear division of responsibilities between the various social actors concerned. Priority should be given to the weakest and the more vulnerable children. These are the very young, girls and those working in hazardous occupations.

Occupation Health Programmes are recommended.²⁶ The main components of such programmes should be:

- a) Withdrawal of the child workers from hazardous industries.
- b) Technical and organisational changes in the work place to improve working conditions in occupations.
- c) Nutrition health programmes at the work place.
- d) Organisation of community support for the provision of health services.
- e) Economic incentives to families.
- f) Training and education of older children in non-hazardous occupations through special programmes.

This can be done through a community approach which should be practical, participatory, action-oriented and should respond to actual needs.

²⁶ Supra Note 10 p.54

Rehabilitation activities ought to be foreseen in child labour programmes, including supportive services such as educational opportunities for children and income generation alternatives for their families. Often such multi-faced and comprehensive programmes are the most effective in eliminating and preventing the exploitation of children. Many consumer labelling programmes raise funds for educational and rehabilitation programmes for former child workers.

To increase the effectiveness of consumer labelling programmes, efforts informing consumers that a product is made without use of child labour should be supported.²⁷

Additional recommended action is that:

- a) Governments, retailers and administrators of the labelling programmes should consider working together to increase the availability of labelled products in the market.
- b) Administrators should consider how to ensure that claims they make about child labourers are backed up with appropriate monitoring.
- c) Administrators should consider further steps to ensure that monitoring procedures cover sub-contracting arrangements.
- d) All parties should consider whether there would be additional benefits in adopting more standardised child labour labels. Many existing child labour labels consist of a logo with little if any, text explaining their significance. This makes it difficult for consumers to discern whether a labelled product is child labour free.

Consumer labelling can have an impact on reducing child labour targeted industries especially where they contain certain effective and transparent monitoring and enforcement procedures.

Programmes must be designated to be cost-effective. This is because social welfare programmes are often marginalised in policy and budgetary issues because they are elusive and their economic returns are difficult to demonstrate. The programmes should be seen to contribute to the attainment of multiple social goals. For example, school calendars could be adopted to suit household labour requirements during the

²⁷ 'By the Sweat and Toil of Children: Consumer Labels and Child Labour' (US Department of Labour, Bureau of International Affairs, 1997) Volume IV

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planting and harvesting seasons so that children could attend school during slack period and assist their families during peak periods.

Workers organisations are encouraged to come forward and act on child labour issues.²⁸ Since they already deal with other labour issues, they have a forum. They have a special role and a largely untapped potential. Firstly, workers organisations can initiate and facilitate the organisation of vulnerable groups of workers. Secondly, they can carry out extensive educational and information campaigns in the evils and consequences of child labour and encourage positive action locally, nationally and internationally. Thirdly, they can serve as a watch dog in the observance of international and national standards and identify work situations in which child abuse occurs. Finally, workers organisations can extend the scope of their social and welfare services so that child workers are included in the target group which receive direct support from them.

Good programmes and policies depend on the production process, the content, how activities are developed and how they are managed. This helps to determine their quality and impact. There should be a coalition of governmental, non-governmental actors and community groups working in partnership.

Some of the recommendations given during the 1985 UN Seminar are; firstly, the UN and specialised agencies should reinforce their programmes related to the elimination of the exploitation of child labour and in particular to the study of the economic, social, legal and cultural factors which give rise to it. States are encouraged to review their legislation with a view to absolute prohibition of employment of children in hazardous occupations. Secondly, agencies working with community-based organisations should identify those which are concerned with child labour and should help them in all practical ways in their task of protecting working children from exploitation. Thirdly, support should be given to non-governmental organisations concerned with the problems of child labour, particularly at the community level, and a constructive partnership should be evolved between governmental and non-governmental organisations. Fourthly, the ILO should take steps to encourage the

²⁸ Supra Note 25 p. 160

effective co-operation of all agencies concerned with the elimination of child labour, and in particular establish a framework for improved liaison between governments, voluntary organisations, trade unions, employers and families of working children. The establishment of an international training fund could help redress the negative effects of the outflow of skilled labour on increasing the demand of child labour. Finally, the UN recommended that in order to reach the core of the prime causes of exploitation of child labour, which is poverty, increased resources should be made available through bilateral and multilateral channels for the elimination of the exploitation of child labour.

Finally, for laws, policies and programmes to be effective, they should be based on ethical grounds. Studies should be made on local conditions which should lead to remedial action to solve the problems identified. An ethical approach is necessary concerning the child as an individual and children as a sector of the population.

International organisations such as ILO, UNICEF, UN and WHO have a responsibility to raise the profile of child labour within their own organisations and to educate member states to place the issue higher on their agenda. However, the greatest onus is on individual states. They are required to improve on their legislation and programmes on child labour especially the enforcement. Governments should be willing to allocate funds to deal with child labour issues by improving labour inspection systems, education systems, rehabilitation centres and consumer labelling programmes. These should be targeted as either short-term or long-term goals.

4.3 CONCLUSION

This paper has evaluated the child labour phenomenon and examined different concepts. In finding a solution to this problem, one has to refer to the causes of child labour and find ways of dealing with the causes. Most countries have legislation dealing with child labour. However, only a few states have achieved anything

approaching full compliance with all the detailed requirements of Convention No.138²⁹.

The scope of national provisions often falls short of providing complete coverage by either excluding or omitting persons working otherwise than under contract of employment, excluding categories of work from coverage of the legislation and excluding branches of economic activities. Sectors that are often omitted are agricultural, domestic and street trading. Though the majority of children work under these sectors, they are not adequately protected if at all.

Hazardous occupations have brought in debates relating to its meaning. Most laws do not protect children in these activities and are therefore the most affected since they are high risk occupation. As a result of this, Convention 182 was adopted in 1999 to deal with the worst forms of child labour. It has been felt that as a step towards elimination of child labour, children in hazardous situations should first be protected since they are the most vulnerable.

The manner in which countries set the ages below which children may not work varies from country to country. Some countries set a definite overall age, others set ages for certain sectors and others link admission to employment or work to the completion of compulsory schooling. Countries should aim towards eliminating child labour and deal with their different economic, social and cultural situations. Economic situations should not be used as an excuse of using children in exploitative conditions. The common bond joining all states should be the goal of treating children as human beings and enforcing national and international legislation.

There is room and need for a wide range of initiatives by different actors if progress is really to be made in reducing reliance on child labour. A constructive international legal frame-work is indispensable.³⁰ The political will to provide resources to eliminate child labour is a prerequisite for a coherent and concerted national policy.

²⁹ International Labour Office. *General Survey by the Committee of Experts on the Application of Conventions and Recommendations*, Report III (Part 4B) on Minimum Age. International Labour Conference, 67th Session, 1981, p.162

Working children should be assisted in securing basic workers' rights. In the construction of programmes for working children, the elements of provision, protection and participation should be used as guidelines. In provision of services, the objective should be to promote their integrated physical, mental and social development. Protection will be needed in those areas of priority concern such as hazardous occupations. Children should also participate since they have a right to self-expression and action. They have a potential role in the planning and execution of programmes. The balance and emphasis between these three elements will be determined by the nature of the social context and the stage of development of the children concerned.³¹

Effective abolition of child labour is a challenge to the international community. In Developing countries, most governments claim that the economic situation can not allow abolition of child labour. Even if the resources are limited, the protection of children should not await for structural changes or significant improvements in the general standards of living of the country concerned.

National policy should include both short-term and long-term measures against the underlying causes of child labour and attempt to control both the factors that generate the flow of children to work place and those that generate the demand for their work.³²

The child labour problem should not only be considered from a legal or economic perspective but also in terms of the child as an individual with all his/her various needs. The approach should incorporate the needs of children for access to health care, suitable alternative education and vocational training. In order to be effective, policies aimed at the protection of children at work and at the gradual elimination of child labour should be adapted to the socio-economic situation of each country.

All international bodies require to work together to bring about international awareness. For example, multi-national regulations backed by the credible threat of

³⁰ Supra Note 7 p.255

³¹ Supra Note 25 p.173

³² Supra Note 10 p.83

sanctions may be a solution that would benefit all producer countries.³³ This could act as a short-term action dealing with the hazardous occupations which require immediate attention. Child Labour should be eliminated and the former child workers should be rehabilitated. A way needs to be found to raise economic standards of families who encourage children to work for survival.

This paper concludes by reiterating the words of Blanchard, Director General of the ILO when introducing his report on child labour to the international labour conference in 1983. He stated that, "...policies aimed at promoting adult employment, raising incomes and improving living standards must be the basis for long-term action to abolish child labour...but immediate and direct action can also be taken to eradicate the most objectionable forms of child labour and, pending its total abolition, to protect children from unsafe or exploitative working conditions"³⁴

³³ Supra Note 9 p.41

³⁴ Blanchard, F 'Introduction' in *ILO: Report of the Director-General, International Labour Conference, 69th Session, 1983, Geneva*

TABLES

TABLE 1

ILO MINIMUM AGE CONVENTIONS

<u>CONVENTION</u>	<u>DATE OF ADOPTION</u>	<u>NUMBER OF RATIFICATIONS</u> (As of Aug. 1999)
Minimum Age (Industry) No.5 Convention	20-11-1919	73
Minimum Age (Sea) No.7 Convention	09-07-1920	54
Minimum Age (Agriculture) No.10 Convention	16-11-1921	55
Minimum Age (Non-Industrial Employment) Convention No.33	30-04-1932	25
Minimum Age (Sea) (Revised) No. 58 Convention	24-10-1936	52
Minimum Age (Industry) (Revised) Convention No. 59	26-06-1937	36
Minimum Age (Fishermen) No.112 Convention	19-06-1959	30
Minimum Age (Underground Work) Convention No. 123	22-06-1965	45
Minimum Age Convention No. 138	19-06-1976	77

TABLE 2

ILO CONVENTIONS WITH CHILD LABOUR PROVISIONS

<u>CONVENTION</u>	<u>DATE</u> <u>ADOPTION</u>	<u>NUMBER OF</u> <u>RATIFICATIONS</u> (As of Aug. 1999)
White Lead (Painting) No.13 Convention	19-11-1921	62
Medical Examination of Young Persons (Sea) Convention No.16	11-11-1921	80
Forced Labour Convention No. 29	28-06-1930	150
Medical Examination of Young Persons (Industry) Convention No. 77	09-10-1946	43
Medical Examination of Young Persons (Non-Industrial Occupation) Convention No. 78	09-10-1946	39
Young Persons (Non-Industrial) Convention No. 79	09-10-1946	20
Night Work of Young Persons (Industry) (Revised) Convention No. 90	10-07-1948	50
Radiation Protection Convention No.115	22-06-1960	47
Maximum Weight Convention No.127	28-06-1967	25
Benzene Convention No. 136	23-06-1961	35

Tripartite Consultation (International Labour Standards) Convention No. 144	21-06-1976	90
Occupational Safety Health (Dock work) Convention No. 152	25-06-1979	19

TABLE 3

LABOUR INSPECTION CONVENTIONS

<u>CONVENTION</u>	<u>DATE OF ADOPTION</u>	<u>NUMBER OF RATIFICATIONS</u> (As of Aug. 1999)
Labour Inspection Convention No. 81	11-07-1947	122
Labour Inspectorate (Non-Metropolitan Territories) No. 89	11-07-1947	5
Labour Inspection (Agriculture) Convention No. 129	25-06-1969	38

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