CHILD LABOUR IN ZAMBIA: AN APPRAISAL OF THE EXTENT
AND IMPACT ON THE CHILD

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I, Hilda Nukwase Mwanza, declare that I am the sole author of this dissertation, that during the period of registered study I have not been registered for the academic award or qualification, nor has any of the material been submitted wholly or partly for any other award. The dissertation is a result of my own work, and where other people's research was used, they have been dully acknowledged.

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DEDICATION

This dissertation is dedicated to my mother Stella Kelly Mwanza, my father, Frederick Mwanza. You two have been my pillars throughout it all. When the world seemed cold, your warm words of encouragement and unconditional love have encouraged me to be where I am today and this is one way of expressing my sincere gratitude.

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Writing this dissertation has been quite an experience and a lot of hard work. Little did I know that writing could be this intricate and involving such that every little detail had to have a connection to the next, creating a fusion of connected ideas all leading to one thing.

I firstly thank GOD for seeing me through all my years at UNZA for I am an ardent believer in the verse, “God will not take you where he can not see you through”.

To my family, I say thank you for believing in me all these years. From the first day I started school in the Law School, you were there rooting for me with the conviction that I will push through all the challenges with grace and determination. My parents, my sister Nyakwazi, my brother Kaya, you guys have been there for me through the hardest and darkest days.

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Child labour is a phenomenon that has been common in Zambia for the last two decades and is even more rampant today. It is said to be the extent to which work is injurious, negative or undesirable to children. It is done in slavery-like conditions and is exploitative in nature.

Statistics show that in 2005 alone, an estimated 1.23 million children below the age of 18 were "economically active" and still on the rise. In addition, a larger proportion of these children come from the rural areas where socio-economic problems are the norm.

Poverty, HIV/AIDS and illiteracy of household heads pushes these children out into the market to earn an income. Cultural factors also play a role in child labour incidence.

Children are engaged in hazardous work and exposed to loud noise, dangerous gases and fumes, heavy loads, high temperatures and long working hours for meager wages, considering their vulnerability. This has an impact on the health of the child. The child is exposed to prostitution and some other physically demanding work such as excavation and work in processing industries. This affects the child physically, psychologically, socially and mentally.

The child is prevented from going to school and getting a basic education. Performance levels of those in school are affected. It interferes with a child’s ability to go to school and attend classes. The child is also at risk of HIV/AIDS, which happens to be one of the push and pull factors of child labour.

Monitoring child labour is a challenge due to limited resources and other technicalities. There is need to give more voice to address the crisis with an efficient mode of monitoring the occurrence of the trend. Although child labour has been recognised as a problem by the international community and locally, the figures are alarming and there is urgent need to narrow the statistics and control the vice.

The Employment of Young Persons and Children Act, Chapter 505 of the Laws of Zambia is explicit about working children. In addition to this Act are other international conventions such as the International Labour Organization (ILO) Convention No. 138 on elimination of child labour and the ILO Convention No. 182 on the worst forms of child labour. It is hoped these instruments in conjunction with approaches in other countries may be incorporated, in formulating an effective mechanism to prevent and abolish child labour.
TABLE OF CONVENTIONS AND LEGISLATION

Conventions

Declaration of the Rights of the Child of 1959
The ILO Minimum Age Convention No. 138 of 1973
The Worst Forms of Child Labour Convention No. 182 of 1999
The Worst Forms of Child Labour Recommendation No. 190 of 1999

Statutes

The Apprenticeship Act, Chapter 275 of the Laws of Zambia
The Constitution of Zambia, Chapter 1 of the Laws of Zambia
The Employment of Children and Young Persons Act, Chapter 274 of the Laws of Zambia
The Employment Act, Chapter 268 of the Laws of Zambia
The Juveniles Act, Chapter 53 of the Laws of Zambia
The Penal Code Chapter 87 of the Laws of Zambia
ACRONYMS

ILO – International Labour Organisation

IPEC – International Program for the Elimination of Child Labour

NCP – National Child Labour Policy

TECL – Towards the Elimination of Child Labour


UNICEF – United Nations International Children’s Emergency Fund
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CHAPTER ONE: CHILD LABOUR IN ZAMBIA: AN APPRAISAL OF THE EXTENT AND IMPACT ON THE CHILD

1.1. Background and Introduction

Child labour is said to be the degree to which work is injurious, negative or undesirable to children\(^1\). It is employed in slavery-like conditions and is exploitative in nature.

The International Labour Organization (ILO) in 2004 projected that worldwide 350 million children were involved in some form of work. 120 million of these children were in Asia and 50 million were in Africa. 218 million children were involved in child labour with 126 million engaged in hazardous work. Hazardous work as defined by ILO Minimum Age Convention No. 138 is "work that will likely harm the health, safety or moral development of a child" such as mining, construction and such other hazardous activities. This is in relation to all children under the age of 18, and work for 43 hours or more in a week.\(^2\)

Child labour prevents a child from embracing educational opportunities and in more ways than one, it affects a child’s psychological, physical, mental, social and spiritual development\(^3\). Child labourers are forced to work and earn a living for themselves and their families. As a result, they are deprived of educational and training opportunities; socially they are separated from their families in conditions that are exploitative, damaging to their health and forced to lead prematurely adult lives.\(^4\) Children are employed for meagre wages in deplorable working conditions; forced to accept such conditions because of their vulnerability. Child labour occurs in almost every sector of the economy with the highest figures recorded in the agricultural sector constituting about 96% of all economically active children.

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\(^2\) ILO Minimum Age Convention No. 138 of 1973

\(^3\) Ibid. Section II of Report

\(^4\) Ibid. Section III of Report.; ILO Conference of 1983
In Zambia the increasing incidence of child labour has become a major concern over the last two decades. The statistics show that children between the ages of 5 to 9 accounted for 25% of all child labourers, whereas those between 10 and 14 years accounted for 46% which formed the majority of the child labourers. The age group of 15 to 17 year olds accounted for 28%.\textsuperscript{5}

The level of child labour in the country reveals a very worrying scenario. For the most part, the cases reported are said to be perpetuated by poverty and socio-economic factors which are the seed-bed of child labour. Other cases involve children that are in school but because of poverty, they go onto the market to engage in child labour in order to earn an income.

In conditions of poverty the parents and guardians of child labourers do not consider education. The Government and most local Non-Governmental Organizations (NGOs) have recognized this problem, which in spite of local legislation to curb it, continues to increase. Zambia has a low per capita income when compared with other countries within Sub Saharan region and records higher levels of child labour hence the urgent need to counter the problem.\textsuperscript{6}

1.2. Statement of the Problem

Research into child labour has established a link between the incidence of child labour and socio-economic conditions. Against a background of economic liberalization in the 1990’s and the mass privatization of major parastatals that followed, was increased unemployment, reduced incomes and a general deterioration of living conditions in Zambia that left many families in abject poverty. In addition to these factors the impact of the HIV/AIDS pandemic pushed many children into the labour market in order to survive. As a consequence child

\textsuperscript{5} Child Labour Force Survey Report, 2005. Pg 31
labourers are either prevented from going to school or prevented from progression and receiving the type of education they would otherwise get. The health of the child is affected both physically and mentally due to exposure to all forms of abuse and neglect from homes where their welfare is not a priority. The child is robbed of his/her childhood. The child is at risk of contracting HIV/AIDS which happens to be one of the push and pull factors of child labour.

Although the problem of child labour has been recognized, there has been little success in eliminating it in Zambia. Employment of children contravenes not only laws and policies in place but it is also cruel and deprives the child of a chance to go to school and deprives society at large of a potentially valuable human resource.

Even though child labour has been in existence in Zambia for over two decades and suggestions have been put across on how best it can be prevented or eliminated, there has not been much emphasis on how it impacts on children’s rights and why child labour presents the core of child rights violations. Children are the future of the nation. Children have rights of which child labour poses a threat to the full enjoyment of some of these rights and should be a major concern for the nation.

1.3. Rationale of the Study

The aim of this study is to provide greater insight into the current status of child labour in Zambia and contribute to the wealth of knowledge that already exists. Specific emphasis will be placed on the issues that push and pull children into child labour in order to evaluate their impact on the child in terms of human rights violations. In addition, the study will investigate the role socio-economic factors play in aggravating the incidence of child labour in our society with a view to identifying ways in which the law as well as other international instruments can mitigate these factors.
1.4. Methodology

This research has used both desk research and structured interviews with experts on child labour as part of the information gathering methodology.

The study has reviewed child labour related literature from various sources including the relevant sections of the law in the Republic of Zambia, international conventions and related instruments on child labour, books, magazines, journals and the internet.

In addition to desk research mentioned above, the study has also employed the use of structured interviews to derive expert opinions on the current socio-economic and legal conditions in relation to child labour in Zambia. These experts are from the International Labour Organisation (ILO) and the International Organisation for Migration (IOM).

1.5. Status of Child Labour at the Global and Regional Level

The ILO’s Global Report on child labour has shown a marked trend towards a decline in child labour statistics. According to this report, the number of child labourers worldwide declined from 246 million in 2000 when the ILO issued its first comprehensive report on child labour to 218 million by 2004 when the ILO published the Global Report on child labour. In addition the report has also shown that the number of children and young people aged between 15 to 17 years that are engaged in hazardous work has decreased by 26% from 171 million in 2000 to 126 million in 2004.\(^7\)

At regional levels, varying statistics on child labour have been recorded. Rapid declines in child labour were recorded in Latin America and the Caribbean. Half of Latin America’s child labourers live in Brazil and Mexico but it is on the decline in both nations. The ILO

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Global Report highlighted the case of Brazil where the activity rate among 5-9 year old children went down by 61%. Among 10-17 year old children, it went down by 36%.8

The Asia-Pacific region registered a significant decline in its figures which reduced from 19.4 per cent in 2000 to 18.8 percent in 2004. This is for child labourers between 5 and 14 years. This decline is attributed mainly to strong political commitment in reducing poverty and expanding education in the region.

Sub-Saharan Africa is the only region that has not shown any form of decline in the number of child labourers. High rates of poverty, high population growth, cultural practises and a severe HIV/AIDS epidemic have been attributed to the non-declining statistics leaving many young people as the only breadwinners in their family.

1.6. Status of Child Labour in Zambia

Child labour exhibited by high levels of participation of children in work is very common in Zambia. According to statistics available, in 1998, there existed some 595,000 child workers in Zambia. Of these, 58% were 14 years or younger.9 In 2009, a study carried out by the ILO revealed that 47 percent of children aged between 7 and 14 years (representing over 1.2 million children in absolute terms) were economically active in 2005. The study also revealed that 75% of working children are also in school but attended very few classes when compared with the attendance of non-working children. Over 280,000 children between 9 and 17 years have never attended school with a further 149,000 children who have attended school but can not read or write.10

Child labour is concentrated overwhelmingly in family agricultural undertakings, commonly in rural areas. Almost 96 percent of the total number of economically active 7 to 14 year old children work in agricultural undertakings. A similar proportion of children work for their

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8 Ibid. Pg 8.
families for no wages. Provinces such as the Northern and Eastern provinces of Zambia recorded the highest levels of economic activity at 79 and 77 percent respectively whilst in contrast; Copperbelt and Lusaka provinces recorded less than 10% of children that are economically active.

Another concern is the widespread involvement of child in hazardous work. A high number of working 5-17 year-old children totalling over 1.4 million are exposed to serious hazards such as loud noise, chemicals, dust/fumes/gas, dangerous tools, heavy loads, underground work or extreme temperatures in the workplace.

Zambia’s level of economic activity by children places it in the mid-range of countries in the Sub-Saharan Africa region when it comes to the number of child labourers. Although some countries have lower per capita income, they experience lower levels of child labour when compared to Zambia’s statistics.11

1.7. How Does Child Labour Differ From Child Work?

1.7.1. Child Labour

There are various definitions of child labour and the International Labour Organization defines child labour as work situations where children are compelled to work on a regular basis to earn a living for themselves and their families and as a result are disadvantaged educationally and socially.

Under Zambian law child labour is defined by the Employment of Young Persons and Children’s Act12 as “work carried out by children under conditions which are detrimental and dangerous to the child and affects proper physical, emotional and intellectual development in violation of international and national legislation”. Some of these dangerous conditions include commercial sexual exploitation, children working underground in mining or

11 Ibid Pg 14
12 Amendment Act No.10 of 2004, Chapter 274 of the Laws of Zambia.
work load, physical conditions of work and/or intensity in terms of duration or hours of work even when the work is termed as "non-hazardous" or safe.\textsuperscript{16}

1.8. Causes and Determinants of Child Labour

What makes child labour stand out is that it is done in a way that it affects a child negatively. It involves young children working long and awkward hours in dire working conditions and performing dangerous tasks. It is more likely than not to affect the future welfare of many generations. It is more widespread in the rural parts of Zambia with about 92 percent of all child labourers in the country residing and working in rural areas and the remaining 8 percent are in the urban areas.\textsuperscript{17}

This then begs the question as to why child labour is so prevalent in our society today. Child labour occurs because of a number of reasons, many of which are known to be overlapping. The causes are multifaceted and include mainly economic, social and cultural factors. Poverty in itself marks the beginning of child labour.\textsuperscript{18} Where socio-economic conditions are difficult and opportunities for work and education are limited, they create a desire in either parents or guardians to send children to work for reasons of economic expediency or the children themselves decide to engage in economic activities due to lack of opportunities at home. Children are forced to work because their survival and that of their families depends on it.

Adding to the factor of poverty, the HIV/AIDS scourge has substantially increased the vulnerability of families, particularly the children. Being a country that has been affected by the HIV/AIDS pandemic, Zambia has an estimated 17 percent of the population being affected by the virus. The pandemic has been cited as the major contributor to the large number of orphaned and vulnerable children on the market in the region, Zambia included. A


\textsuperscript{17} Child Labour Survey Report, 2005. Pg 33

\textsuperscript{18} www.ilo.org/ipecinfo/product/searchproduct
number of children are orphaned and because they have lost the bread winner in the family, they look to the streets where they are involved in exploitative forms of work including prostitution to make ends meet at the expense of attending school.

There is indeed a link between the incidence of child labour and educational attainment and literacy of parents and household heads for a number of reasons. Guardians or parents of the children may engage their children in labour either because school or getting them an education it is too expensive or inaccessible and not worth the investment.\(^9\) This is usual with guardians that are illiterate and have not attained any form of education. Parents who did not go school have less of an incentive to send their children to school because they do not see the value. Without any educational opportunities and the consequent denial of education, children get involved in child labour which thereby impedes their development.

1.9. ORGANISATION OF THE PAPER

CHAPTER ONE

The introduction has provided a brief background into Child Labour in general and the situation (status) obtaining on the ground in society.

CHAPTER TWO

This chapter has its focus on both the institutional and the legal framework and policy surrounding the phenomenon of child labour. The chapter is based on what has been done by Non-Governmental organizations, Government and other international bodies to fight child labour.

CHAPTER THREE

Chapter Three has its focus on the impact of child labour and related theories. It has drawn attention to the fact that there are various other factors apart from the socio-economy and HIV/AIDS that has contributed to the high levels of child labour. The chapter ends with an understanding of some of the children's rights violations that occur as a result of child labour.

CHAPTER FOUR

Chapter Four has focused on the various approaches that have been adopted by other countries within the region in dealing with the issue of child labour and its consequent violation of children's rights. It has attempted to answer whether other countries' steps to fight child labour can be adopted or not in Zambia in combating the continued scourge of child labour and whether the standards set are still appropriate in fighting child labour.

CHAPTER FIVE

This is the closing chapter. This chapter has summarized the research and provided recommendations on how an effective child labour monitoring system can be put in place to reduce or eliminate the scourge and its continued violation of children's rights.
2.1. Introduction

From as far back as the Industrial Revolution, children have been employed under dangerous and often fatal working conditions.\textsuperscript{20} Over time it has been globally recognized that the use of children as labourers constitutes a violation of their human rights. In recognition of the need to counter the problem of child labour, the international and global community has developed and implemented a number of conventions and labour standards in an attempt to achieve the goal of abolishing child labour. The notable ones being the Declaration on the Rights of the Child, ILO Minimum Age Convention No. 138, Worst Forms of Child Labour Convention No. 182 and the Worst Forms of Child Labour Recommendation No. 190 all of which have been ratified by Zambia with the exception of the latter.

On a national level, Zambia like many countries has implemented policies and laws that aim to regulate child labour because it has been recognized that child labour has remained a problem where child workers are more vulnerable than adult workers to both physical and psychological abuse hence there is an urgent need to end the impact of child labour.

This chapter provides an overview of the most important instruments at international law aimed at the elimination of child labour. It further discusses the different steps taken by the global community in terms of programs and mechanisms and discusses their impact on eliminating child labour. The second part of the chapter examines the policies and steps taken to address child labour as well as highlights existing legislation related to the employment of children in Zambia including those under criminal law.

\textsuperscript{20} \url{www.wikipedia.com}
In 1959 the United Nations General Assembly adopted the *Declaration on the Rights of the Child* and though non-binding, it set the course for children's rights observance and respect for these rights. Originally stated in the in the Geneva Declaration of the Rights of the Child of 1924, the UN Declaration on the Rights of the Child was adopted with the aim of safeguarding the rights of children as vulnerable members of society.

Their physical and mental immaturity was recognized as giving them special status with regards to their needs, safeguards and care as well as appropriate legal protection. The Declaration for the first time called for members of society, NGOs, local authorities and national governments to take legal and other steps to protect children. Not only did the declaration set the course for children's rights observance and respect for these rights, it provided the foundation for the UN Convention on the Rights of the Child (UNCRC) adopted in 1989.

In addition to the declaration is the *ILO Minimum Age Convention No. 138* adopted in 1973 and came into force in June of 1976. The convention is one of the fundamental tools aimed at abolishing child labour and it applies to all sectors of economic activity whether or not children are employed for wages. It is important because it requires all ratifying states to pursue a national child labour policy intended to ensure the abolition of child labour as well as to progressively raise the minimum age for a person to be admitted to work or employment. This convention to which Zambia is a signatory has provided several useful definitions including defining a child to be “*not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years*”. 18 years of age was
adopted as the minimum age for hazardous work.\textsuperscript{21} For light work, the ILO convention allows for children between 13 to 15 years to engage in light work.\textsuperscript{22}

The Minimum Age Convention No. 138 for the first time provided guidelines on what measures needed to be taken in the elimination of child labour. Before this convention there had been no consensus on the minimum age for work. This is the first Convention that provides concrete guidelines on the steps that need to be taken to eliminate child labour by only allowing children to engage in labour activities that are proportionate to their abilities.

A major weakness of the convention was that it lacked clarity with regards to the definition of light work or hazardous work, leaving a great deal of room for various interpretations. It is this specific weakness that later necessitated the creation of the \textit{Worst Forms of Child Labour Convention No. 182 of 1999} which aimed at eliminating child labour in its worst forms.

The \textit{UN Convention on the Rights of the Child (UNCRC)} of 1989 was a follow up to the Declaration of the Rights of the Child. The Convention was ratified by Zambia in 1991 and it has four main principles which are to ensure a child’s right to participate in activities and decisions that affect them, a child’s right not to be discriminated against or to be treated unequally, a child’s right to life, survival and development and most importantly focuses on the child’s best interests.

Whilst the Declaration of the Rights of the Child explained why the rights of children should be protected, it did not provide concrete measures on how this was to be achieved. The UNCRC improved on the Declaration of the Rights of the Child by going further to state the steps that needed to be taken.

The main strengths of the UNCRC are that it:

\textsuperscript{21} Article 3
\textsuperscript{22} Article 7
1. Requires states to “pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons”.23

2. Requires State parties take not only legislative measures but also administrative social and educational measures to ensure the implementation of Article 32(2), whose provisions should particularly provide for the minimum age for employment and provide for appropriate regulation of the hours and conditions of employment and that appropriate penalties or sanctions should be provided to ensure the effective enforcement of the UNCRC as provided in Article 32 (1).

In the years following the adoption of the UNCRC, more progress was made in realizing and protecting children’s rights than in any other comparable period in human history. Children’s rights have attained a far higher political and public profile aside from the mandatory comprehensive review of national legislation under the convention’s reporting process.24 The UNCRC has led to the creation of special institutions, agendas, structures, NGOs and measures aimed at promoting children’s rights around the world.

The other convention adopted is the ILO’s Worst Forms of Child Labour Convention No. 182 of 199925 established to focus on the elimination of the worst forms of child labour. The convention addresses the weaknesses of the ILO Minimum Age Convention No. 138 by making recommendations on what forms of work are to be considered for inclusion in national definitions of the worst forms of child labour.

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23 Article 32 (1)
25 Ratified by Zambia on the 10th of December 2001
Article 3 of the convention requires state parties to take immediate and effective measures to prohibit and eliminate the worst forms of child labour.

The convention built on and clarified the terms ‘hazardous and light work’ as set out in the Minimum Age Convention No. 138. This eliminated the room to interpret what the worst forms of child labour are or what light work is. In addition, this convention was the first to recognize the special status of young children, girl children and other groups of children with special vulnerabilities or needs.

The lasting effect of the Convention on the Worst Forms of Child Labour Convention is that it identified all forms of slavery, commercial sexual exploitation, child trafficking, serfdom, forced labour including the use of children in armed conflicts. The convention recommends that the circumstances that are to be considered hazardous should be determined in consultation with organizations of specific employers and workers in a specific country.

By failing to explicitly identify what was considered hazardous forms of work, this convention failed to create a consensus of what was termed as hazardous work. The definition of hazardous work differed from country to country and this only complicated the fight to eliminate the worst forms of child labour at the global level.26

The Worst Forms of Child Labour Recommendation No. 190 adopted in June of 1999 by the International Labour Conference was created to supplement the Worst Forms of Child Labour Convention No. 182. It identifies the worst forms of child labour and lays down programmes of action to be taken by Governments and commits ratifying countries to cooperating with international efforts in the elimination of child labour.

These programmes of action, having focus on children’s educational, physical and psychological needs include among others identifying the worst forms of child labour, giving

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special attention to younger children and the girl child and children with special needs, informing and sensitizing the general public and reaching out to communities where child labour is most likely to flourish.  

Further outlined in this Recommendation are the worst forms of child labour such as work exposing children to physical or sexual abuse, under water work, dangerous heights or confined work spaces, dangerous machinery/equipment and heavy loads, high temperatures, noise, or vibrations which are damaging to their health.

The Convention has obliged countries to identify and quantify the incidence of child labour. All ratifying countries have had to develop national plans for the elimination of child labour based on the statistics. In addition it has led to the introduction of laws consistent with the convention as well as parallel legislation to enforce the right to education as part of child labour legislation. The Convention No. 182 has come under some criticism due to its particular weakness on the special vulnerability of the girl child to violations of human rights such as sexual exploitation.

2.3. Reviewing Zambian National Legislation on Child Labour

This section discusses the salient legal provisions in legislation and policy related to employment of children in Zambia and how international labour standards have been applied with regards to eliminating child labour.

Virtually all the countries in the world have laws that prohibit the employment of children below a particular age but it is widely acknowledged that national legislation alone has not sufficed in putting an end to child labour. National legislation has been said to be a key

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27 Article 1 (Part One)
28 Article 3 of the Convention
29 Online discussion on the elimination of all forms of discrimination and violence against the girl child – Division of the advancement of women depart of Economic and Social Affairs. United Nations (1996)
element in the government arsenal for combating child labour. Legislation sets the principles, objectives and priorities for national policy, creates specific legal rights and responsibilities and sets up the procedures for acting on complaints and making investigations. Legislation helps to deter the exploitation of children by providing sanctions against violators and redress for victims and importantly, places the authority of the State behind the protection of children. Legislation alone does not always reflect the principles and standards of international conventions and recommendations. It is thus important to encompass the international standards into national policy, which sets the tone for a nation’s commitment to these international conventions and set objectives with regards to eliminating child labour.

In Zambia, steps have been taken in formulating a national policy on child labour. It adopted the National Child Labour Policy (NCP) aimed at making better the welfare and quality of life for children and to protect their rights. The policy also looks to gather into one statute all legislation and proposed legislation pertaining to children, incorporating the provisions of the UN Convention on the Rights of the Child. Also, a National Plan of Action - a time bound joint venture between the Government of Zambia and the ILO/IPEC which is yet to be formalized - meant to coordinate steps with Government and relevant stakeholders to intervene in the worst forms of child labour such as abuse, exploitation and prostitution. Although no statistics have been provided, the project aims to withdraw 3,000 children from the street and aims to prevent children from exploitative work through the provision of education and training services.

In the Zambian context Section 12 of the Employment Act allows employers to employ children and young persons in commercial and industrial undertakings if these are done by members of the same family. This is rationalized by the fact that in law the main concern is the health and safety of children and young persons. In this case the law assumes that no

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31 Chapter 268 of the Laws of Zambia
reasonable members of the family would expose their children to hazardous work, although it can be argues that the most obvious obstacle to adequate legal protection for children is the fact that legislation is often not always enforced, or that the penalties for violating child labour laws are simply inadequate.

Most child labour laws restrict where and when children can work. The said laws often tend to define what jobs children can do, and thereby restrict the types of work and positions young persons can hold. Whilst child labour laws alone will not eliminate child labour the law still remains the most potent instrument available to Governments to deal with the problem of workplace endangerment of children. A country should be able to benefit from a solid legal framework of child labour laws.32

As examined in the previous section the employment of children has been on particular importance to the International Labour Organization in recent years under its campaign against child labour.

The ILO Report of 1991 for instance, states that:

"Although the fight against child labour will not be won through legislation it certainly cannot be won without it.

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.

Such laws play a catalytic and supportive role in efforts to establish a more humane order and in prodding society to give the child the best it has to offer." 33

Currently, Zambia does not have a specific code in relation to child labour. Experts from the University of Zambia were in 1992 commissioned to develop a report on the potential codification of the laws relating to children into a single code.\textsuperscript{34}

The report found 24 different Zambian Acts specifically linked to child rights starting with the Constitution.

The Constitution of the Republic of Zambia\textsuperscript{35} guarantees protection of certain fundamental rights and freedoms to all individuals. However Article 24 (1) in particular provides for the protection of young persons from exploitation and prohibits the employment of young persons in any type of occupation or employment that may be prejudicial to their mental, physical or moral development.

The Constitution goes on to state that notwithstanding its provisions, an Act of Parliament may provide for the employment of a young person for a wage under certain conditions however, only under specific guidelines as set out in Article 24. Article 24 is clear in that all young persons shall be protected against any physical or mental ill treatment and it is imperative to observe that the Article firmly provides that a young person shall not be subject of traffic in any form”.\textsuperscript{36} The Constitution serves to protect children’s rights in that the provisions ensure that a child’s dignity and rights are protected and are kept in line with the provisions of the UNCRC although only the definition of who is a child under the constitution is not consistent with the UNCRC.


\textsuperscript{35} Chapter 1 of the Laws of Zambia

\textsuperscript{36} Articles 24 (2) & 24 (3)
Chapter 87 of the laws of Zambia and The Apprenticeship Act Chapter 275 of the laws of Zambia.

Under criminal law, the *Penal Code*[^37] is the cornerstone of protecting children from sexual exploitation and abuse. The Penal Code also provides for offences against morality, where it is an offence for any person to be involved in the acts of trafficking, brothel keeping, defilement or detention of a girl with intent of unlawful carnal knowledge.

The *Employment of Young Persons and Children Act*[^38] forms the core of local legislation which focuses entirely on working children and young persons. It reinforces the ideals of the Constitution in that it prohibits the employment of young persons in any type of work detrimental to health.

The Employment of Young Persons and Children Act further states that a child between the ages of 12 and 15 may engage in child work (light work) that is not likely to harm his or her health or development and is not prejudicial to his or her attendance at an institution of learning or participation in vocational orientation.[^39] A child should be able to perform household work or chores that will not disturb their schooling or academic program but should be done in order to aid in their learning of basic responsibilities in a home and learn other valuable life skills.

Also, the Act forbids the employment of children between 15 and 18 in work considered to be in its "worst forms".[^40] This provision tallies with the provision in the Worst Forms of Child Labour Convention No. 182 and Recommendation No. 190 which focus on eliminating the worst forms of child labour.

[^37]: Chapter 87 of the Laws of Zambia
[^38]: Chapter 505 of the Laws of Zambia
[^39]: Section 17A (1)
[^40]: Section 2, Worst forms of work includes "slavery and slavery of all forms such as trafficking in young persons, bondage, servitude, forced and compulsory labour, prostitution, pornography and all work that is detrimental to health and morals of the child such as procuring or offering of a child for pornographic performances".
One notable feature of the Act is that while it does provide a list of forms of work that are prohibited, the list excludes any commercial or agricultural undertakings\textsuperscript{41}, making it non-compliant with the Minimum Age Convention. This creates a gap in national legislation, because it is in commercial or agricultural undertakings that child labour thrives and if the law does not cover these sectors, child labour remains a huge concern.

The \textit{Employment Act}\textsuperscript{42} provides legislation on matters of employment in Zambia. Of particular importance to the issue of child labour is that section 12 of The Employment Act expressly prohibits the employment of any person under the age of 15. However the Act also provides exceptions where children under the age of 15 can be employed. The said conditions are set forth in the same section which permits children under 15 to work if they usually attend school and when they are on school holidays; if they have failed to secure admission to a suitable school; or if their enrolment has been terminated or cancelled by a parent or a school authority.\textsuperscript{43}

Under the Employment Act an oral contract is only valid if it can be reduced into a Record of Contract of Service stipulating the basic terms and conditions of service.

Section 24 of the employment act requires that the aforementioned record be signed by both the employer and the employee. These requirements are not fulfilled in the informal sector where child labour is rampant and hence make enforcement of this Act very difficult. Where there is some form of record of employment, it may help with gathering of information for the purposes of child labour monitoring which would subsequently help in its elimination.

The \textit{Apprenticeship and Juveniles Acts}\textsuperscript{44} both have varying definitions of what constitutes a child for the purposes of child labour. A juvenile under the Juveniles Act is defined as a

\begin{footnotesize}
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\item[\textsuperscript{41}] Section 6
\item[\textsuperscript{42}] Chapter 268 of the Laws of Zambia
\item[\textsuperscript{43}] Section 12 (3)
\item[\textsuperscript{44}] Chapters 275 & 153 of the Laws of Zambia
\end{itemize}
\end{footnotesize}
person under the age of 16 and a young person is defined as a person between the ages of 16 and 19. The Act provides protection for children in conflict with the law and creates special conditions for the treatment of children in conflict with the law. The Apprenticeship Act defines a minor in as any young person below the age of 21 years, and it regulates employment of apprentices and minors in various trades.

There is a notable discrepancy in minimum ages in both the Juveniles and Apprenticeship Acts in that they both have different minimum age requirements. This creates confusion because the varying minimum age requirements will not afford a child the necessary protection from the vice of child labour than it would have otherwise have accorded had they been uniform. This creates room for children’s rights violation as there is no uniformity in the minimum age.

2.4. Government and Civil Society

Aside from the legal provisions that assist in the fight against child labour some governmental bodies, NGOs and policy groups have formulated policies meant to counter child labour.

The Ministry of Labour and Social Security established a Child Labour Unit where Ministry inspectors conduct inspections at workplaces and investigate complaints of child labour. The inspectors are mandated by the Employment of Young Persons and Children Act to carry out inspections at workplaces to investigate possible child labour violations and check on safety and health standards of the work place.

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45 Part 1 Section 2 (1)
46 Section 2
48 Section 18
and farming areas. An effective monitoring and enforcement mechanism has to be employed in order to address the problem of child labour.

It still remains that Government must implement programs, enforce existing legislation and possibly effect further amendments to relevant legislation in order to put the problem of child labour within proper perspective and manageable levels. A multi-faceted attack to tackling the problem of child labour, which involves different approaches or actors, is likely to be the most effective way of abolishing child labour.
CHAPTER THREE: ECONOMIC, SOCIAL AND CULTURAL STATUS OF CHILDREN AND THEIR VULNERABILITY TO CHILD LABOUR

3.1. Introduction

According to the ILO/IPEC District Handbook (2008:p.13) for district child labour committees the participation rate for children under 15 in the Zambia economy as at 2008 was at 71.5%⁴⁹. Further research conducted by the ILO, United Nations Children’s Fund (UNICEF) and World Bank found as at 2009 more than 1.2 million children in Zambia were victims of child labour⁵⁰.

International law on child labour has over the years shown a shift from finding strictly legal ways of eliminating child labour, to approaches that incorporate other factors that affect the incidence of child labour.

Research into child labour has shown a correlation between economic wellbeing, among other factors, and a lower incidence of child labour. Developed countries show a far lower incidence of child labour than developing countries despite countries having similar legislation in place to eliminate child labour.

Poverty for example forces a number of these children to work in order to be able to take care of themselves and their families and it creates a cyclical problem that aggravates the scourge as we shall see.

There are a number of theories surrounding the different causes and impacts of child labour and this chapter examines the most prominent child labour theories in order to achieve a greater understanding of the underlying causes of child labour.

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⁵⁰ http://allafrica.com/stories/printable/200906160290.html

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3.2. Impact of unemployment on child labour

Social, economic and cultural factors invariably play a role in the incidence of child labour. The ILO has noted that children from poorer and more vulnerable families tend to be most affected by a prolonged increase in unemployment which intensifies poverty and social inequality.  

Increasing levels of unemployment and reduced employment opportunities in the formal sector have forced many people to seek petty and unstable kinds of jobs in the informal sector. Lower standards of living force poorer households to send their children to work, these children are often taken out of school because they cannot afford to meet the costs of their education. The work children get involved at times includes sex work and prostitution which are forms of hazardous work frowned upon by child labour activists and instruments.

In countries suffering from economic hardship children are more vulnerable to child labour because demand exists for cheap labour. Employers find employ children because they can be hired for lesser wages than adults and are less able to dispute and defend their rights.

3.3. Child Labour as a by-Product of Social Inequality

Research by Basu and Van (1998)\textsuperscript{52} have revealed that in poorer communities, parents and children still favour child labour \textit{in spite of} the health and mental hazards it presents to children. Child labour is more often than not the result of inadequate social protection.

The causes of child labour are multidimensional and differ from one environment to another. However in most cases both parents and children are aware the hazardous nature of their work is a remedy to a desperate need to better their standard of life and ultimately their survival.

A number of organizations including the ILO/IPEC, UNICEF and Save the Children acknowledge that child labour continues to thrive because there is a demand for cheap labour in mines, quarries, agriculture, shops, operating heavy machinery, fishing and other forms of domestic work.

3.4. Poverty and Child Labour

Poverty has been cited in most theories and studies as being a root cause of child labour. In Zambia poverty and child labour are most prevalent in the rural areas with 80% of the rural populace living below the moderate poverty line against 34% of those living in the urban areas as of 2006.\(^53\)

Whilst poverty may dictate that a child makes a financial contribution to the family it cannot justify placing the child in wage labour as this puts the child’s life, health and psychological development at risk. In many poorer Zambian communities families encourage their children to go work in order to increase the family’s income.

Child labour has been historically termed as “the asset to the economy of the family” because families strive to maintain a certain level of consumption after facing economic shocks. Economic shocks are events or happenings that cause interference in the normal way of life of a household such as death, crop failure and loss of employment of the family head.\(^54\)

Parents consider sending their children out to work as the “logical” choice in order to supplement family income and maintain a certain level of life.

Farming is the main mode of sustenance in rural areas and children are sent to work farms as unpaid labourers in order for the family to survive. Parents will seize any opportunity for the children to earn money principally when the household income is low, unmindful of their

\(^53\) Understanding Children’s Work in Zambia Country Report. Pg 6
welfare. Some parents from poorer families withdraw their children from school to work, as a means of dealing with social vulnerability that may arise from economic shocks regardless of the wage level for children.

Parents who were labourers themselves at a young age are more likely than not to send their children out on the market to seek wage labour. This impoverishment is passed on from parents to the children, perpetuating child labour and poverty.

3.5. Education and Child Labour

Most rural areas in Zambia lack proper education facilities or the schools are located far away making it difficult for children to get to school.

Wahba (1998) argues a direct relationship between the level of education that a household head has attained and the decision to send their children onto the market to seek wage labour.

Kalima K & Kaoma (2008) proved education essential for the mental development of children and young people as it equips them with the necessary skills and opens their minds to knowledge that is crucial to for their wellbeing. This view is supported by the ILO and adds a lack of equitable access to education is as one of the root causes of child labour, second to poverty.

Low parental education has also contributed to the increase in child labour as parents consider school education is too expensive, and not worth the investment. Many such parents feel a children attending school reduces their child’s availability for work in and outside the home thereby reducing substantial contributions to family income.

Children who are withdrawn from school and start working are less likely to return to school because their decision to work early in life harms any chance of further education. When in

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57 ILO/IPEC. The Global Jobs Pact – Contributing to the fight against child labour. Geneva 2009
school, fees associated with school such as books, uniforms, school fees etc usually place a burden on poorer families forcing children to drop out due to economic drawbacks. Child work competes with schooling in terms of earning money and because of this; child labour is more often than not a much needed contribution to the income of the family. Education may prove to be so costly that the decision whether to send a child to school or to work will be difficult for many poor parents.

3.6. Social/ Cultural Norms and Child Labour

Social and cultural norms play a pivotal role in encouraging child labour. In rural society for example where agriculture forms the basis of survival, children work on the household farms and this is seen as a normal way of life. Some Zambian communities believe children must share in family responsibilities by partaking in the work parents do and as a result help in the running of the household.

Wahba (2005) supports the view that “societal norms and culture affect individuals’ preferences and utility. As societal norms interact with economic incentives, it affects the rational behaviour of individuals and households”. Parents may either socialize children into working so that they are not a burden to anyone in the future or if the parents themselves worked when they were children, they will consider child labour the social norm and want the children to follow in their footsteps. There is an attitude of acceptability of the norm and as a result, child labour continues to soar.\textsuperscript{58}

Child labour affects both boy and girl children but some cultures readily accept to send their girl child out on the market to earn a living and more susceptible to join the labour force. “For every 100 boys out of school, there are 115 girls in the same situation and parents still feel there is no need to send girls to school because they are not worth the investment as a girl child will usually take the benefits of her education to her in-law’s family and not her

\textsuperscript{58} Ibid.
own”\textsuperscript{59} and would rather educate boys than girls. Both sexes are affected by child labour but girls are at particular risk and this increases a girl’s susceptibility to taking up position as a child labourer, who is also at risk of being later trafficked.

3.7. HIV/AIDS and Child Labour

Zambia is one of the worst-affected countries in the sub-Saharan region by HIV/AIDS with about 17 percent of the population being HIV positive\textsuperscript{60}. A large proportion of children involved in child labour or child labour in its worst forms are victims of the HIV/AIDS pandemic. An ILO/IPEC rapid assessment research conducted recently revealed that about 23 to 30\% of child labourers were brought onto the street due to effects of HIV/AIDS, many of them orphaned.\textsuperscript{61}

The effects of HIV/AIDS on children are two-fold: before they are orphaned and after their parents die from it. Before they are children are forced to bear responsibilities such as cooking, cleaning, drawing water, taking care of the sick parents, taking up the family farms and taking care of their younger ones. School attendance reduces and it is usual for the adults of the household that make the decision for the children to stop attending school and start working in order to sustain the family. After the children are orphaned, they continue carrying the burden of taking care of the household and younger siblings. They find more of an impetus to go out and look for wage labour and in this case, they are the heads of the household and no body will hold it against them as they have to survive.

An increase in poverty has led many children to seek work that then exposes them to all forms of hazardous work including prostitution and commercial sexual exploitation which puts them at a risk of contracting HIV/AIDS, STIs, unwanted pregnancies, molestation and sexual abuse.

\textsuperscript{60} Understanding Children’s Work in Zambia Country Report Pg. 10
\textsuperscript{61} ILO/IPEC HIV/AIDS and Child Labour in Zambia; a rapid assessment Paper no. 5 Geneva-Lusaka
HIV/AIDS has raised the number of the street children population which heightens the risk factor of exposing children to hazardous forms of child labour. Effects of HIV/AIDS in the sub-Saharan region are one of the biggest hindrances to the achievement of economic development.

3.8. Children’s Rights Violations and Health Risks that are engulfed in Child Labour

Child labour regardless of the form it takes or where it is practiced has an adverse effect on the growth and wellbeing of children and the development of the nation at large. Child labour is closely related to poverty and underdevelopment, though poverty is often cited in studies as being the main cause of child labour in general. It is a multi-dimensional threat to children as it deprives children of their rights and freedoms and poses a health risk.

Child labour has a devastating impact on children as they are forced to work as labourers before they ever have a chance to go to school or have to leave school mid way because they have to take care of their families. Children that are withdrawn from school and made to work as labourers are hindered from developing normally as children. They are taken away from achieving a proper education and chances of building relationships with other young children; children are exposed to health hazards such as HIV/AIDS, STIs, poor nutrition, exposure to adverse weather conditions, mechanical and biological hazards, dusts, poor sanitation and are also exposed to socially frowned on vices such as prostitution and sexual abuse, alcohol and drug addiction, malnutrition, physical injuries and stunted growth, assault and anti-social unbecoming behaviour.62

Children working in agriculture are faced with risks such as contact to pesticides and poisoning which may in turn affect their health through respiratory infections, infectious

diseases such as those transmitted through contact with animals, allergic reactions to chemicals, cancers from chemicals, sun exposure and parasites, injuries due to noise and physical disorders due to long working hours and operating heavy tools.

3.9. Health Risks Associated with Child Labour

Child labourers are exposed to a range of health risks; they may experience physical, sexual and psychological abuse, poor living and working conditions, exposure to a host of diseases, social isolation and captivity, lack of access to health care, alcohol and drug abuse, limited access to social services and poverty. The nature of child labour and hazardous forms of child work deprives children of any opportunity to obtain the basic health needs and rights.

Health related risks include respiratory tract infections, impaired lung function, stomach infections, physical and mental impairment, hepatitis, tetanus, tuberculosis, alcohol and drug addiction (psychoactive substance abuse and dependence), occupational health problems such as pesticide, lead poisoning, hearing loss, violence induced injuries such as head injuries, burn and fractures.

In conclusion, child labour is alive today because of socio-economic problems that individual families in communities today face and the overall economic situation in Zambia. If it is not checked, our country will lose a very valuable resource in children of which policy makers must look into the plight of the child and apply more stringent policies as we shall see in the next chapter. This chapter has shown that socio-economic factors such as poverty, social inequality, level of education and social and cultural norms play an important role when it comes to the incidence of child labour.

For countries like Zambia this of particular importance given the fact that there are greater social inequalities between the urban and rural areas where child labour is most prevalent. In
addition this chapter has demonstrated the scale of the challenge in eliminating child labour and the fact that legal interventions alone cannot suffice.
CHAPTER FOUR: APPROACHES AND INITIATIVES ADOPTED BY OTHER COUNTRIES ON CHILD LABOUR POLICY AND LEGISLATION

4.1. INTRODUCTION

ILO statistics on child labour worldwide have estimated that over 211 million children are involved in economic activities with the highest numbers recorded in the Asia – Pacific with about 127 million labourers. Sub – Saharan Africa houses a large number of child labourers totalling over 48 million. These numbers show the magnitude and challenge that the international community faces in campaigning against child labour, more so, national governments.63.

Steps towards improving national policies and legislation have taken by many countries, whose governments have a social, moral and legal obligation and responsibility to enact laws and formulate policies to eliminate child labour.

In the sub-Saharan region Tanzania, Namibia and South Africa are examples of countries that have made strides towards the prevention and elimination of child labour. These efforts have been in the form of law reform, policy formulation, and public awareness programmes through the production of materials to educate the public, debates and workshops.

This chapter provides an insight into the steps taken by other countries and in particular those within the southern region to provide a comparative understanding of the measures that have proved successful in combating child labour.

Basic approaches to combating child labour can be classified in three main categories namely; command measure approaches, incentive measure approaches and other measures64.

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63 ILO/ IPEC. "Child Labour – A Text Book for University Students". International Labour Office, Geneva p. 9
4.2. Command measures

Command measures are described as measures restricting the types of activities in which children can work or completely abolish child labour. These can be in the form of ratification of international labour standards, passing of domestic legislation and or compulsory schooling laws.

The ratification of the major conventions on child labour and domestic legislation of all three countries reflects an emphasis on determining the kinds of work children can do.

South Africa ratified the Minimum Age Convention, 1973 and assisted in the drafting of the Worst Forms of Child Labour Convention, 1999 before ratifying the same in 2000.\(^{65}\)

In 1990 Namibia ratified the UN Convention on the Rights of the Child. In 1999 Namibia signed the African Charter on the Rights of the Welfare of the Child but is yet to ratify the same. In 2000 Namibia also ratified both the ILO’s Worst Forms of Child Labour Convention No. 182 and the Minimum Age Convention No. 138 in the year 2000.\(^{66}\)

Tanzania in 1998 ratified the ILO Convention No. 138 on Minimum Age and the Worst Forms of Child Labour Convention was ratified in October 2000.\(^{67}\)

South Africa has several pieces of legislation concerning the issue of child labour including the Child Care Act of 1983, Basic Conditions of Employment Act, 1997 and the supreme law of the land, the South African Constitution, 1996.

*The Child Care Act of 1983* covers the prevention of ill-treatment and prohibition of employment of certain children. Under this act no child under the age of 15 years should be employed or engaged in any form of labour. *The Basic Conditions of Employment Act (1997)*

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provides several guidelines regarding the prohibition of employment and conditions of employment, with regard to children.

*The South African Constitution (1996)* alludes to children’s rights, and it provides a number of specific statements concerning the fundamental and basic rights and treatment of children in South Africa.

In Namibia, the nation’s *Labour Act (2007)* serves as the primary law governing the employment and employment related matters within the country. The Act also contains provisions that prohibit the employment of children.

In terms of domestic legislation Tanzania’s *Law of the Child Act* enacted in November of 2009 forbids discrimination of children and upholds some children’s rights such as the right to have a name, nationality, freedom of opinion and right to protection from degrading treatment. It further provides for stricter punishments for child rights violations and imposes heavier fines for a person convicted of hiding a disabled child or employing a child in various forms of labour including street vending.68

As identified in the previous chapter a relationship exists between level of education and education. In recognition of this relationship all three countries have established compulsory schooling laws. Education from the ages of 6-16 years of age was made compulsory under the Namibian constitution; education from the age of 7-15 under the *South African Schools Act (1996)* and the law in Tanzania also provides for compulsory education from the ages of 7-15 years. However it must be noted that in Tanzania and Namibia, the cost of tuition is covered by the state whilst all other costs must be covered by the child’s guardians.

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4.3. Incentive based measures

Child labour policy in all three countries and most of the world tends to focus on the above mentioned command measures against child labour. It is important to note that basic legislative related approaches alone have so far provided little evidence success in combating child labour\textsuperscript{69}.

Few African countries have adopted incentive based policies to encourage school and discourage child labour. One such program is the child support grants programme in South Africa given to children up to the age of 15. These grants only apply to children from poor households, and their caregivers have to ensure the children remain in school to qualify for the grants.

Incentive based types of programs have proved a success in much of Latin American where incentive based policies to encourage schooling and discourage child labour have very become popular.

Several countries have experimented with incentives to keep children from poorer families in school. These incentives take several forms with some programmes in Brazil for example providing breakfast and lunch to students. This type of approach has been beneficial poor households only in that it alleviates the need to feed the child and hence have the child work. Admittedly school feeding programmes likely only benefit children that have a low opportunity cost of time spent in schooling.

Some governments have enacted programmes that make conditional cash or in-kind transfers based on school attendance. The PROGRESA programme in Mexico pays a bi-monthly cash stipend to families that maintain an 85% school attendance record. These types of

programmes have resulted in increases in schooling though with modest effects on child labour.\textsuperscript{70}

Incentive based programmes are prone to corruption. In Brazil, the Goat-to-School Programme has tried to overcome this problem. Children who attend school are given goats and training on how to tend and rear goats. Beneficiary households are directed to use the milk to feed their children and to repay the programme in goats without interest. By doing so the programme provides the household with an asset that yields an income flow, whilst addressing concerns on how cash transfers are spent. More importantly the goat becomes a source of income, in part replacing income that the child would have provided by working\textsuperscript{71}.

Unfortunately, in many developing countries financial incentive programmes are expensive and are hence rare in most low-income countries.

\textbf{4.4. Sector specific programmes}

International organizations and NGOs have focussed their anti-child labour efforts on specific types of employment. This is based on the acknowledgement of the fact that child labour is more prevalent in specific sectors of the economy or certain kinds of work are unusually hazardous to child well-being.

Within the African context in particular child labour is particularly prevalent within the agricultural sector and this has been where child labour efforts have been channelled.\textsuperscript{72}

In Tanzania, although child labour is recognized as a problem in commercial agriculture, small-scale mining and quarrying, fishing, construction and informal sector activities, of particular concern is the involvement of children in prostitution.\textsuperscript{73}

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{70} E., Edmonds. (2003). " Organization for Economic Co-operation and Development, OECD Social, Employment and Migration Working Papers p.68
\item \textsuperscript{71} Ibid p.67
\item \textsuperscript{72} ILO/IPEC. Understanding Children’s Work in Zambia. Country Report, May 2009.
\end{itemize}
\end{footnotesize}
Tanzania became one of the first countries in Africa to formulate and implement a Time-bound Programme (TBP) against child labour which is a programme aimed at eradicating the worst forms of child labour in a given country within a specific period of time.\textsuperscript{74} In January and April of 2001, the Tanzanian government held a meeting with consultative partners to meet with child workers to gather their input in formulating the time-bound initiative.

This has helped to project the Tanzanian Government’s strategy of reducing the involvement of children in commercial sex, mining and abusive forms of domestic work and commercial agriculture by 75 percent by the year 2005, and of eradicating the problem completely by the year 2010.\textsuperscript{75} Various sectoral assessments have been undertaken in Tanzanian which has served the purpose of mapping out areas sectors that are most likely to harbour child labourers.

A local ILO linked project has made progress in exposing the dangers faced by children working in mines, where they were often used in narrow tunnels to place dynamite for blasting. Largely in thanks to this campaign, child labour has been virtually eliminated from the large mines, although it still exists in the smaller ones.

The “Namibian Child Activities Survey” of 1999 child labour in Namibia was predominantly an agricultural sector and urban problem. The survey found 65\% of all working children were absent from school in comparison to only 9\% of rural children were missing school to earn money. Within the rural communities 77\% of all working children were absent from school due to reasons linked to seasonal agricultural practices.\textsuperscript{76}

\textsuperscript{73} http://www.en.wikipedia.org/wiki/Child_Labour_in_Tanzania
\textsuperscript{74} ILO/ IPEC. "Child Labour – A Text Book for University Students". P.200
\textsuperscript{75} Ibid p.202
\textsuperscript{76} Nekundi, L.M. (2007). A Comparative Study Of Orphans And Vulnerable Children (OVC) Support In Oshakati District, Oshana Region, Namibia

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One out of every three child worker in South Africa was engaged in work related to commercial agriculture, i.e. 57% of child workers between 10-14 years is related to commercial agriculture. In agricultural areas, over 60,000 children in the 10 to 14 age group, and over 63,000 children in the 15 to 17 age group worked. This represents 11% and 21.2% of children in these categories respectively.  

All the members of the South African Customs Union (SACU) including Namibia and South Africa with funding from the IPEC adopted the Towards the Elimination of the worst forms of Child Labour (TECL) is a programme on child labour and related issues.

South Africa formulated its Child Labour Programme of Action (CLPA) in 2003. This program aims to promote new legislative measures against the worst forms of child labour; in addition to strengthening the national capacity to enforce legislative measures with the hope of raising awareness about the dangers of child labour.  

Under the same programme Namibia begun the process of formulating its Action Programme on the Elimination of Child Labour in Namibia and this was formally endorsed nationally in 2008.

As part of this process a Programme Advisory Committee on Child Labour (PACC) representing stakeholders from the government, trade unions, businesses and civil society was established to guide the development and implementation of the programmed.

In both South Africa and Namibia TECL has commissioned several pilot projects as well as research into child labour within the agricultural sector with a view of developing policy interventions within the sector.

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77 ILO-IPEC, Child Labour In Commercial Agriculture In South Africa, 27-30 August 1996  
78 www.en.wikipedia.com/Child_Labour_in_Namibia
Unfortunately there is little evidence on the efficacy of the retraining and income generation components of these sector specific programmes. Their primary goal is the combination of the command approach while either creating incentives for schooling or providing income support, thereby lowering the household’s marginal utility of consumption today. Coercing employers to fire existing children appears to be relatively easy.

4.5. Other approaches

4.5.1. Technological Change

Existing research suggests large declines in child labour experienced in Western economies at the end of the 19th century were in part due to changes in technology. In low-income countries, there is also substantial support for the role of technological change in ameliorating child labour.

The use of labour intensive technologies creates a demand for labour including child labour. A policy option for elimination of child labour has been the replacement of technology that utilizes child labour

This is a particularly important in the agricultural sector where by subsidizing mechanization or technology adoption. Unfortunately as many developing countries are predominantly agriculturally based, the relaxation of import restrictions on imports of new technology might radically alter the structure of production.

4.5.2. Poverty Alleviation

Numerous cross country studies into child labour indicate a relationship between child labour and wealth, child labour tends to be lower in rich countries than poor ones.

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80 Ibid
Studying cross-country evidence Krueger (1997) found that 80% of the cross-country variation in child labour could be directly traced to income variation. This provides the foundations of the principle that as countries become richer, child labour should decline and other income generating schemes may have similar effects.

Edmonds and Pavcnik (2002) observed a positive correlation between child wages and the probability a child works. The study found households use increases in income to replace the income previously brought into the household by children.

These studies underline the importance of poverty alleviation in dealing with the problem of child labour. Poverty affects access to education, capacity to generate income etc which in turn serve to exacerbate the problem of child labour.

From the experiences drawn from other country’s action it can be inferred that there is a strong commitment and devotion towards eliminating child labour in these countries. These countries are not passive and do not use their poor economies as an excuse to allow child labour to continue to plague the lives of many communities and the nation’s development as a whole.

It has been noted that there has been national commitment towards eliminating child labour seen through the enactment of laws that are pertinent to child welfare and child protection from all forms of work that is hazardous and is detrimental to their development.

Further, political will and attitudes of government must not end at enacting a law that appears to provide some form of protection to children or cease after ratifying an international convention but it must take affirmative action to ensure that positive action is taken.

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4.6. Lessons Learned and Applications to the Zambian Scenario

The law in the countries surveyed has been dynamic enough to adapt to changing situations and new trends though not altering the spirit and letter of the legislation in place.

The experiences drawn from other countries underlines the fact that there is no single solution to eliminating child labour and for any programme to succeed it must adopt an integrated approach to tackling the problem of child labour. Interviews undertaken with people working within the anti-child labour movement in Zambia underscore this fact and it is evident that Zambia can learn a number of lessons.

Legislation

In order for legislation to play an effective role in the fight against child labour it must be harmonized with international legislation. In addition in countries like Zambia's the lists of work termed as hazardous should also conform to ILO Conventions and the minimum age for performing such work should be raised to 18 years.

Compulsory state sponsored education laws are another useful way of combating child labour as they reduce the financial burden on poorer communities to send their children and can work a disincentive to send children out to work.

Laws have little effect when not enforced and in light of the fact that child labour has been recognized as a major problem in Zambia greater emphasis must be placed on enforcement.

Incentive measure approaches

Experience from the South African and Brazilian cases demonstrate that incentive based approaches have worked in reducing child labour.
Sector specific approaches

Child labour in Africa and Zambia is mainly a rural phenomenon. The adoption of plans aimed at tackling the problem of child labour in the specific sectors of the economy where child labour is rampant can play an important role in eliminating child labour.

Other measures

The relationship between child labour and poverty is a recognized one. Programmes aimed at the aiding the vulnerable in society through poverty alleviation initiatives can play an important role in eliminating what families may see as the need for the child to “assist” his/her family by working.

Technological change can also contribute to the reduction of child labour through mechanization and changes in cropping patterns in agriculture for example and thus eliminating the need for cheap labour in that specific sector of the economy where a child may be another alternative. This can be aided by subsidies that support mechanization.

In conclusion, this chapter has shown there are number of approaches that can be adopted in Zambia that have proved successful in other countries to combat child labour. The most important factor of all is a sense of urgency and commitment in seeking innovating and holistic approaches to combating child labour coupled with the political will to eliminate child labour in Zambia.
CHAPTER FIVE: CONCLUSIONS AND RECOMMENDATIONS

Introduction

This chapter revisits the research objectives outlined in chapter one, summarizes the findings of this research work and offers conclusions based on the findings. The previous chapter – Approaches and Initiatives adopted by Other Countries on Child Labour Policy and Legislation was large and requires to be summarized, hence the summary in this chapter. Recommendations for future research will be discussed, that is, how to progress this research. Importantly, the contribution of this research to the elimination of child labour in Zambia will be clarified and guidance will be offered on how this research work can be progressed.

Research Objectives: Summary of Findings and Conclusions

The overall aim of this research was to advance an understanding and assess the extent of child labour and its impact on children. In doing so, it is hoped that the adoption of an integrated approach to tackling the issue of child labour and its continued violation of children’s rights can create an enabling environment for children to develop their full potential.

Research Objective 1: Extent of child labour in Zambia

In 2005 Zambia had an estimated 895,000 child labourers, 46% were between the ages of 10 to 14. An estimated 785,712 children aged from 5 to 17 years were found to be in hazardous work with 674 children working in the mining and quarrying sector. Child labour in Zambia is predominantly a rural, 92% of all working children reside and work in rural areas.

Despite the efforts of the Zambian government and other stakeholders, child labour including in its worst forms remains a serious problem in Zambia.

Research Objective 2: Impact of culture, education, geographical and socio-economic factors on incidence of child labour

Child labour in Zambia persists today as a result of socio-economic factors. Factors such as HIV/AIDS prevalence, poverty, social inequality, levels of parental education, social and
cultural norms play an important role in the incidence of child labour and legal interventions alone will not suffice.

**Research Objective 3:** Determine whether the efforts of Government and all relevant stakeholders on the protection of children’s rights serve their purpose in Zambia.

Zambia has ratified the Declaration of the Rights of the Child, the Minimum Age Convention No. 138 in 1976 and the Worst Forms of Child Labour Convention No. 182, in 2001. The government with input from various stakeholders including international organizations, employers’ and workers’ organizations, NGOs, individuals and children has also established a child labour unit at the Ministry of Labour, instituted a National Child Labour Policy (NCP) and a National Plan of Action for child labour.

Domestically the *Employment of Young Persons and Children Act* forms the core of local legislation which focuses entirely on working children and young persons.

Despite the efforts of the international community, the Zambian government and other stakeholders, child labour remains a serious problem in Zambia.

**Research Objective 4:** Determine incidences of child labour cases in the region and assess efforts put in place in order to curb child labour.

The sub-Saharan Africa region is home to a total of 48 million child labourers. Efforts that have proved successful in other countries in eliminating child labour have included a number of approaches including social cash transfers, compulsory education laws and poverty alleviation based approaches.

These approaches can be adopted in Zambia in eliminating child labour.

**Research Objective 5:** Suggest how existing laws can promote the best interests of the children.

Child labour remains dynamic and government must show greater commitment to implementing programs that enforce existing legislation and effect further amendments to

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relevant legislation in order to put the problem of child labour within proper perspective and manageable levels.

The most important factor is a sense of urgency and commitment in seeking innovating and holistic approaches to combating child labour coupled with the political will to eliminate child labour in Zambia.

**Recommendations**

- **Harmonization of laws**
  
  Zambia should harmonize its laws to reflect its ratification of international conventions on child labour. A new list of hazardous work should be created that are in line with the Conventions ratified by Zambia and the minimum age for performing such work must be raised to 18 years.

- **Compulsory Schooling**
  
  The government should introduce compulsory schooling for children up to the age of 15 years to reduce pressure on the incomes of poorer families.

- **Additional Resource Allocation**
  
  Additional resources should be allocated by the government in the national budget and for programmes aimed at eliminating child labour.

- **Income Incentives**
  
  Government should establish income incentives for poorer communities to ensure poorer households do not have to use child labour as a survival strategy.

- **Incorporate gender sensitivity in programmes**
  
  In all anti-child labour programmes the government must be note gender differences with regards to roles within the family. Girls one the whole tend to spend a large number of hours working in domestic chores without being able to go to school.
Social Security and Skills Training for self sustainability

Government must explore the provision of alternative income sources and improved employment opportunities for the parents of child labourers with a focus on skills training in which children are taught various skills that will empower them and their families to be self sustaining.

Social Mobilization

The government should include employers’ organization, universities, NGOs and the media in the sensitization of the public to the dangers of child labour. There is need to sensitize the public and government through social mobilization in order to tackle child labour.
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Alisdair Fraser and John Lungu. (2007). “For Whom the Wind Falls: Winners and Losers from the Privatization of Zambia’s Copper Mines”.


D Brown, A Deardorff & R Stern.. The Determinants of Child Labour: Theory and Evidence. OECD Social, Employment


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INTERNET RESOURCES

http://www.wikipedia.com
http://allafrica.com/stories/printable/200906160290.html
http://www.crin.org/resources/InfoDetail.asp?ID=21251

INTERVIEWS

Interview: Mr. Peter Kanunka (Human Rights Commission)
Interview: Mukatimui Chabala (ILO)

Interview: Reverend Samuel Chakamba (CHIN)

Interview: Shebbah Hamusimbi (ILO)
Dear Respondents,

I am a student at the University of Zambia currently pursuing a Law degree and as part of the same I am required to complete a research project.

My research project focuses on child labour in Zambia in relation to its extent and impact on children.

Kindly assist me with my research project by responding to the following questionnaire on the same.

Please note that all your responses will remain strictly confidential and will only be used for the purposes of this research project.

Yours faithfully

Hilda Nkwase Mwanza

RESEARCHER
CHILD LABOUR QUESTIONNAIRE

A. Introduction

Dear Respondent

I am conducting a survey on child labour in Zambia and would appreciate your feedback.

All information provided will be kept confidential.

Thank you for taking part in this survey.

B. Pertinent details

Age: □ 15-20 □ 21-30 □ 31-40 □ 40+

Organization:

Position:

C. Questionnaire

Kindly answer the following questions to the best of your ability:

1. What is your view on the child labour situation in Zambia?

2. In your opinion what are some of the notable causes of child labour in Zambia?
3. In your own words, what impact do these causes that you have named have on the levels of child labour?

4. Do these children engaged in child labour go to school? If so, how does working affect their performance at school?

5. From your experience are there any differences between child labour in urban areas and child labour in rural areas? If so what are these differences?

6. Do children engaged in child labour get paid in kind or in exchange for a wage?
7. What are some of the common health risks that children in child labour are exposed to?

8. What is society’s response to child labour?

9. What challenges does combating child labour present in Zambia?

10. What roles do cultural and social norms play in the incidence of child labour?
11. What are the strengths and weakness of existing child labour laws in Zambia?

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12. Do you believe the existing legislation is effective enough to eliminate child labour? If not please explain why not?

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13. Do you feel imposing harsher penalties and more proactive enforcement can curb the incidence of child labour in Zambia? If so please give reasons to support this view

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14. Do you think a child’s rights to education and health should be secured and guaranteed? Give your reasons.

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15. How can we adequately address the child labour phenomenon and reduce its adverse impact on children?

16. What lessons can we learn from other countries on how to eliminate child labour in Zambia?

Respondent

Sign: .................................................................

Date: .................................................................

Thank you for your time.