THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

I recommend that the Obligatory Essay prepared under my supervision by

Moses Pinni

(93904369)

Entitled

CHILD LABOUR IN ZAMBIA

LEGISLATIVE ATTEMPT TO ELIMINATE

INHUMAN TREATMENT OF CHILDREN

To be accepted for examination. I have checked it carefully and I am satisfied that it fulfils the requirements relating to format as laid down in the regulations governing obligatory essays

10th MAY 2000

Date

Supervisor
FOR MY WIFE VERONICA
ACKNOWLEDGEMENTS

There is one person to whom I owe an immeasurable debt of gratitude, Dr F. N’gandu, the Dean of the School of Law, who guided my work from the early stages of research through completion. His trenchant criticism, wide-ranging knowledge, and interest made this experience profitable and satisfying for me.

I am grateful to Dr P. Matoka who gave valuable counsel during the early stages of my research.

For more than six months the library at ILO office Lusaka was my second home. Without the books, manuscripts and desk space it provided and without the helpfulness of Mr Banda, a member staff, I could never have completed this study.

Ms Dorothy C. Mwayanguba did a meticulous job typing the final copy of this lengthy manuscript and was a pleasure to work with.

Throughout my life my parents have given encouragement in innumerable ways. I wish they knew how much this has meant to me. My children Wezi, Zewelani, Tiwonge and Ntiusya have borne with remarkable cheerfulness the many demands made on them by a studying father.

And finally, to my wife, Veronica words can never adequately express my gratitude to her to whom this essay is dedicated.
ABSTRACT

This Obligatory Essay is concerned with child labour and the existing legislation in Zambia. The Essay looks at the legal framework in place. Specific reference is made to the existing laws which affect the child in Zambia. The Essay also looks at the enforcement mechanisms and the extent to which these contribute towards the elimination of work hazardous to children.

Even though child labour laws are not in themselves adequate to eliminate child labour, they are potentially one of the most powerful instruments available to governments to deal directly with the workplace endangerment of children. Any effective policy to eliminate child labour, and especially the participation of children in hazardous work, should ensure the country enjoys the benefit of a solid framework of child labour laws. These laws exist not as a substitute for basic socio-economic changes, but as a complement to them. They seek to articulate and shape social practices by anchoring them in universally accepted values concerning the dignity of the human person, respect for human rights, and the protection of the weak and vulnerable. They provide a yardstick for what is and is not permissible in the world of work, and thereby provide a framework for establishing a fair and just employment relationship.

In Zambia, the problem of child labour is critical and is growing in terms of magnitude and dimension. It affects both male and female children. It has also very serious socio-economic ramifications on society and the country at large.

The Essay concludes with an appraisal of the significance of the study, general prescriptive comments and offers some specific policy recommendations.
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<td>CRS</td>
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</tr>
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</tr>
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</tr>
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<td>SADC</td>
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</table>
CHAPTER 1

CHILD LABOUR: AN OVERVIEW OF THE PROBLEM

1.0 INTRODUCTION

Child labour has presented an explicit challenge to society at least since the industrial revolution. Many millions of children, but nobody knows just how many, work under abuse and exploitative conditions that are clearly dangerous to them\(^1\).

They are commonly found in the following situations, among others:

- in agriculture, performing heavy work and exposed to the many hazards associated with the introduction of modern machinery and chemicals;
- in dangerous industries and occupations such as construction and mining;
- in domestic service, carrying out arduous work under conditions of isolation, excessively long hours, and physical and sexual abuse;
- in the streets, working as vendors and child prostitutes;
- at home, tending younger children or helping in family farms and business, working such long hours that it is impossible to play or attend school.

The list could be much longer. These children are today found primarily in developing countries, although there is some indication of resurgence of child labour in the industrialized countries\(^2\).


A common, and natural reaction in developing countries has been to enact legislation to ban child labour as did the now developed world when it emerged from its period of industrialization\(^3\).

Since the late 1980s the International legal framework for action against child labour has been strengthened by a number of important developments. Further strengthening has come from an ILO initiative which has prepared new international labour standards on the subject\(^4\). On 17th June, 1999 a global consensus was reached to tackle and eliminate the worst forms of child labour. A new international human rights instrument, *The Worst Forms of Child Labour Convention - No 182*, was adopted by the ILO in Geneva. The Convention targets such practices as child slavery, forced labour, trafficking, debt bondage, prostitution, pornography and various forms of hazardous and exploitative work. It calls for immediate and effective measures to service their prohibition and elimination as a matter of urgency.

Against this background, this study looks at child labour in Zambia and the Legislative attempt to eliminate work hazardous to children. For this purpose the study discusses the national laws and practices in relation to existing international standards.


\(^4\) For an authoritative explanation of the ILO’s standard-setting work in historical perspective see VALTICOS, 1996
CHAPTER 2

2.0 APPROACH AND METHODOLOGY

2.1 The problem.

Does Zambia have effective laws and regulations to underpin action against child labour? If so, does it have strong enforcement mechanisms to act as effective legal protection against child labour?

One of the most important tools available in the international arena for improving the legislation practice of states in the fight against child labour is the adoption and supervision of international labour conventions and recommendations. Several international labour standards have been passed to prohibit child labour in different sectors under different conditions. ILO Conventions of more general applicability such as safety and health conventions also include provisions specific to the work of children.

2.2 Hypotheses:

From the foregoing the following hypotheses are raised:

(1) Laws against child labour do exist in the Zambian statutes i.e. The Employment of Women, Young Persons and Children Act (CAP 274); and the Employment Act (CAP 268). But these appear to be ineffective as they conflict with patterns of economic imperatives to use child labour.

(2) Child labour is prevalent to Zambia despite the country being a member of ILO and having ratified relevant Conventions on child labour and has only responded in a limited way to Government attempts to reduce the prevalence.
2.3 Literature review:

The one area that appears to suffer from lack of consensus is the concept of child labour. Some writers, like Schildrout\(^5\), believe that in most cases the definitions of child labour are inadequate and inconsistent because the data base of many statements about child labour is often marred by an inadequate and inconsistent definition of work, as well as by value judgement. She argues that most of definitions of child work used in labour force surveys and censuses are based on participation in the wage labour force and yet most children’s work takes place outside the wage labour sector.

Silva\(^6\) appears to agree with Schildrout. He suggests that child work should include unpaid conventional work such as self-employment, domestic services and unpaid work. He further suggests that the concept of work be broadened to include “any socially useful remunerable activity requiring manual and or the intellectual effort and conscious purposive action that is the production of a good or performance of a service”. Silva has suggested that the activities of children should be classified into four broad categories namely:- Conventionally paid work, which is applied to adult wage labour; unconventional paid work e.g., pick pocketing, prostitution; conventional unpaid work, e.g., house cleaning; unconventional unpaid work, such as serving tea in home.

Writers on child labour have revealed the variety of jobs involved. Bequele and Boyden\(^7\) cite examples of children of poor relatives being recruited as workers on the pretext that they are going to be looked after and educated by their rich extended family relatives but end up as suppliers of cheap labour. Sometimes parents and employers are in league for financial gain. Children are also hired on migratory contracts to work on farms away from their parents. They are looked

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\(^6\) SILVA
after by bigger children who are supervisors for their master. These children are often physically assaulted while they work under hazardous conditions. Rodgers and Standing⁸ have spoken of children being involved in big carpet factories in Morocco. They are preferred to adults because of their docility, fast fingers, cheap labour and absence of labour litigation.

Agneli⁹ writes of street children in Mexico, Latin America as outcasts, vicious and reckless vagabonds, children who have come to hate society for being neglected at home and being thrown to hazardous conditions to work for survival. Blanchard¹⁰ rules out effective schooling for many child labourers because of the severity of work, they come back home tired. According to Spargo¹¹, Children are most vulnerable to the dictates of factory and from masters. School children get hired for harvesting work by arrangement with their headmasters. Spargo further writes of children being preferred to adults in Muramo Glass Factories in Venice due to their docility and quick fingers. Fyfe¹² supports this view. He cites children in Indian carpet factories, abattoirs, garages and paper selling shops.

In Kano, Nigeria, under the cover of religion, house women who are purdan (veiled) use children on errands for little or no wages. The practice continues until the women reach menopause¹³

Traditionally, the writer points out, children in Nigeria subject themselves to the authority of the elders including elder brothers and foster parents. Advantage has been taken of this practice to exploit cheap labour from children. Wallman supports this view.

⁹ AGNELI, S., (1966): Street Children—A glowing urban tragedy London, Weidnefeld-
¹¹ SPAGO
¹³ SCHILDKROUT, E: Ibid.
Fyfe\textsuperscript{14} distinguishes between child labour and child work. He states that child work becomes child labour when it threatens the health and development of children. It is child labour, and not all child work, that the international community is trying to eliminate. After all, child work can be positive experience and, in the best circumstances, children work to prepare themselves for productive adult life\textsuperscript{15}. Matoka argues that through their work they can learn the skills of their parents, and neighbours. Therefore, children’s work can be an integral part of family life and can contribute to their healthy development. It can also build their confidence and self esteem. Child work can then be a painless and gradual initiation into adult life.

\textbf{2.4. Sources of data:}

I have used secondary data to obtain descriptive statistics to show the trend and extent of child labour in Zambia. The 1986 Labour Force Survey, the 1990 Census, both the 1991 and 1993 Priority Surveys, the 1994 Household Budget Survey, the 1996 Living Conditions Monitoring Survey and the 1998 Living Conditions Preliminary Report, all conducted by the Central Statistical Office have been used. Other Sources of secondary data have included the UNICEF offices in Lusaka, Ministry of Legal Affairs and the ILO offices in Lusaka.

\textsuperscript{14} Ibid.

\textsuperscript{15} MATOKA P. (1992): Child labour in Zambia: An analysis of the extent, nature and proposed solutions to the problem” University of Warwick PHD Thesis P 24
2.5 DEFINING CHILD LABOUR

2.5.1 How International Law defines child labour:

There is no single clear-cut definition of child labour under international law. The ILO Minimum Age Convention, 1973 (No. 138) which is the most widely ratified has Convention has been used as a cornerstone.

The ILO Minimum Age Convention, provides that ratifying members undertake “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”. In particular, the Convention establishes the principle that the minimum age “shall not be less than the age of completion of compulsory schooling”. Subject to a basic standard of 15 years, State parties are required to specify - in a declaration appended to their instrument of ratification - their own, national minimum age for admission to employment; and States “whose economy and educational facilities are insufficiently developed may ... initially specify a minimum age of 14 years”. In either case, the Convention offers added flexibility by allowing lower minimum ages for “light work”, namely States specifying a basic standard of 15 years and 12 for those specifying a basic standard of 14. Light work is defined as work which is neither harmful to children’s health or development, nor prejudicial to their attendance at school, their participation in vocational training or their capacity to benefit from the instruction received.
The Convention also sets an 18-year standard for "hazardous" work. This higher standard applies equally to all countries, thereby stressing the principle that a country's level of development is no excuse for allowing children to be exposed to "employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons".

The main concern of the ILO, therefore, is not child work as such, but rather the concern is work which is detrimental to children's physical and mental development, such as child labour in hazardous work environments, in exploitative conditions, work in servitude (slavery or bondage) and work performed by very young children less than 12 years of age. The priorities are therefore set on hazardous forms of work detrimental to the safety and health of any worker, but especially of children, who are physically and emotionally more vulnerable. This includes exploitative forms of employment based on the social vulnerability of children, and work in the form of long hours or intense physical effort, which are totally unsuited to children. The *United Nations Convention on the Rights of the Child* captures this priority in its Article 32, which provides that:

"(1) States Parties recognize 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.

(2) States parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To the end, and having regard to the relevant provisions of other international instruments, States parties shall in particular."
(a) Provide for a minimum age or minimum ages for admission to employment;
(b) Provide for appropriate regulation of the hours and conditions of employment;
(c) Enforcement of the present article\textsuperscript{16}.

2.5.2. How selected SADC member countries define child labour:

1. **Mauritius** - In June 1990, the Government of Mauritius ratified the International Labour Organization (ILO) Minimum Age Convention No. 138 of 1973.\textsuperscript{11} Mauritius is also a party to the UN Convention on the Rights of the Child. According to the Mauritian Labour Act, child’ is defined as being a person under the age of 15. According to Section 55 of the same Act, the penalty for employing a child is a fine not exceeding Rs 2000 and to a term of imprisonment not exceeding one year.

2. **Namibia** - the Government of Namibia has not yet ratified the Minimum Age Convention No. 138. However the Namibian Labour Act (Act No. 6 of 1992) defines a child as a person under the age of 14.

3. **South Africa** - the South African Constitution provides that “every child has the right to be protected from exploitation labour practices and not to be required or permitted to perform work or provide services that are inappropriate to a person of that child’s age, place at risk the child’s well being, education, physical or mental health or

\textsuperscript{16} United Nations Commission on Human Rights 1993 (a) P. 236 Para.. 16
\textsuperscript{11} SADC Report OP. CIL.
spiritual, moral or social development. The South African Government ratified the Convention on the Rights of the child in June 1996\(^\text{12}\). The basic Conditions of Employment Act, 1997 \(^\text{13}\) prohibits child labour less than 15 years of age.

4. **Zimbabwe** - In Zimbabwe, the Children’s Protection and Adoption Act, 1972 addresses the rights and welfare of the child. It provides conditions for protecting children’s education and completely prohibits certain types of employment by children. In this Act “children” refers to persons below the age of 16 years.

5. **Zambia** - In Zambia a child is defined as any person below the age of fifteen years\(^\text{14}\). It is worth noting that Zambia has also ratified the Minimum Age Convention No. 138. Further it should be pointed out that Zambia has prescribed a general minimum age for admission to any employment or work as required by the Convention\(^\text{15}\).

### 1.3 EXTENT AND NATURE OF CHILD LABOUR IN ZAMBIA

An attempt to estimate the prevalence of child labour in Zambia immediately comes up against two obstacles. The first is because of the definition of child labour itself, which makes it difficult to determine even the scope of the exercise

\(^{12}\) SADC report, Ibid.

\(^{13}\) Act 75 of 1997 effected on 21\(^{\text{st}}\) March 1998

\(^{14}\) National Policy Document, 1994; Employment Act CAP 268

\(^{15}\) Employment of children and Young Persons Act defines a ‘child’ as a person under the age 14 years.
in terms of ages and activities covered\textsuperscript{11}. And the second is simply the lack of reliable, let alone comparable - national statistics on the problem. Rough extrapolations which have been made from the difference between the number of school-age children actually attending school and the total number of children in that age group, have been of limited value for estimating child labour. Zambia has not been keeping specific statistics on child labour but is in the process of setting up a national databank\textsuperscript{17}. In the past there was a strong disincentive to keeping statistics that would expose a gap between official policy and actual practice. Two sets of data are used in this study to discern the extent of child labour namely, the Labour Force Survey (1986) and the Priority Survey’s for 1991 and 1993. From the 1986 Labour Force Survey, one can make references on child labour only as it affects the 12-14 years age group. The classification used in this survey makes it impossible to measure participation of those below the age of 12 nor does it allow the measurement of the extent of young persons under the age of 16. Table 2.3.1 shows the percent distribution of working children in the 12-14 years group.

\textsuperscript{11} For example, in the preparatory report of child labour in Zambia at a Roundtable meeting held in Lusaka on 17 Nov. 1995 it was stated that there has been no systematic research on child labour in Zambia. And that qualitative research has focused so far on the girl child’s education and drop-out, on street-children, and on Community based rehabilitation.

\textsuperscript{17} SADC Report, Ibid.
Results in Table 2.3.1 indicate that in 1986, 6.9 percent of the total labour force in Zambia (2,364,000) were children. They were more female (7.2 percent) victims of child labour than the male. Furthermore, of the total informal sector employment, 8.7 percent were child workers. Where as out of the total formal employment, only 0.7 percent constituted child labour. The participation of females in the formal sector was higher than that of males. Whereas it was 1.6 percent for females, the corresponding ratio was 0.6 percent for males.

The magnitude of child labour was greater in the rural areas where 8.6 percent of those employed were aged between 12-14 years. This compared to 2.1 percent in
the urban areas. More significantly was the fact that the prevalence of child labour in the formal sector was more pronounced in the rural areas where it stood at 1.9 percent compared to 0.1 percent in the urban areas.

A pattern similar to the one obtaining on the national level emerges when consideration is made of child labour participation in the urban and rural areas with respect to sex and whether one is engaged in the formal or informal sector. However, there is only one slight difference in that there is a higher male participation (9.9 percent) compared to females (7.7 percent) in the informal sector.

The findings in Table 2.3.2 indicate that 35 percent of children aged between 12 and 14 years are in employment. The Table further shows that as a proportion of those aged between 12-14 there are more males than females in employment in the rural settings. In the urban area, however, the participation rate of females is slightly higher than that of males.

*TABLE 2.3.2 Extent of child labour by sex in rural and urban areas as a percentage of children aged between 12 and 14 years*\(^{19}\)

<table>
<thead>
<tr>
<th></th>
<th>TOTAL</th>
<th>RURAL</th>
<th>URBAN</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>TOTAL</td>
<td>MALE</td>
<td>FEMALE</td>
</tr>
<tr>
<td>POP. Aged 12-14</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percent Employed</td>
<td>35%</td>
<td>37%</td>
<td>33%</td>
</tr>
<tr>
<td></td>
<td>465</td>
<td>233</td>
<td>232</td>
</tr>
</tbody>
</table>

\(^{18}\) Labour Force Survey  
\(^{19}\) Labour Force Survey
The striking feature about this situation is that 35% of Children who under normal circumstances should be in primary school are out of school and leading an adult life.

The Priority Surveys bring out various features on child labour. Unfortunately, the age classifications used are different from that used in the Labour Force Survey. Thus making it impossible to draw out a trend or make any direct comparison\textsuperscript{20}. Firstly, the Priority Survey defines persons as usually employed if they did any work for pay or profit most of the time during the last 12 months preceding the Survey. Secondly, the Survey defined the economically active labour force as all persons aged 7 and above whose main activity during the year proceeding the survey were either employed or unemployed; the corresponding age used in the Labour Force Survey is 12. Thirdly, the Priority Survey introduced a new age category namely 7-11 age group and lumped the 12-14 age group in the 12-19 age group. Fourthly, the Priority Survey data was not classified on the basis of sector of employment and area of residence by age group\textsuperscript{21}.

Table 2.3.3. presents the percentage distribution working children according to their single ages and sector of activity in 1991. Almost all the children (88 percent) working in mining and quarrying were aged 7, while 12 percent were

\textsuperscript{20} BANDA and G NYIRONGO: Extent of child labour in Zambia: Exploratory study, ZCTU, Kitwe (1994)
aged 8. Apparently, the work largely involved crushing stones for construction.

More than half of the children working in agricultural production were aged above 10. Among the children working in the trade sector, 66 percent were below the age of 11.

**TABLE 2.3.3 Percentage Distribution of working children (age 7-14) by industry and age, 1991**

<table>
<thead>
<tr>
<th>INDUSTRY</th>
<th>AGE</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th>TOTAL</th>
<th>TOTAL EMPLOYED</th>
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<td>Agric. Forest</td>
<td>9.90</td>
<td>13.88</td>
<td>11.86</td>
<td>12.20</td>
<td>10.54</td>
<td>11.43</td>
<td>13.98</td>
<td>16.20</td>
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<tr>
<td>Mining, Quarrying</td>
<td>88.12</td>
<td>11.88</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>100</td>
<td>446</td>
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<tr>
<td>Manufacturing</td>
<td>10.57</td>
<td>0.00</td>
<td>24.32</td>
<td>6.01</td>
<td>22.18</td>
<td>11.21</td>
<td>23.86</td>
<td>1.85</td>
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<tr>
<td>Construction</td>
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<td>43.45</td>
<td>17.04</td>
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<td>0.00</td>
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<td>Community Service</td>
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<td>4.76</td>
<td>2.56</td>
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<td>1955</td>
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<tr>
<td><strong>TOTAL</strong></td>
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<td>13.65</td>
<td>12.13</td>
<td>12.38</td>
<td>10.47</td>
<td>11.22</td>
<td>13.74</td>
<td>16.33</td>
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</tbody>
</table>

The distribution of working children by industry and age according to Priority Survey II, 1993 is shown in Table 2.3.4. Of the total children working in mining and quarrying, 64 percent were aged 7, while 36 percent were aged 14. It was found that 98 percent of the working children in the trade sector were aged above 11. All the working children in the services sector were between 10 and 14 years.
In the agricultural sector, working children were distributed in almost the same proportions between the ages 7 and 14.

TABLE 2.3.4 Percentage distribution of working children (age 7-14) by industry and age, 1993

<table>
<thead>
<tr>
<th>INDUSTRY</th>
<th>AGE</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th>TOTAL</th>
<th>TOTAL</th>
<th>EMPLOYED</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>7</td>
<td>8</td>
<td>9</td>
<td>10</td>
<td>11</td>
<td>12</td>
<td>13</td>
<td>14</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Agric. Forest</td>
<td>9.13</td>
<td>12.24</td>
<td>10.07</td>
<td>15.67</td>
<td>12.3</td>
<td>14.01</td>
<td>12.48</td>
<td>14.1</td>
<td>100</td>
<td>213839</td>
</tr>
<tr>
<td>Mining</td>
<td>63.81</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>36.19</td>
<td>100</td>
<td>431</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>47.57</td>
<td>0</td>
<td>26.15</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>26.15</td>
<td>0</td>
<td>100</td>
<td>217</td>
</tr>
<tr>
<td>Construction</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>100</td>
<td>0</td>
<td>100</td>
</tr>
<tr>
<td>Trade</td>
<td>0</td>
<td>0</td>
<td>4.71</td>
<td>0</td>
<td>0</td>
<td>35.18</td>
<td>36.75</td>
<td>23.36</td>
<td>100</td>
<td>1211</td>
</tr>
<tr>
<td>Transport</td>
<td>12.56</td>
<td>15.86</td>
<td>13.84</td>
<td>16.97</td>
<td>4.09</td>
<td>11.56</td>
<td>8.49</td>
<td>16.63</td>
<td>100</td>
<td>5657</td>
</tr>
<tr>
<td>Finance</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>100</td>
<td>100</td>
<td>60</td>
</tr>
<tr>
<td>Service</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>23.71</td>
<td>24.32</td>
<td>15.58</td>
<td>10.18</td>
<td>4.93</td>
<td>100</td>
<td>1316</td>
</tr>
<tr>
<td>Not stated</td>
<td>15.82</td>
<td>9.84</td>
<td>13.17</td>
<td>11.13</td>
<td>14.33</td>
<td>11.82</td>
<td>11.12</td>
<td>12.77</td>
<td>100</td>
<td>11479</td>
</tr>
<tr>
<td>Total</td>
<td>9.57</td>
<td>12.03</td>
<td>10.22</td>
<td>15.38</td>
<td>12.16</td>
<td>13.91</td>
<td>12.48</td>
<td>14.25</td>
<td>100</td>
<td>234370</td>
</tr>
</tbody>
</table>

Child labour seems to be increasing over time. Increasingly children are working to support their families, economically. They are drawn out of school and into the labour market as a result of increasing family poverty and the impact of the HIV/AIDS epidemic on their families. UNICEF notes that cut backs in government spending on education, health, road subsidies, and social services, as a result of economic structural adjustment programs have led to an explosion of child labour and abusive practices against children.\(^3\)

Rural and urban child labour differentials between 1991 and 1996 are presented in Table 2.3.5. In the rural areas, the proportion of working children decreased to 93

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\(^3\) UNICEF Zambia, March 1997
percent in 1996 from 95 percent in 1991. Among the urban working children the
proportion increased from 5 percent in 1991 to 7 percent in 1996\textsuperscript{24}

\begin{table}
\begin{tabular}{|c|c|c|c|c|c|c|}
\hline
YEAR & RURAL & PERCENTAGE & URBAN & PERCENTAGE & TOTAL & PERCENTAGE \\
\hline
1991 & 56840 & 94.6 & 2344 & 5.4 & 59184 & 100 \\
\hline
1993 & 91238 & 95.5 & 4255 & 4.6 & 95493 & 100 \\
\hline
1996 & 135991 & 92.7 & 10,764 & 7.3 & 46,755 & 100 \\
\hline
\end{tabular}
\end{table}

Table 2.3.6 presents trends of child labour by Province in 1991, 1993 and 1996.
Overall, child labour grew by 61 percent between 1991 and 1993, and by 54
percent between 1993 and 1996. The table indicates that in 1991, Eastern
Province had the highest proportion of child workers with 30 percent, followed by
Southern Province with 16 percent, Western Province with 15 percent and
Northern Province with 12 percent. In 1993, high percentage shares were in
Eastern, Northern and Western Provinces with 19 percent each. Again in 1996,
Eastern Province had the highest proportion of working children with 40 percent.
Other provinces with high percentage shares were Northern and Southern
Provinces with 18 and 13 percent respectively.

\textsuperscript{24} Priority Survey I, (1991); Priority Survey II (1993) and Living Conditions Monitoring Survey Report
(1996), CSO
**TABLE 2.3.6 Percent distribution of working children (Age 12 - 14) by province, 1991, 1993 and 1996**

<table>
<thead>
<tr>
<th>PROVINCE</th>
<th>1991</th>
<th>1993</th>
<th>1996</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central</td>
<td>9.54</td>
<td>10.11</td>
<td>4.81</td>
</tr>
<tr>
<td>Copperbelt</td>
<td>1.95</td>
<td>2.30</td>
<td>5.97</td>
</tr>
<tr>
<td>Eastern</td>
<td>29.65</td>
<td>18.79</td>
<td>40.57</td>
</tr>
<tr>
<td>Luapula</td>
<td>7.62</td>
<td>10.77</td>
<td>5.34</td>
</tr>
<tr>
<td>Lusaka</td>
<td>2.87</td>
<td>2.42</td>
<td>2.82</td>
</tr>
<tr>
<td>Northern</td>
<td>12.58</td>
<td>19.24</td>
<td>18.02</td>
</tr>
<tr>
<td>North Western</td>
<td>4.56</td>
<td>2.94</td>
<td>3.35</td>
</tr>
<tr>
<td>Southern</td>
<td>16.23</td>
<td>14.53</td>
<td>12.65</td>
</tr>
<tr>
<td>Western</td>
<td>15.00</td>
<td>18.90</td>
<td>6.47</td>
</tr>
<tr>
<td>%</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>All</td>
<td>59184</td>
<td>95493</td>
<td>146755</td>
</tr>
</tbody>
</table>

In summary a few striking features of the child labour problem in Zambia can be discerned. As a complement to aggregate national estimates, tables 2.3.1 - 2.3.6 show some selected estimates of child labour in Zambia. These are based on micro-data collection, often of an anthropological nature, undertaken in order to study household behaviour. While such estimates can make no claim to representations, they show that participation rates for children may be in the 20-60 per cent range, depending upon age and type of work. These rates increase with age and tend to be higher for boys on the case of work in the household enterprise, with girls participating more in domestic activities. Such figures suggest that the incidence of child labour varies from province to province but they confirm the
impression that the numbers of working children are sufficiently high for the issue of child labour to be a matter of priority concern in Zambia.
CHAPTER 3

3.0 CHILD LABOUR LEGISLATION AND ENFORCEMENT

3.1 INTRODUCTION

Even though child labour laws are not in themselves adequate to eliminate child labour, they are potentially one of the most powerful instruments available to governments to deal directly with the workplace endangerment of children. Any effective policy to eliminate child labour and especially the participation of children in hazardous work, should ensure the country enjoys the benefit of a solid framework of child labour laws. It has been stated 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 can 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"\(^1\)

3.2 INTERNATIONAL INSTRUMENTS

There is strong, broadly based international commitment to the elimination of child labour and the protection of children who work. There are a host of agreements such as:

3.2.1 The Declaration of the Rights of the Child:

This Declaration was proclaimed by the United Nations General Assembly on 20 November 1959. It provides in Principle 9 that:

"The child shall be protected against all forms of neglect, cruelty and exploitation. He shall not be the subject of traffic, in any form.

\(^1\) I.L.O, 1991. P. 3
The child shall not be admitted to employment before an appropriate minimum age: he shall in no case 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.

3.2.2 The ILO Minimum Age Convention 1973 (No 138)

This convention provides that:

Article 1: Each member for which this Convention is in force undertakes 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 age consistent with the fullest physical and mental development of young persons.

Article 2: Each member which ratifies this Convention shall specify .... A minimum age for admission to employment or work ....The minimum age [for admission to employment] shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.

Article 3: ...The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons shall not be less than 18 years.

Article 4: National laws or regulations may permit the employment or work of persons 13 to 15 years of age or light work. which is:

(a) not likely to be harmful to their health or development; and
(b) not such as to prejudice their attendance at school --- or their capacity to benefit from the instruction received.....
3.2.3 The United Nations Convention on Rights of the Child 1989

This Convention was ratified by 168 countries by the end of 1994. Article 32.1 of the Convention provides that:

1. States Parties recognize 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.

2. States 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 Convention on the Rights of the Child... Provisions other international instruments, states Parties shall in particular:

   (a) Provide for a minimum age or minimum ages for admission to employment.
   (b) Provide for appropriate regulation of the hosts and conditions of employment.
   (c) Provide for appropriate penalties or other sanctions to pursue the effective enforcement of the present article.


This declaration was signed by 159 Countries. The states parties declared that:

“We will work for special protection of the working child and for the abolition of illegal child labour”

The States Parties further stated that:

“More than 100 million children are engaged in employment, often heavy and hazardous and in contravention of international Conventions which provide for their protection from economic exploitation and from performing work that interferes with their education and is harmful to their health and full development. With this in mind, all states should work to end such child-labour practices and see how the conditions and circumstances of children in legitimate employment can be protected to provide adequate opportunity for their health upbringing and development.”

The importance if these International Instruments arise from the fact that they are fruits of the historic struggle against child labour, and therefore they represent a
certain international consensus regarding the values to be promoted and the forms
to be observed through concerted action between countries. Nearly all countries
in the world, it is important to note, are signatories to at least one of the above -
cited agreements protecting children from workplace exploitation and abuse³.

3.3 NATIONAL LAW AND PRACTICE

There is no specific child code in Zambia; although in 1992, a group of experts
from the University of Zambia, headed by Professor Lawrence Shimba, was
commissioned to write a report on the codification of the law relating to children
into one comprehensive code. These experts found that provisions specifically on
children existed in 24 different Zambian Acts³. There report recommended that
the child provisions should be merged into one code in order to be accessible.
However this paper was never finalized.

National existing legislation on child employment include:

3.3.1 The Constitutional Provision.

The Zambian Constitution⁴ in Article 24 provides by the protection of young
persons from exploitation. It specifically states that:

(1) No young person shall be employed and 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: Provided that
an Act of Parliament may provide for the employment of a young person for a wage
under certain conditions.

² BEQUELE, A and MYRES W.E.,: First things first in child labour 1995 ILO GENEVA
³ L. Shimba: Codification of the law relating to the child in Zambia - a paper presented to the "workshop
on the formulation of the Child Policy - 5 - 6Th. February, 1993 Lusaka
⁴ Chapter 1 of The Law of Zambia
(2) All young person shall be protected against physical or mental ill-treatment, all forms of neglect, cruelty or exploitation.

(3) No young person shall be the subject of traffic in any form.

(4) In this Article “young person” means any person under the age of fifteen years.

3.3.2 The Employment of Women, Young Persons and Children⁵

The Act in section 4 (1) prohibits the employment of children in industrial undertakings. The definition of industrial undertakings includes particularly:

(a) Mines, queries and other works for the extraction of minerals from the earth;
(b) Industries in which articles are manufactured, altered, cleared, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including shipbuilding, and the generation, transformation and transmission of electricity or motive power of any kind:
(c) Construction, reconstruction, maintenance, repair alternation or demolition of any building, railway, tramway, harbour, dock, pier canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gasworks, waterworks or other work of construction, as well as the preparation for laying the foundation of any such work or structure:
(d) Transport of passengers or goods by road or rail inland waterway, including the handling of goods at docks, quays, and warehouses, but excluding transport by hand.

But does not include commercial or agricultural undertakings. The prohibition stipulated in section 4 (1) does not apply to work done by children in technical schools or similar institutions, where work is approved and supervised by the Permanent Secretary, Ministry of Education or some person appointed by him for that purpose⁶. This Act defines a ‘child’ as a person under the age of fourteen years.

⁵ Chapter 274 of the Laws of Zambia
⁶ Section 4(2) CAP 274
The Act further prohibits the employment of a young person under the age of sixteen years in an industrial undertaking other than an undertaking in which only members of the same family are employed', unless such young person is either.

(a) employed under a contract of apprenticeship entered unto under the Apprenticeship Act; or
(b) in possession of a certificate signed by a labor officer authorizing such employment.

The Act defines a 'young person' as a person who ceased to be a child and who is under the age of eighteen years.

3.3.3. The Employment Act

The Employment Act provides that it is an offence to employ a person below the age of 15 years. However the Act provides exceptions to this rule in case of:

(a) a person under the age of fifteen years, who is receiving full time education at a school recognized as such under the Education Act, if he is employed during school vacations;
(b) a person, under the age of fifteen years, who has failed to secure admission to a suitable School or whose enrollment has been canceled or terminated by the School authorities or for a good cause by a parent.

Provided however, that in case, such child shall be employed only if the terms, conditions and nature of his employment are approved by the Ministry of Labour and Social Services.
3.3.4 Apprenticeship Act\textsuperscript{10}

The Apprenticeship Act provides that minors can only be employed as apprentices with the assistance of parents or guardians\textsuperscript{11} while the term minor means any person under the age of twenty-one years.

3.3.5 Other related Legislation

THE PENAL CODE\textsuperscript{12} The Penal Code is in Zambia, a cornerstone in protecting children from sexual exploitation and abuse. Under Chapter XV it provides for: “offences against morality”. Under these provisions it is an offence for any person to involve in the act of: trafficking; brothel keeping; householder permitting defilement; detention of a girl with intent of unlawful carnal knowledge.

The JUVENILE ACT\textsuperscript{13}. The Juvenile Act defines a ‘child’ as a person who has not attained the age of sixteen years; a “juvenile” as a person who has not attained the age of nineteen years; a “young” person who has attained the age of sixteen years but has not attained the age of nineteen years. It is an offence under the Act for a parent or legal guardian of a child to cause or encourage the abduction, unlawful carnal knowledge or prostitution of girls under sixteen years\textsuperscript{14}. It is also

\textsuperscript{10} CAP 275
\textsuperscript{11} Section 11(2), CAP
\textsuperscript{12} CAP 88
\textsuperscript{13} CAP 53
\textsuperscript{14} Section 147 Ibid.
an offence for any person having the custody of a juvenile to allow that juvenile under the age of sixteen to reside or frequent a brothel\textsuperscript{15} to cause or allow children to be used for begging or to give intoxicating or spirituous liquor to children' or to cause or allow children to be in bars of licensed premises.

Under the Juvenile Act, Children under the age of sixteen years are restricted in adult entertainment. In order for a child to take part as a performer or attendant in any entertainment he/she will have to be granted a licence by a juvenile Inspector. The Ministry of Labour and Social Development is empowered to exempt any entertainment or class of entertainment from this rule. The Juvenile Inspector has to satisfy himself as to fitness of the child to take part in any entertainment and that proper provision has been made to secure the child's health, and further that his performance shall in no way endanger his life - only then can he grant a licence for that child to take part in any specified entertainment or series of entertainment.

THE LIQUOR LICENSING ACT\textsuperscript{16} under the Liquor Licensing Act, it is unlawful to employ in bars or other places where liquor is sold or consumed, children under the age of eighteen years.
ENFORCEMENT PROVISIONS

It is important to note that the enforcement of laws related to child labour are usually entrusted to a system of government inspectors who periodically monitor workplaces for compliance with the law and who penalize violations by employers\textsuperscript{17}. This approach was developed in Europe in the last century to deal with textile miles and other industries where child workers were concentrated in large numbers\textsuperscript{18}. As can be visibly seen, this approach has proved difficult to transfer effectively to developing countries like Zambia where child labour is widely dispersed and popularly accepted as necessary for families living in poverty. The enforcement capacity is also so thin that it seldom has practical reach beyond the urban formal sector. Zambia has been no exception to this approach.

In Zambia legislative developments have been fundamental to the effort to prohibit or regulate child labour. For instance the Employment of Children and Young Persons Act empowers any labour officer, police officer of or above the rank of Assistant Inspector to:

- enter upon any land or premises of an industrial undertaking affected by the provisions of the Act;

- examine any person affected by the Act; and

- exercise such powers as may be necessary for carrying the Act into effect.

---


The penalty for any person that contravenes the provisions of the Act or hinder enforcement of the Act is liable on conviction to a fine or an imprisonment term of three months or both.

The availability of facilities for inspections is critical to effective enforcement while labour inspectors may enter premises, the Labour Department in Zambia is understaffed and poorly equipped and has no reliable statistics on child labour which can be relied on. The Department is aware of the overall lack of commitment to enforcement and also complains of a lack of support from employers and the public. These deficiencies seriously hamper both inspection and prosecution.
CONCLUSION

From the foregoing, it is clear that there is a limit to how much can be accomplished by child labour laws, or their enforcement in the absence of complementary and supporting actions from other parts of government. Consider for example, that labour inspectors are sometimes expected to enforce minimum age legislation when schools are not available or are overcrowded, or are unaffordable given the economic position of poor parents. In most cases, there are no established systems for monitoring age and/or for ensuring that parents comply with their obligation to send children to school.

In this situation the question placed by the Labour Inspector is “what should I do when the legal prescription of the work of children (for example, employment below a stipulated minimum age) conflicts with essential survival strategies of these children and their poor families?” In such instances, suddenly striping away an important source of family income can expose children to malnutrition, illiteracy and other poverty linked dangers as serious as those they face in the workplace. While this questionable social policy merely to exchange one set of dangers for another prevails, it would be equally illogical to neglect the protection of children in the work place just because they are also unprotected from the ravages of poverty.

That said, it must also be recognized that some occupations or forms of child labour are so damaging that the need to remove children from serious danger is
immediate and un-negotiable. Whatever the difficulties, the acceptance of the principle that no child should be involved in dangerous work implies an inescapable obligation to implement laws banning it. Where as other aspects of inspection could regrettably, await a better tomorrow, that concerning working children in serious and immediate danger can not do so and should therefore, be given the highest priority in any governmental action concerned with the economic involvement of its cities and the protection of workers.
CHAPTER 4

4.0 ACTION AGAINST CHILD LABOUR: THE NEED FOR A DIVERSIFIED APPROACH

4.1 INTRODUCTION

Historically, the single most important and common approach to the problem of child labour has been the adoption of legislation. However, one fundamental problem with enacting and enforcing legislation banning child labour is that there are only few interest groups to support it. Legislation is only effective where there is a capable administration determined to implement the laws, where there is considerable difficulty in hiding child labour, and where relatively little advantage is to be gained from child work. Ultimately then, child labour is best addressed through a combination of legislation and other approaches such as a well defined national policy, education and training, sensitization and monitoring and the mobilization of the informal sector. In this section, I look at other preventive approaches to protecting children from work detrimental to them.

4.2 NATIONAL POLICY

The role of government is so central that the mere absence of a national policy, or even a sign of ambivalence towards protection of children who work, tend to be read as tacit consent to their exploitation. A clear national policy against the exploitation of children, reflected in both legislation and administrative regulations as appropriate, is the fundamental basis and point of departure for governmental action to suppress the hazardous employment of children.
Since independence, there have been several laws and regulations prohibiting employment below a certain age and providing protection for working children. However, in recent years a serious reassessment of government policy on child labour has taken place, the aim being to identify the most effective way of dealing with the problem under Zambian conditions¹. The reassessment was based on a number of considerations. First, the conditions at work were found to be more exploitative where children were engaged in wage labour than where they worked with their family in their own home. Secondly, where it was not practicable to prohibit the employment of children, efforts were to be made to regulate the conditions of work so that they received some protection and, in particular, be assured of a reasonable wage and short working hours. In addition, they were to be made to provide working children with services to ensure their proper physical and mental development.

Perhaps the most concrete policy step taken in relation to child labour has been the ratification by the Zambian Government of the United Nations Convention on the Rights of the Child in 1991. Zambia’s report to the Committee on the Rights of the Child on the implementation of the Convention is still pending. As a signatory to the Convention, the Government has adopted the articles of the Convention, including Article 32 by which “States Parties recognize the right of the child to be protected from economic exploitation and from performing any

kind of 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”. Furthermore, by signing the Convention the Government of Zambia has made a commitment to “taken legislative administrative, social and educational measures to ensure the implementation of the present article”

It is also gratifying to note that the Government of the Republic of Zambia has ratified the ILO Convention No. 138. Through these two actions, the Government is thus seen to be committed to work towards the eradication of the scourge of child labour in Zambia, through the enactment and enforcement of two legal instruments i.e., the Employment Act² and the Employment of Women, Young Persons and Children’s Act³. The two Acts directly regulates the situations stipulated under the UN Convention and the ILO Convention stated above.

COMMUNITY MOBILIZATION AND AWARENESS - RAISING

The State wields considerable power to effect and influence change, nevertheless it can only succeed if it is backed by a supportive public opinion. Legislation and administrative attention will more favourably reflect on child labour issues when public opinion is fully sensitized to the issue and request remedial action.

² APTER 268 of the Laws of Zambia.
³ APTER 274 of the Laws of Zambia.
Rialp writing on the importance of children and families in ending child labour hazardous work in the Philippines has argued that "once Public indignation has been aroused and the clamour for change grows, it becomes equally urgent to create an openness to such change on the part of the children who are to be freed from exploitation. This not only means that they must want to leave their work, but also that their parents must be ready and willing to take them back, or must agree to stop pushing them into such activities. Just how critical the attitudes of the children and their families are to a successful outcome becomes more evident when one considers their extreme dependence not only on the work but also on their employers. Both the children and their families are deeply threatened by the possibility of losing the employment and the highly paternalistic relationship it ensues, largely because of the material benefits involved. But there are also certain emotional benefits arising from these happenings, such as the false sense of caring and security that child prostitutes receive from pimps and clients. Moreover, even though the children may wish for a way out or their predicament, they frequently believe they have no real choice but to remain. Young girls engaged in prostitution, particularly, tend to feel that they are doomed."

From the foregoing it is clear that if success in the long and difficult fight against child labour is to be achieved and indeed assured, it is important that a national program of action should aim at reaching and involving, Parents and guardians,
communities, non-governmental organizations, employers and workers and their organizations, and the government in general and those agencies concerned with working children in particular.

In September 1994 the Government of Zambia, through the Ministry of Legal Affairs organized a one-day workshop at Mulungushi International Conference Centre in Lusaka to reflect on the rights of the child. In November 1995, the ILO Area office and Royal Dutch Embassy in Lusaka organized a one-day round table meeting at the Pamodzi Hotel at which many Zambians from various institutions and walks of life discussed the images of child labor in Zambia, the extent of the problem, the roots and consequences of child labour, and what action could be taken against child labour. There have been other campaigns organized at national and local levels to impress upon the citizens on the dangers of child labour especially on programs such as on the Day of the African Child and Youth Day celebrations.

4.4 **EDUCATION**

The Universal Declaration of Human Rights in Article 26 provides that:

“Everyone has the right to education. Education shall be free at least on the elementary and fundamental stages. Elementary education shall be compulsory”
Weiner⁶ argues 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”. He further argues that when education is made a duty, parents irrespective their economic circumstances and beliefs, are required by law to send their children to school; it is also the legal obligation of the state to provide an adequate number of school, appropriately situated, and to ensure that no child fails to attend school.

It must be said at the outset that there is a reciprocal relationship between education and child labour policy. Not only does education reinforce child labour policy by keeping children from the work force, but child labour legislation, when sensitively enforced, is a useful instrument for retaining children in school, thus helping governments achieve their universal basic education objectives. Benquele and Myers⁷ have argued that the main way in which governments can combats hazardous child work through their national educational systems is to make basic education universal, but this will only help working children if they also implement most of the following:

- make education free of charge to the poor;
- make schooling accessible to working children to ensure participation;

provide complementary services, such as nutrition and health care programs;

provide adequately competent and attractive instruction relevant to the situation of working and potentially working children from poor families.

include in the curriculum information to protect children from workplace hazards.

The education system in Zambia is based on a three-tier system. The first is the primary education which lasts seven years, while the secondary education lasts five years and lastly tertiary education. The Government is the main provider of educational services in Zambia, with the missionary agencies and private individuals contributing to this effort. In spite of the government’s efforts, the education system in Zambia is not well developed8. Banda9 and Nyirongo argue that an average of only twenty (20) percent of primary school children proceed with secondary education. The introduction and implementation of the structural adjustment program has entailed among other things, substantial cuts on government expenditure on social sectors, of which education is one. The Government has since encouraged the parents to share costs with schools. And because the cost of education is beyond the majority of households, the majority of school children are left with no option but to engage in informal employment.

Kamocha et al.,\textsuperscript{10} report that in 1991, 62 percent of working children indicated that they had been school, while 38 percent stated that they had never been to school. The education status of these children worsened in 1993, with the attendance rate falling to 55 percent and the non-attendance rate rising to 42 percent. The school attendance percentage of child workers dropped by 7 percent between 1991 and 1993 and dropped by 25 percent between 1991 and 1996. The percentage of working children who have never been to school has been on the increase from 1991 to 1996 as can be seen in the table below:

\textit{Percentage distribution of child labour by education status 1991 - 1996}\textsuperscript{11}

<table>
<thead>
<tr>
<th>AGE</th>
<th>1991</th>
<th>1993</th>
<th>1996</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Been to School</td>
<td>Never been to School</td>
<td>Been to School</td>
</tr>
<tr>
<td>7</td>
<td>4.26</td>
<td>4.57</td>
<td>3.75</td>
</tr>
<tr>
<td>8</td>
<td>8.99</td>
<td>5.58</td>
<td>5.44</td>
</tr>
<tr>
<td>9</td>
<td>8.18</td>
<td>3.98</td>
<td>4.61</td>
</tr>
<tr>
<td>10</td>
<td>7.49</td>
<td>5.04</td>
<td>6.41</td>
</tr>
<tr>
<td>11</td>
<td>6.19</td>
<td>4.31</td>
<td>6.52</td>
</tr>
<tr>
<td>12</td>
<td>8.47</td>
<td>2.95</td>
<td>8.58</td>
</tr>
<tr>
<td>13</td>
<td>8.84</td>
<td>5.08</td>
<td>9.35</td>
</tr>
<tr>
<td>14</td>
<td>9.13</td>
<td>6.95</td>
<td>10.79</td>
</tr>
<tr>
<td>TOTAL</td>
<td>61.54</td>
<td>38.46</td>
<td>55.44</td>
</tr>
</tbody>
</table>

Silanda and Chilala\textsuperscript{12}, observe that nearly 15 percent of eligible children are denied access to primary education and about 70 percent denied secondary education every year in Zambia. This is because of the education system’s failure to provide adequate school places or facilities. The high cost of education and the overall condition of the education system can be a powerful influence in the

\textit{BANDA M and NYIRONGO G. Extent of child labour in Zambia ZCTU P. 13}
\textit{Ibid. P 52}
\textit{CSO, Priority Survey 1, 1991 and 11, 1993 and LCM 1996.}
supply of child labour, where the cost of education is high and in an economic environment where survival depends on work in the informal sector, education is viewed as a waste of time.

PROTECTIVE AND WELFARE SERVICES

While it is important to denounce child labour evils and promote social reforms to end them, it is also essential to pay proper attention to the protection and rehabilitation of individual working children. Both are necessary, for during the years that are required to mobilize a society to greater consciousness and to institute social mechanisms preventing child labour, large numbers of children can be irretrievably lost if they do not receive direct protection and services that limit and off set the negative affects of their having to work. Because the two actions are complementary, many programmes integrate them, acting both as advocate for working children and provider of services to them.

Bequele and Myers have observed that although governments sometimes operate innovative community based programmes offering various kinds of assistance to working children and their families, in many parts of the world the only help received by working children comes from N.G.O.’s. They further add that in very few places is government as active as N.G.O.’s in providing protective services to working children; In this activity, N.G.O.’s clearly predominate.

Similarly in Zambia, a number of N.G.O.’s have collaborated in government programmes. Several others have started their own programmes to provide services to children in need. Among the most active N.G.O.s in this area are Kwasha Mukwenu Group. This Group aims to provide care to those children in distress, encourage children to go to school and also to undertake activities that encourage good health and provide skills training for orphans; The Young Women’s Christian Association (YWCA) aims on providing education for women and girl children and also to provide environmental and social change. Its activities include Youth skills training enterprise initiative and running a drop-in-centre. World Vision International is an American NGO. It has supported primary health care programmes and large scale developmental programmes which are spread in a number of areas. It has also expanded activities in support of primary schools, literacy, community development and income generating activities.
CHAPTER 5

CONCLUSION AND RECOMMENDATIONS

CONCLUSION   This study has shown that Zambia has a coherent national legislation which specifies a minimum age for employment or work and / or the conditions under which children may be allowed to work. However, a number of major gaps in legal controls and in enforcement still exists. One fundamental inadequacy of the existing systems is the complexity of regulations, which stipulate a wide range of limitations on conditions of employment. Labour laws pertaining to children are found in many statutes and subsidiary regulations which are so detailed that violations are not monitored.

This study has further shown that the availability of facilities for inspection is crucial to effective enforcement. While labour inspectors may enter work premises, the employment Act does not confer on them the power to search such premises. This requires a search warrant which has to be obtained by the police through court proceedings. The absence of a power to search clearly operates as a constraint to law enforcement, in a context where labour authorities do not seem to use police assistance. As mentioned earlier, child labour laws are traditionally enforced through a general system of labour inspection, usually manned by specialists working for the Labour Department or its affiliates. However the Labour Department is under staffed and poorly equipped and has no reliable
statistics on child labour to work with. These deficiencies seriously hamper both inspection and prosecution.

The Zambian Government has failed to make primary education compulsory. It is generally believed that a large portion of those not in school are working. Kamocha and et als have argued that the eradication of child labour depends on the growth of the economy and alleviation of poverty\(^1\). In marked contrast many Governments of the world have not waited for the elimination of Poverty to make education compulsory. For example Weiner observes that Japan introduced compulsory primary education in 1872 when it was still a poor country. By 1910, 98 percent of the six-to thirteen age group attended school\(^2\). He further offers China as another example. He states that in 1949 only one fourth of the children in China were in primary school by 1982 the figure was 93 percent, with 70 percent completing sixth grade.

It has further been established that child labour in Zambia is very much prevalent in those sectors which are omitted in the laws such as farming activities, family business and the expanding informal sectors which are omitted in the laws.

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MOCHA S. MUNALULA T. and MUTTI, P. K.: *The Incidence of Child Labour in Zambia* and Bank Social Recovery Project No. 48 1997 P.85
**Recommendations.** There is need for the Government to adopt and implement national legislation and policies on child labour which are in conformity with international standards and harmonize child labour legislation and policies with legislation and policies governing basic education, including children in the informal sector, taking into consideration gender - specific needs and the effects of ethnic, religious and other forms of discrimination on the incidence of child labour. There is also need to strengthen and improve the labour inspection system, for example by training of labour inspectors and involving different governmental and non-governmental actors in the preparation of a cross-sectoral mechanism of labour inspection that also covers child labour in the informal sector, agriculture and domestic work.

Every child should have a right to education. All work which interferes with the child’s education should be regarded as unacceptable. In this regard there is need to formulate and implement a programme of compulsory basic education free for all as a central component of the national plan action.

Lastly there is need to promote changes in the social perception and increased social awareness, especially at the local level, by informing, educating and sensitizing parents and children, teachers, communities and society in general, with regard to the rights of the child especially the right to basic education and to be protected from economic exploitation.

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