

# **THE PROTECTION AGAINST CHILD LABOUR IN SOUTH AFRICA**

by

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## SUMMARY

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This treatise seeks to describe the legal protection of children against child labour in South Africa. It does so within the context of international-law-protection in the form of Conventions of the International Labour Organisation.

The treatise distinguishes between the concepts of child labour and child work and traces the history of international law prohibiting and regulating child labour. The two most important ILO Conventions, Convention 138 of 1973 and 182 of 1998 are considered in some detail before the national legislature is explained and analysed.

From the discussion it is apparent that South Africa is giving effect to the applicable ILO Conventions. Not only does national legislation prohibit child labour, the state also adopted nation-wide programmes to eradicate child labour.

Despite the efforts there is still room for improvement. The fight to eradicate child labour must continue!

# CHAPTER 1

## INTRODUCTION

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### 1.1 INTRODUCTION

Every child deserves the right to protection under the law and to receive the best that the country and the community can offer. Children are citizens of the country too and are the future of every nation. They are the future custodians of the rule of law, justice, liberty and international peace and security. Thus, how the children are being treated and protected is the future of any nation. Unfortunately, although children have the right to be protected from any economic exploitation and from work that is dangerous to their health and hampers their development, approximately 170 million of children worldwide are engaged in labour that cause irreversible physical and mental damage to their wellbeing.<sup>1</sup> The total number of children engaged in child labour is 215 million.

Child labour is a serious violation of children's fundamental rights, it deprives children of their childhood and is a danger to public health. The psychological effect of child labour can result in affecting the developments of the child's cognitive brain functions during their early years as well as several other psychosocial health risks like social isolation, substance abuse and physical abuse. On the other hand, working at a young age could be considered positive if it does not affect the child's physical development, school attendance and performance, health and overall growth. This type of work is usually non-exhaustive and includes working on holidays or helping parents at home with house related work, in the aim to further develop the child's maturity and sense of responsibility.<sup>2</sup>

Further with the negative effect on public health, child labour becomes a risk to the economy of the Sub-Saharan Africa, despite current trends showing increased investors' interest and growth. Sub-Saharan Africa paid more than \$12 billion in

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<sup>1</sup> International Labour Office "Marking Progress against Child Labour - Global Estimates and Trends 2000-2012" 2013 3.

<sup>2</sup> International Labour Organisation 2004.

external debt servicing charges, of which only about 10 per cent would provide extra educational resources needed each year to give children a place in school.<sup>3</sup> Child labour is an added risk to the region's economic position and a detriment to its society, by not allowing the development of bright future minds to support the growth and development of the nation.

Child labour poses a risk to the child's physical development but also their mental development. Studies concluded by the British Department of Health in 2004 show that there is a significant linkage between children and economic wellbeing, which emphasised basic objectives for children as follows: to stay safe, to enjoy and achieve and to make a positive contribution to the society,<sup>4</sup> echoing the purpose of this research to reinforce that children are protected and should be protected *inter alia*, the reasons mentioned above.

As the idea of children having special needs was replaced by the conviction that children have rights, a full spectrum of social and political rights is now provided to children around the world under the Convention of the Rights of the Child ("CRC"), which was adopted in 1990.<sup>5</sup> In the Constitution of South Africa ("the Constitution"),<sup>6</sup> children's rights include civil and socio-economic rights. One of these rights is the right to be protected from any economic exploitation and from work that is dangerous to their physical wellbeing, their health and hampers their development, physically, emotionally and mentally. Children's rights are therefore enshrined in our Constitution and therefore exploitation of children constitutes a serious violation of their rights.

## **1.2 THE CONCEPTS OF CHILD, CHILDREN'S RIGHTS AND CHILD LABOUR**

Three key concepts namely child, children's rights and child labour are of particular relevance in this treatise. The concept "child" is important when one needs to

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<sup>3</sup> UNICEF *A State of the World's Children* (1997) 53.

<sup>4</sup> Korkodilos "The Mental Health of Children and Young People in England". <http://www.cumbria.gov.uk/eLibrary/Content/Internet/537/6381/4278314423.pdf> (accessed 27 July 2017).

<sup>5</sup> UNICEF *A State of the World's Children* 9-10.

<sup>6</sup> Act 108 of 1996.

understand what child labour is, what its causes and effects are. There is no general definition of a “child”. The term is defined differently in different countries and used with different meanings for various purposes. Many countries define a child in relation to age limit. Arguably, a child is a person who is in some fundamental way not developed but rather developing. Therefore, a child is not yet a full person but he or she is a person.<sup>7</sup>

The United Nations Convention on the Rights of the Child defines a “child” as “every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier”.<sup>8</sup> Similarly, the South African law defines a child as anyone under 18 years of age.<sup>9</sup> However, the age limit for protection against child labour is 15 years.<sup>10</sup>

### 1.3 THE NOTION OF CHILD LABOUR

Child labour is not a new phenomenon. The phenomenon is also complex. A distinction must be drawn between work that children do at home or within the family which may be beneficial and contribute to their well-being, and “child labour” in the sense used to indicate exploitation of children that are harmful.<sup>11</sup> Child labour has been part of the socio-economic conditions of the society from time immemorial and as such is a worldwide problem that existed for centuries. It is difficult to provide a universal definition of “child labour”. According to Duncan and Bowman the difficulty in defining child labour is partly due to the fact that the usage of and the connotations attached to the term, depend substantially on the socio-cultural contexts in which it is deployed.<sup>12</sup> Hence there are different views on what constitutes child labour. The concept means different things in different societies and the definition differs depending on how different countries define a child and how they categorise work as labour against which children should be protected. Accordingly, whether or not a

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<sup>7</sup> Nanjunda *Anthropology and Child Labour Law* (2009) 40.

<sup>8</sup> Art 1: UN Convention of 1989.

<sup>9</sup> S 28(3) of the Constitution and s 1 of the Child Act 38 of 2005.

<sup>10</sup> S 43 of the Basic Conditions of Employment Act 75 of 1997.

<sup>11</sup> Buck “Child Labour” 2005 *International Child Law* 85.

<sup>12</sup> Bowman and Duncan “Educational Aspirations Child Labour Imperatives and Structural Inequality in the South African Agricultural Sector” 2008 (26)3 *Perspectives in Education* 29 43.



particular form of work constitutes child labour depends on the child's age and also the conditions under which it is performed. According to the International Programme on the Elimination of Child Labour (IPEC) children carry a wide variety of tasks and chores when they carry out work and not all work carried out should be targeted for elimination. Activities or chores that should be looked at in a positive manner include helping or assisting family around the house with household chores, assistance with family business or earning pocket money outside of school hours or on school holidays. These can be positive in the development of the children and the welfare of the families and bring sense of responsibility to them. However, this should not deprive them of their childhood or dignity and should not be physically or mentally harmful in their development as a child. In addition, it should also not interfere with their schooling; deprive them of attending school; oblige them to leave school prematurely; and/or oblige them to attempt to combine school with excessively long hours or strenuous work.

Nanjunda<sup>13</sup> argues that the term "child labour" can be interpreted in two different ways: firstly, as an economic practice and secondly, as a social evil. In the first context, child labour signifies the employment of children in gainful occupations with a view to add to the income of the family (*Ibid*). In the second context, the term is generally used and in assessing the nature and the extent of the social evil, the character of the job in which the children are engaged, the dangers to which they are exposed to and also the opportunities of development they have been denied are important factors to be considered.<sup>14</sup> Accordingly child labour becomes a social evil when a child is required to work beyond his/her physical capacity, when hours of employment interfere with his or her education, and when the occupation in which he/ she is engaged endangers his or her health and safety.

Srivastava<sup>15</sup> observed that child labour is a concrete manifestation of denial of almost all basic rights to children, since working children are denied their rights to survival and

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<sup>13</sup> See fn 7 above.

<sup>14</sup> *Ibid*.

<sup>15</sup> Srivastava *Child Labour as a Socio-Economic Problem in India: Elimination or Empowerment* (2006) 2.

development, education, leisure and play, opportunities for developing their mental and physical talents and protection from abuse and neglect.

Lieten<sup>16</sup> considers child labour as a new phenomenon that just emerged with the arrival of capitalism. He argues that the growth of capitalism thrived on the exploitation of children, just as globalisation in developing countries depends on child labour.

The United States Department of Labour defines child labour as “the employment of boys and girls when they are too young to work for hire or when they are employed at jobs unsuitable or unsafe for the children of their ages”.<sup>17</sup> Thus any employment that robs children of their rightful heritage, of the chance for healthy development, of full educational opportunities and necessary play time is considered child labour.

Child labour is a problem of vast social and economic proportions throughout the world. Millions of children are forced to work too hard by circumstances and are as a result robbed of their childhoods. By being excluded from any full time employment, children are protected from economic exploitation and the rigors of jobs that undermine their education and good health. By its nature, child labour is morally and ethically unacceptable. It is an infringement of the basic rights of the child and it also physically and psychologically damages the development of a child. In the literature, the phenomenon of child labour is more often than not confused with child work. Accordingly, child labour should be distinguished from permissible child work.

#### **1.4 CHILD LABOUR AND CHILD WORK**

As pointed out above child labour is not a new phenomenon. It existed for centuries throughout the world and its continued existence paves a disastrous future for humankind. The terms “child labour” and “child work” are often used interchangeably. This leads to much confusion and a failure to focus and pay significant attention on the real problem. Hence a clear distinction needs to be made. It is universally acknowledged that not all work is bad for children.<sup>18</sup> Children’s participation in

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<sup>16</sup> Lieten *Towards an Integrative Theory of Child Labour* (2009) 27.

<sup>17</sup> *Encyclopaedia Americana* (1963) 461.

<sup>18</sup> Fyfe *Child Labour* (1989) 3.

activities which do not affect their health, development or interfere with their education is regarded as “child work”. By its nature, child work is light and assists children in taking responsibility of their lives. Child work can be a positive experience and is accepted as a normal phase of a child’s development to becoming independent and self-sufficient. Through their work, children can learn their parents’ skills and gain increasing status as family members and citizens.<sup>19</sup> Child work also contributes to the child’s development and builds his/her confidence and self-esteem.

Unlike child work, child labour entails work or labour in which young people are being exploited or overworked or deprived of their rights to education, adulthood and health. It has repercussions for the child, the group and wider society. It is illegal and usually concealed by the parents, employers and children themselves. Children who are engaged in child labour are not only engaged in hard and hazardous works, but also become prey to sexual abuse. Accordingly, the problem of child labour is not only a national issue but is also a universal problem, which international as well as regional organisations are faced with.

## **1.5 CHILDREN’S RIGHTS IN SOUTH AFRICAN LAW**

Children are the most vulnerable people in a community. They are dependent on others for protection and care. Although children under 18 years of age are afforded special rights in South Africa, children as citizens of the country enjoy the same rights as their fellow adult citizens. Children have both civil and political rights as well as social and cultural rights. Children’s civil and political rights include the right to be protected against any unfair discrimination, freedom of association, freedom of assembly, right to dignity, privacy, not to be forced to work and tortured. In *S v Williams*,<sup>20</sup> the Constitutional Court had to decide on the constitutionality of the sentence of juvenile whipping. The Court declared corporal punishment unconstitutional on the grounds that it violates the right to dignity and the right not to be treated or punished in a cruel, inhuman or degrading manner. It accordingly found that juvenile whipping violated the dignity of the juvenile.

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<sup>19</sup> See fn 13 above.

<sup>20</sup> ZACC 6 1995 (3) SA 632.

Social and cultural rights include the right to social security and assistance, the right to education, housing, and health care.<sup>21</sup> Children's rights are specifically dealt with in section 28 of the Constitution.<sup>22</sup> This section provides that children have the right to basic nutrition, shelter, basic health care and social services; to be protected against maltreatment, neglect and abuse; to be protected against exploitative labour; and not to be required to perform any work which is inappropriate for a person of that child's age or place the child's well-being, education, physical and mental health, or spiritual, moral or social development in jeopardy. Accordingly any act or omission, which places the child at risk, is unconstitutional. The issue of child labour is also expressly prohibited in terms of section 28 of the Constitution. This right is given context to in Chapter 6 of the Basic Conditions of Employment Act.<sup>23</sup>

## **1.6 AIMS AND OBJECTIVES OF THE STUDY**

This treatise aims to compare and contrast the rights of children and their protection against child labour in South Africa in the light of the relevant international and South African legislation and case law. In practice child labour persists, although it has been abolished and outlawed by international instruments, which are endorsed by South Africa as well as by the Constitution and labour law. Accordingly, this treatise examines child labour and reflects on the socio-economic conditions of working children in South Africa.

This treatise also investigates the challenges faced and ways in which to improve the protection of children, particularly their socio-economic rights, and eliminate child labour and exploitation in this country. It delves into the fact that the problem of child labour should be approached and analyzed in its entirety rather than a sum of its parts which could result in a passive solution. A starting is the consideration of reasons that have caused the problem and means and ways to reduce and eliminate child labour altogether.

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<sup>21</sup> S 27 of the Constitution.

<sup>22</sup> Act 108 of 1996.

<sup>23</sup> 75 of 1997. The provisions will be discussed in more detail in Chap 3 of this treatise.

## **1.7 CHAPTER OUTLINE**

Chapter 1 explains the problem of child labour, the rationale for the study, the aims and objectives of the study and chapter outline of the treatise. The chapter also contains an explanation of the concepts of child, children's rights and child labour.

In Chapter 2 the international child law and international instruments concerning child labour are highlighted.

Chapter 3 considers the prohibition and regulation of child labour in South Africa.

In chapter 4 the steps taken and programmes implemented by the Department of Labour and other state departments in South Africa with a view to eliminating and addressing child labour are considered and evaluated.

Chapter 5 constitutes the conclusionary chapter of the treatise and contains a critique of the South African approach to eliminating child labour, as well as recommendations to consider for the future.

## CHAPTER 2

### INTERNATIONAL LAW ON CHILD LABOUR

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#### 2.1 INTRODUCTION: THE NATURE AND MAGNITUDE OF THE PROBLEMS OF CHILD LABOUR

The International instruments on child labour is an integral part of advances in protection of child labour.

The notion of prohibited “child labour” in contrast to legitimate “child work” was explained in Chapter 1. But the boundaries between these concepts may shift according to legal names in different countries.

Despite this reality the necessity for collection reliable statistics on the magnitude of child labour including statistics on age, gender, region, formal or informal economy, economic sector, type of work and other criteria cannot be under-estimated.

In 1995 the ILO estimated that 250 million children between five and 14 years of age were economically active in the developing world, and 120 million of these children were working full time. 61% of the 250 million children were working in Asia, 32% in Africa and 7% in Latin America.<sup>24</sup>

It has been estimated that in 2000 there were 211 million children aged five to 14 years old involved in some form of economic activity and of these 186 million were engaged in child labour to be abolished. Of the 141 million children aged 15-17 years old who were economically active, 59 million were engaged in child labour.<sup>25</sup>

From these statistics one in every six children in the world aged 5 to 17 could be classified as a child labourer.

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<sup>24</sup> ILO “Child Labour: Targeting the Intolerable” *International Labour Conference* 86<sup>th</sup> session Vaas, Report VI(1) Geneva: ILO.

<sup>25</sup> Derived from ILO Global Report (2002) *A Future without Child Labour* report of the Director-General, Global Report, 90<sup>th</sup> session, ILO Report 1(B) Geneva: ILO.

What was shocking from the 2002 Report is that the extent of “worst forms” of child labour was much bigger than previously thought.

Boys and girls are equally involved in economic activity up to the age of 14 years, but then the proportion of boys increases, particularly in hazardous work.

There are also child labourers in developed countries, though in much smaller numbers and proportions. The media tends to focus on exploitation in export-related jobs (take factories making Levi jeans) and sex tourism (for example in Thailand). It is estimated however that the former accounts for some 5% of child labourers and commercial sexual exploitation of children is much more prevalent by local than foreign customers.

It seems from surveys in developing countries that the majority<sup>26</sup> of children who work are engaged in agriculture, fishing, hunting and forestry.<sup>27</sup> An important feature of child labour is that it mainly takes place in locations that are not recognized or protected under legal or regulatory systems like the so-called “informal economy”. Smolin<sup>28</sup> points out that the ILO and trade unions are not as experienced in issues relating to the “informal economy” and family-based work compared with their knowledge of other industrial matters and are out of their depth when dealing with a phenomenon which occurs elsewhere.

## **2.2 THE HISTORY OF THE INTERNATIONAL LEGAL PROTECTION OF CHILD LABOUR**

The ILO has played the central role in producing international standards of protection in the area of child labour.

Smolin<sup>29</sup> identifies four stages of development:

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<sup>26</sup> 70%.

<sup>27</sup> ILO Global Report 2002 70.

<sup>28</sup> “Strategic Choices in the International Campaign against Child Labour” 2000 *Human Rights Quarterly* 942 87.

<sup>29</sup> “Strategic Choices in the International Campaign against Child Labour” 943.

Firstly, there were five specific areas of work identified for minimum-wage regulation between 1919 and 1932.<sup>30</sup>

The standards were low and the abolition of child labour was not specified as the ultimate goal. The minimum age for admission into employment was 14 years, but younger ages were specified in India and Japan.

The second wave of Conventions raised the minimum age to 15 years and certain hazardous work was regulated.<sup>31</sup> There was still no specific intention to abolish child labour present.

The third stage saw the process of consolidation of conventions in the form of a *Minimum Age Convention* of 173<sup>32</sup> that was intended to replace the 10 previous, more specific conventions. The *Minimum Age Convention* was adopted on 26 June 1973 and entered into force on 19 June 1976. The overall aim was the abolition of child labour and each Member State was obligated “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 within the fullest physical and mental development of young persons.”<sup>33</sup> The minimum age had to be at least 15, although there was a concession for developing countries to specify a minimum wage of 14 years.<sup>34</sup>

The Minimum Age Convention was a significant advance regarding international-law protection against child labour, but unfortunately by 1996 only 49 of 173 Member States ratified the Convention.<sup>35</sup> Most notably, the Asian countries and other developing States failed to ratify the Convention.

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<sup>30</sup> Five ILO Conventions regulated child labour: Industry (1919), Sea (1920), Agriculture (1921), Trimmers and Stokers (1921) and Non-Industrial Employment (1932).

<sup>31</sup> See Fisleneu (1959) and Underground Work (1965).

<sup>32</sup> ILO Convention No 138.

<sup>33</sup> Art 1.

<sup>34</sup> Art 2(4).

<sup>35</sup> This position has changed presently and at least 135 countries have ratified the Convention by 2005.



The fourth stage of development began in the 1990s and continues to be present.<sup>36</sup> During this period increasing efforts were made to move child labour to a more central position in the ILO. The ILO also introduced a body IPEC<sup>37</sup> in 1991. IPEC was implementing over 700 projects on child labour in 40 countries by 1998. Increased globalization exposed increased competition could have the effect of generating more child labour.<sup>38</sup> In 1996 Governments attending the ILO Conference agreed that there was a need to prohibit the most intolerable features of child labour. Child labour moved to the centre stage within the international community and it led to the *Elimination of the Worst Forms of Child Labour Convention*.<sup>39</sup> The Convention was adopted in 1999 and was ratified by 150 states by 2005.

This Convention does not replace the Minimum Wage Convention. It supplements the latter Convention and sets out standards to eliminate and prohibit the “worst forms” of child labour.

This last stage of development moved child labour to the centre of ILO thinking. It also extended concern by including matters such as prostitution, pornography and drug trafficking in the *Worst Forms of Child Labour Convention*.

## **2.3 PROTECTION AGAINST CHILD LABOUR UNDER UNIVERSAL AND REGIONAL INTERNATIONAL LAW**

Section 39 of the South African Constitution provides that when interpreting the Bill of Rights, a court or tribunal or forum must consider international law and may consider foreign law. Any international law that the country has signed and ratified is automatically law in the Republic of South Africa and must be considered. As the protection against child labour is one of children’s fundamental rights, and South Africa has signed and ratified international conventions on children’s rights, it is important to put regional as well as international law in perspective.

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<sup>36</sup> Smolin 945.

<sup>37</sup> Programme on the Elimination of Child Labour.

<sup>38</sup> Buck “Child Labour” 92.

<sup>39</sup> 1999.

International human-rights law protects children against exploitative labour. There are a whole host of international human rights instruments namely, treaties, Conventions or agreements and declarations of various types which together provide the main source of international law. These create direct obligations for States, whether of general, universal or regional character.

The protection against child labour will first be examined under the United Nations (UN) instruments and under those of international labour law, namely the International Labour Organisation Conventions.

## **2.4 THE UNITED NATIONS AND CHILD LABOUR**

The United Nations has adopted a number of instruments regulating children rights. Of most significance is the United Nations' Convention on the Rights of the Child.<sup>40</sup> This Convention defines a "child" as any person below the age of 18 years unless, under the law applicable to the child, majority is attained earlier. Article 32 of this Convention recognises the right of a child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education or to be harmful to the child's health or physical, mental, spiritual, moral or social development. State Parties are also required to take legislative, administrative, social and educational measures to protect children against economic exploitation and work that is hazardous to their well-being.<sup>41</sup> The Convention further protects children from all forms of sexual exploitation and abuse.<sup>42</sup> South Africa ratified this Convention and therefore bound by its provisions.

There are several articles of the CRC that provide a framework of rights relevant to the issue of child labour addressed under the ILO Conventions.

In particular Article 32 deals with the protection from economic exploitation and child labour, Articles 11 and 35 contain provisions to combat child trafficking, Article 19 protects children against violence, abuse, neglect and exploitation, Article 34 protects

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<sup>40</sup> 1989.

<sup>41</sup> Art 32(2).

<sup>42</sup> Art 34.

children from sexual exploitation and abuse and Article 38 sets international standards in relation to children and armed conflict. The CRC is incorporated as part of the Children Act in South Africa and is widely referred to in our courts.

## **2.5 THE INTERNATIONAL LABOUR ORGANISATION (ILO) AND CHILD LABOUR**

The ILO is one of the United Nations special agencies tasked with employment relations issues. Since its establishment in 1919, the International Labour Organisation (“the ILO”) has rightly shown concern for the problem of child labour. The abolition of child labour is one of the aims for which the ILO was created.<sup>43</sup> Accordingly, the major part of the ILO work has been the adoption of Conventions, recommendations and resolutions dealing with the employment of children.<sup>44</sup> Most important are the ILO Conventions 138 of 1973, 182 of 1999 and the ILO Declaration of 1998.

### **2.5.1 THE ILO CONVENTION 138 CONCERNING MINIMUM AGE FOR ADMISSION TO EMPLOYMENT**

As pointed out above the ILO adopted this Convention in 1973 and it lays down the minimum age for employment of children. Article 1 of this Convention places an obligation on member states to pursue a national policy designed to ensure the effective abolition of child labour.<sup>45</sup> It stipulates that children should not engage in economic work before they have reached the compulsory schooling age.<sup>46</sup> Article 3 of this Convention provides that the minimum age of admission to any type of work, which by its nature is likely to jeopardise the health, safety or morals of young people should not be less than 18 years.

However, the Convention states that children between 13-15 years may be employed in light work, which is not likely to be harmful to their health or development and not prejudicial to their attendance at school.<sup>47</sup> However, the Convention does not define

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<sup>43</sup> Preamble of the ILO Constitution of 1919.

<sup>44</sup> ILO report of the 57th Session 1972, 5.

<sup>45</sup> Art 1.

<sup>46</sup> Art 2(3).

<sup>47</sup> Art 7.

what light work is. Since what might be considered light work in one country might not be light work in another country. South Africa ratified this Convention and also passed legislation to give effect to its provision.

### **2.5.2 THE ILO'S INTERNATIONAL PROGRAMME ON THE ELIMINATION OF CHILD LABOUR (IPEC)**

It was pointed out in paragraph 2 of this chapter that, in its struggle to eliminate child labour, the ILO created IPEC in 1992. The overall goal of IPEC was the progressive elimination of child labour, which was to be achieved through strengthening the capacity of countries to deal with the problem and promoting a worldwide movement to combat child labour. IPEC is the largest and the biggest ILO programme since its establishment. The ILO's work to eliminate child labour is one of the ILO's decent work agendas. Many countries including South Africa, participated in IPEC. This programme also contributed to the adoption of the ILO Convention on the Elimination of the Worst Forms of Child Labour.<sup>48</sup>

### **2.5.3 THE ILO WORST FORMS OF CHILD LABOUR CONVENTION**

Before 1998, the ILO key instrument on child labour was the ILO Convention 138 of 1973. In 1998, the ILO adopted Convention 182 with the abolition of worst forms of child labour as its main purpose. The ILO's definition of worst forms of child labour includes work that is likely to jeopardise children's health and safety. This Convention, categorises all forms of slavery or practices similar to slavery; the use or procuring or offering of a child for prostitution, production of pornography or pornographic performances; the use or offering of a child for illicit activities especially for drug production and trafficking; and work which by its nature or the circumstances is likely to harm the health, safety and morals of children.<sup>49</sup> This Convention obliges Member States to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.<sup>50</sup> From 183 ILO

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<sup>48</sup> See above.

<sup>49</sup> Art 3.

<sup>50</sup> Art 1.

Member States, 173 have ratified this Convention and are under an obligation to take effective legislative measures to eliminate child labour.

#### **2.5.4 ILO DECLARATION ON FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK**

In 1998, the ILO adopted a Declaration on Fundamental Principles and Rights at Work. In terms of this Declaration, all ILO member states, even if they have not ratified the ILO Conventions, have an obligation to respect, to promote and to realise, in good faith and in accordance with the Constitution of the ILO, the principles concerning the fundamental rights, which are the subject of those Conventions. This Declaration expressly requires all ILO Member States to respect, promote and realise the core labour standards and this includes the abolition of child labour.

#### **2.5.5 PROTECTION AGAINST CHILD LABOUR UNDER REGIONAL LAW**

Regional human rights instruments were adapted to complement and reinforce the international Conventions protecting human rights. It has been suggested that these Conventions were likely to be more successful than their universal counterparts because the political and cultural homogeneity and shared judicial traditions and institutions within a region provide the confidence in the system necessary for effective implementation.<sup>51</sup> Accordingly, in the next section I deal with the elimination of child labour in the American, European as well as the African continent.

### **2.6 THE AMERICAN HUMAN RIGHTS SYSTEM**

The Organisation of American States (OAS) is the world's oldest regional organisation. It adopted an American Convention of Human Rights as an instrument protecting human rights for the Americas in 1969. It is largely concerned with political and civil rights and broadly follows the European Convention of Human Rights. Although this Convention contains general provisions concerning children's rights,<sup>52</sup> the Convention does not make any reference to children's rights to be protected from any exploitative

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<sup>51</sup> Maluwa *International Human Rights Norms and the South African Interim Constitution* (1994) 22.

<sup>52</sup> Art16.

labour. Thus at the American human rights system, there is no instrument which deals with child labour in the region.

## **2.7 THE EUROPEAN HUMAN RIGHTS SYSTEM**

The protection of rights in Europe is mainly achieved through two human rights instruments, namely the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter. However, the European Convention for the Protection of Human Rights and Fundamental Freedoms, which was adopted in 1950, does not specifically refer to children's rights.

Accordingly, in 1961, the European community adopted the European Social Charter, a regional instrument protecting social and economic rights, as an adjunct to the European Convention on Human Rights. Its article 7 regulates the employment of young people. It limits the minimum working age to 15 years. It also recognises the employment of children to do light work which does not harm their health, morals and education.<sup>53</sup> However, the charter expressly prohibits the employment of persons who are still subject to compulsory education as this would deprive them of the full benefit of their education<sup>54</sup>.

## **2.8 THE AFRICAN HUMAN RIGHTS SYSTEM**

The normative and institutional evolution of human rights and fundamental freedoms at the global level played a prominent role in encouraging the creation of regional human rights system. Africa became the third region in the world after Europe and the Americas, to establish its own intergovernmental system for the protection of human rights.<sup>55</sup> When the Organisation of African Unity (OAU) now the African Union (AU), was established in 1963 in Addis Ababa, Ethiopia, its founding Charter did not explicitly include human rights as part of its mandate. The OAU member states were only required to have 'due regard' for the human rights set out in the UDHR.<sup>56</sup>

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<sup>53</sup> *Ibid.*

<sup>54</sup> Art 7(3).

<sup>55</sup> Viljoen *African Commission on Human and People's Rights* (1996) 386.

<sup>56</sup> Art 2(1).

The ACHPR was adopted by the assembly of heads of states and governments of the Organisation of African Union (OAU) in 1981. The ACHPR, which is the major regional human rights instrument on the African continent, came into force in 1986. It draws from other human rights instruments, and recognises basic civil, political, economic and social rights. It is unfortunate that the charter does not expressly refer to children rights. However, it makes reference to civil and political rights and social and economic rights that children are entitled to such as the right to dignity<sup>57</sup> and education.<sup>58</sup> The Charter also prohibits all forms of exploitation and degradation of man particularly slavery, slave trade, torture, inhuman or degrading punishment or treatment.<sup>59</sup>

In 1990, the OUA adopted the African Charter on the Rights and Welfare of the Child (ACRWC) as a regional instrument, which specifically deals with children's rights. Article 15 of the African Charter on the Rights of a Child distinctively provides for a protection against child labour. It provides that "every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or interfere with the child's physical, mental, spiritual, moral and social development". Article 15(2) presents an obligation on State Parties to take all appropriate legislative and administrative measures to ensure full implementation of this article. The provisions of this article cover both formal as well as informal sector. However, it is left on States Parties to decide on the minimum age for admission in employment, appropriate regulation of hours and conditions of employment and also appropriate sanctions to ensure the effective enforcement of this article.<sup>60</sup> The Charter defines a child as any person below the age of 18 years.<sup>61</sup> South Africa is a member of the AU and has ratified this Charter.

## **2.9 THE LEGAL FRAMEWORK FOR INTERNATIONAL ACTION**

The main approach of the ILO has been to promote child labour standards and

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<sup>57</sup> Art 5.

<sup>58</sup> Art 17.

<sup>59</sup> Art 5.

<sup>60</sup> Art 15(2)(a-c).

<sup>61</sup> Art 2.

supervise their implementation in countries which had ratified the relevant Conventions.

Legislation in Member States prohibits certain types of work for children who have not attained the prescribed minimum age. However, more recently the approaching of the ILO has changed from an exclusive focus on the setting of norms to one based on technical assistance and cooperation.

These approaches are complementary and has proved to be effective in reducing child labour in the world to an extent.<sup>62</sup>

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<sup>62</sup> See ILO Global Report, 2002 para 223.



## CHAPTER 3

### THE PROHIBITION AND REGULATION OF CHILD LABOUR IN SOUTH AFRICA

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#### 3.1 INTRODUCTION

In South Africa, like in other developing countries, child labour is not a new concept. Child slavery in South Africa dates back to 1652 when Jan Van Riebeeck came to South Africa. Slaves were recruited from countries such as Mozambique, Angola, Madagascar, and South West Africa and children were among the imported slaves. Slave owners justified child slavery by suggesting benefits of work and its discipline for child development.<sup>63</sup>

Child labour is prohibited in virtually all countries, and yet it continues to burgeon. There is lack of statistics to establish the current prevalence of child labour in South Africa. The only available Survey on the Activities of Young People (SAYP) in South Africa was conducted in 1999 by the ILO and Statistics South Africa. According to the survey, approximately 2.6 million, which is 24.8 per cent, of all children (between 5-14 years) in South Africa are involved in economic activities, of which 1.7 are working without attending school. Agriculture is the most common child occupation.<sup>64</sup>

Thus, over 65 per cent of the working children are employed in the agricultural sector, 31.9 per cent are in services and 1.6 per cent are in the industrial sector.<sup>65</sup> It is possible that these figures might have increased over the past decade. According to COSATU, child labour is conspicuously prevalent in provinces such as Limpopo and Mpumalanga where children from Zimbabwe and Mozambique are recruited by the farmers particularly during the harvest season for a small payment.<sup>66</sup> Children generally start to work in an agricultural sector at a very young age, for long hours for a very little

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<sup>63</sup> Shell (1994) 76.

<sup>64</sup> ILO's International Programme on the Elimination of Child Labour (IPEC) 1999, 3.

<sup>65</sup> *Ibid* 4.

<sup>66</sup> COSATU 2002 17.

payment. Similarly, in agricultural work children are exposed to dangerous farming machinery that commonly causes fatal injuries to their wellbeing.

The problem of child labour is multidimensional and it is not the result of any single isolated factor. Thus, child labour is caused by many factors, some of which are social whereas others are economic and these factors are discussed below.

Firstly, poverty especially parental poverty is the main driver of child labour in South Africa as elsewhere in the world.<sup>67</sup> Due to poverty, parents are forced to push their children to the job market. For most parents, children are economic assets because their earnings substantiate to their family income. Hence many children work in order to provide financial assistance to their parents and other family members. In turn, child labour perpetuates poverty and compromises economic growth and development by keeping children of the poor out of school and limiting their prospects for upward social mobility. A child who supplies more labour and gets little education will grow up poorer and likewise this person's child will also be sent to work at an early age, thereby perpetuating child labour across generations.<sup>68</sup> Child labour should therefore be thought of as a dynastic trap.

In South Africa, the apartheid system which lasted for more than 46 years also advanced child labour as the discrimination suffered by parents led to low wages, unequal pay for equal work, lack of access to employment opportunities and rights, causing family poverty and in turn making children more vulnerable to exploitation. However, poverty should not be perceived as the only reason for the existence of child labour. There are other reasons connected to poverty such as unemployment and HIV/ AIDS.

Secondly, unemployment is also a reason for the persistence of child labour in South Africa. Generally, employment provides people with incomes that enable them to enhance their and their dependants' standard of living. Accordingly, the most important source of household income in South Africa is wage income representing

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<sup>67</sup> Nicolaou and Durieux 2005, 3; Bowman and Duncan 2008, 37; and Wright and Hall 2010, 63.

<sup>68</sup> ILO/IPEC-SIMPOC 2007, 29.

more than 50 per cent of household income in all households.<sup>69</sup> Adult's unemployment is also a vital reason for the existence of child labour in South Africa. It is estimated that approximately 4 364 000 people are unemployed in South Africa in the first quarter of 2011 as opposed to 4 137 000 in the last quarter of 2010.<sup>70</sup> Thus unemployment increased with 227 000. Poor families often rely on the labours of their children for survival and sometimes it is their only source of income. Hence children seek employment either because their parents are unemployed or their wages are low or inadequate. Child labour is also in turn, the cause of adult's unemployment since the employment of children reduces the volume of employment of adults and also lowers adults' workers bargaining powers.

Thirdly, child labour is cheap. It is also observed that employers throughout the world especially in informal sector, industries and agricultural sectors prefer employing children than their adult counterparts.<sup>71</sup> On the one hand, they emphasise that they employ children of the poor on humanitarian grounds, otherwise they would starve. On the contrary, it is argued that the maximisation of profit by employers explains the increase in employment of children. Employers prefer employing children because children accept low wages, and thus ensure industry viability. Children are the source of cheap labour and they can be easily exploited since they lack capability of organising themselves into trade unions.<sup>72</sup> Since profit is the main object, employers, do not hesitate exploiting child labour for their selfish ends. This is not an exception to South Africa.

Fourthly, HIV/AIDs pandemic is also a vital factor causing the high level of child labour in this country.<sup>73</sup> It is estimated that 5.41 million South Africans are living with HIV/AIDS of which 257 000 are children between 0-14 years. Approximately 950 HIV/AIDS-related deaths occur per day in South Africa.<sup>74</sup> The HIV/AIDS deaths have a close linkage with the prevalence of child labour in South Africa since HIV adds to the number of orphans who are accordingly expected to support and maintain

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<sup>69</sup> UNDP Report 2003, 74.

<sup>70</sup> Statssa 2011.

<sup>71</sup> Kitchlu 1996, 5.

<sup>72</sup> *Ibid.*

<sup>73</sup> Bowman and Duncan 2008, 37.

<sup>74</sup> Ingelozzi Management Solutions Report 2008, 10.

themselves. In turn, child labourers are mostly at risk of becoming HIV/AIDS infected since they are often working in situations where they are vulnerable to sexual abuse by adult co-workers.

## **3.2 RATIFIED CONVENTIONS**

### **3.2.1 MINIMUM AGE CONVENTION NO 138 OF 1973**

The International Labour Organisation's Minimum Age Convention, No 138 of 1973 was ratified by South Africa on 30 March 2000. This fundamental Convention sets the general minimum age for admission to employment or work at 15 years (13 years for light work) and the minimum age for hazardous work at 18 (16 under certain strict conditions). It provides for the possibility of initially setting the general minimum age at 14 years (12 years for light work) where the economy and educational facilities are insufficiently developed.

The Basic Conditions of Employment Act prohibits the employment of children below the age of 15 years. The South African Schools Act prohibits the engagement of children in economic work before they have reached the age of 15 years or have completed grade 9, whichever happens first.

### **3.2.2 SOUTH AFRICA AND THE WORST FORMS OF CHILD LABOUR CONVENTION NO 182 OF 1999**

The International Labour Organisation's Worst Forms of Child Labour Convention was ratified by South Africa on 7 June 2000.

This fundamental Convention defines as a "child" a person under 18 years of age. It requires ratifying states to eliminate the worst forms of child labour, including all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; child prostitution and pornography; using children for illicit activities, in particular for the production and trafficking of drugs; and work which is likely to harm the health, safety or morals of children. The Convention requires ratifying states to provide the necessary and

appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. It also requires states to ensure access to free basic education and, wherever possible and appropriate, vocational training for children removed from the worst forms of child labour.

In terms of this Convention South Africa must take urgent time-bound measures to eliminate the worst forms of child labour. This issue has become more urgent through the adoption by the International Labour Organisation of a global target to eradicate at least the worst forms by 2015.

### **3.2.3 SOUTH AFRICA AND AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD, 1990**

The African Charter on the Rights and Welfare of the Child, 1990. This Charter was ratified by South Africa in 2000. It supports other instruments by stating that government should promote information dissemination about the hazards of child labour. This applies to both the formal and informal sectors of the economy. The Charter emphasises the obligation of the child to assist his or her family.

### **3.2.4 UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANISED CRIME AND THE PROTOCOLS**

The United Nations Convention against Transnational Organised Crime was opened for signatures at a high-level conference in Palermo, Italy in December 2000. South Africa signed the Convention and its supplementary Protocols, that is, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Woman and Children, the Protocol against the smuggling of Migrants by Land, Sea and Air on 14 December 2000. The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, was signed on 14 October 2002.

On 20 February 2004, South Africa ratified the Convention and all three supplementary Protocols.

The Convention is the first legally binding UN instruments in the field of crime. It entered into force on 29 September 2003. States parties to the Convention and its

three supplementary Protocols are committed to taking measures against transnational organised crime. These include, amongst others, the creation of domestic criminal mechanisms to combat the problem of organised crime.

To give effect to South Africa's obligation to the UN Protocol on Trafficking in Persons, the Prevention and Combating of Trafficking in Persons Bill was tabled in Parliament in March 2010 for discussion. This Bill was subsequently enacted and signed 29 July 2013. The Act deals comprehensively with human trafficking in all its various forms and provides for the protection of and assistance to victims of trafficking. In addition, traffickers are prosecuted for offences such as kidnapping, assault and murder and may also be prosecuted for offences in terms of certain Acts, such as the Sexual Offences Act, the Immigration Act, the Basic Conditions of Employment Act and the Domestic Violence Act.

### **3.3 PROTECTION AGAINST CHILD LABOUR IN SOUTH AFRICAN LAW: THE LEGAL FRAMEWORK**

In South African, children are protected against exploitative labour and forced labour by the Constitution<sup>75</sup> and the Basic Conditions of Employment Act.

### **3.4 THE CONSTITUTION AND CHILD LABOUR**

The Constitution of South Africa<sup>76</sup> provides that children under the age of 18 have the right to be protected from work that is:

- exploitative, hazardous or otherwise inappropriate for their age;
- detrimental to their schooling; or
- detrimental to their social, physical, mental, spiritual or moral development.

The Child Labour Programme of Action (CLPA) adopted the following definition of "child labour", as based on the Constitution:

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<sup>75</sup> S 28(2)(e).

<sup>76</sup> S 28.

“work by children under 18 which is exploitative, hazardous, or otherwise inappropriate for their age, detrimental to their schooling, or their social, physical, mental, spiritual or moral development. The term ‘work’ is not limited to work for gain but includes chores or household activities in the child’s household, where such work is exploitative, hazardous, inappropriate for their age or detrimental to their development.”

The protection of children against exploitative labour was firstly acknowledged by the 1993<sup>77</sup> Constitution, which was later superseded by the 1996 Constitution. The aim of the 1996 Constitution as certified by the Constitutional Court was to “heal the divisions of the past and establish a society based on democratic values, social justice, and fundamental human rights” and to “lay the foundations for a democratic and open society” (Preamble). South Africa under the 1996 Constitution is a “democratic state” founded on “democratic values” including human dignity, the achievement of equality and the advancement of human rights and freedoms, non-racialism and non-sexism and the “supremacy of the Constitution” and the rule of law.<sup>78</sup>

On the other hand, the Bill of Rights<sup>79</sup> which affirms the democratic values of human dignity, equality and freedom, enshrines the rights of all people in our country.<sup>80</sup> It is no surprise that the Constitution of the Republic of South Africa included in its Bill of Rights a special section which protects children from any abuse, degradation and exploitative labour. Section 28 of the Constitution, which entrenches children rights provides that:

“every child has the right to be protected from exploitative labour practices and not to be required or permitted to perform work or provides services that are inappropriate for a person of that child’s age or place at risk the child’s wellbeing, education, physical, or mental health, spiritual, moral or social development”<sup>81</sup>

Children may also not be used directly in armed conflicts and are to be protected during armed conflicts.<sup>82</sup> The section further defined a ‘child’ as any person below 18 years. In emphasising the importance of children’s rights, the section provides that “a child’s

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<sup>77</sup> S 26.

<sup>78</sup> S 1(d) read with Preamble, ss 2, 7(1) and 195(1).

<sup>79</sup> Chap 2 of the Constitution.

<sup>80</sup> S 7(1).

<sup>81</sup> S 28(1)(f)(i) and (ii).

<sup>82</sup> S 28(1)(h)(i).

best interests are of paramount importance in every matter concerning the child”.<sup>83</sup> The provisions of section 28(e) and (f) are modelled around article 15 of the Children’s Charter.

### **3.5 THE BASIC CONDITIONS OF EMPLOYMENT ACT AND CHILD LABOUR**

The Basic Conditions of Employment Act which came into operation in March 1998 is the only labour legislation which prohibits child as well as forced labour. The Act dedicated the whole of Chapter 6 on the prohibition against the employment of children<sup>84</sup> and forced labour.<sup>85</sup>

Section 43 of the Act prohibits the employment of a child under the age of 15 years or who is under a minimum school leaving age, in terms of any law. The Act further prohibits the employment of child to do the work which is not appropriate for his or her age. Like the African charter on the Rights of a Child and the Constitution, the Act protects children from any employment which places a child’s well-being, education, physical and mental health or spiritual, moral or social development at risk. However, the minimum working age under Chapter 6 is 15 years of age and as a result employing a child under the age of 15 years is an offence.<sup>86</sup>

The entrenchment of section 28 of the Constitution and Chapter 6 of the Basic Conditions of Employment Act demonstrate South Africa’s concern for eradicating child labour. There are also other legislation such as the Sexual Offences and Related Matters Amendment Act (Act 32 of 2007) which protects children against children against sexual exploitation. South Africa also ratified the two ILO Conventions on child labour.

The Basic Conditions of Employment Act prohibits work by children if the child is:

- under 15 years old

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<sup>83</sup> S 28(2).

<sup>84</sup> S 43.

<sup>85</sup> S 48.

<sup>86</sup> S 44(2).



- under the minimum schooling-leaving age (where this is 15 years or older)
- who is over 15 years but under 18 years old, if the work:
  - is inappropriate for the age of the child or if the work places at risk the child's well-being, education, physical or mental health, or spiritual, moral or social development;
  - has been prohibited by the Minister of Labour through regulations.

The provisions dealing with the prohibition and regulation of child labour was extended in the Amendment Act to cover all work by children and not only work by children as employees in order to:

- achieve full compliance with South Africa's obligations under the relevant international labour standards;
- create consistency with the Constitution and other legislations protecting the rights of children; or
- a person who requires or permits a child to work commits an offence.

Section 83 gives the Minister of Labour the power to deem any category of persons to be employees for purposes of the Act. This power can be used to widen the scope of work considered unlawful. It is appropriate that the above prohibitions apply not only to employment of children, but also to non-employees who are detrimentally affected by the work that they do.

In terms of section 83A a person is presumed in certain circumstances to be an employee unless the contrary is proved. This should extend protection to children where their status as employee is disputed.

Section 46 of the Basic Conditions of Employment Act provides that it is a criminal offense to assist any person to require or permit a child to work in contravention of the Act, and to discriminate against persons who refuses to permit a child to work.

The Act is enforced primarily through Department of Labour inspectors. Key role-players, such as Department of Social Development, Health, Basic Education, Home

Affairs, Justice and the South African Police Services, play a crucial role in ensuring that the incidence of child labour is dealt with in a holistic manner.

### **3.6 REGULATIONS ON HAZARDOUS WORK BY CHILDREN**

South Africa has made regulations to protect the health and safety of child workers at work under both the Basic Conditions of Employment Act, 1997 and the Occupational Health and Safety Act, 1993.

The purpose of the regulations is to protect the health and safety of child workers who are lawfully entitled to work and prohibits categories of work which child workers may not perform. The regulations set conditions for the work that child workers may perform and identifies which categories of work constitute worst forms of child labour it covers all child worker and the work they perform and it provides guidelines on risk assessments and plans of safe work procedures regarding permitted work by child workers and make appropriate provisions for enforcement.

The regulations further list's prohibited work and work which constitutes worst forms of child labour as contemplated in the International Labour Organisation Convention.

### **3.7 CHILDREN IN PERFORMING ARTS**

Sectoral Determinations 10 allows for children under 15 years to be employed in artistic performances, but carefully regulates such participation through a permit system.

### **3.8 CHALLENGES AND PROSPECTS FOR (BETTER) PROTECTION AGAINST CHILD LABOUR IN SOUTH AFRICA**

Child labour is a serious challenge facing South Africa, like many other developing countries. Hence the South African government has entrenched a section in its Constitution on children rights and also prescribed a minimum working age by means of a section in legislation in its response to combating child labour.

Although child labour is prohibited in terms of the Constitution and labour legislation, in practice child labour still persists in South Africa. Insufficient legislative enforcement mechanism is also a reason for the persistence of child labour in this country. Therefore, strong enforcement mechanisms are required to enforce the laws which protect children against exploitative labour. For instance, it is noted that the prosecution of child labour cases especially in the farming sector is difficult for a number of reasons, the main difficulty being the number of sources from which evidence must be obtained in order to obtain a successful conviction. For example, affidavits are required from a child, the school and also a doctor certifying that a child is below 15 years of age. More often, by the time all these affidavits are collected, the child has been removed from the farm.<sup>87</sup> It is also alleged that police officers often provide information to the farmers who are to be raided for child labour. Accordingly, when the labour inspectors arrive at the farm, the children have already been removed.

Another obstacle in combating child labour is that there are few labour inspectors to inspect violation of labour legislation in South Africa. Accordingly, it is recommended that the Department of labour should hire enough inspectors to monitor the violation of the provisions protecting children against exploitative and forced labour. It is also imperative that government departments such as the department of labour, home affairs and agriculture work together in monitoring the persistence of child labour in South Africa.

Undoubtedly, providing education is key to the elimination of poverty which is the main cause of child labour. The government has been in the forefront in defending the rights of children through a number of initiatives and policies. Currently, the government is providing a free access to education which is a practical response to prevent child labour. Similarly, social grants and assistance are also made available to destitute families. However, the challenge that the government is faced with is that parents tend to utilize the child's grant funds for their own benefit and not for the benefit of its beneficiaries which are children and this defeat the whole purpose of the grant. The government has also dedicated a ministry on women, youth, children and people with

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<sup>87</sup> SAHRC 2003, 119.

disabilities to deal with problems and challenges affecting these groups that have been previously marginalised.

Indisputably, unemployment, poverty, lack of education, HIV/AIDS and lack of proper monitoring mechanisms are the reasons why child labour still exists and continue to do so in our societies.

## **CHAPTER 4**

### **ADDITIONAL STEPS TAKEN IN SOUTH AFRICA TO ALLEVIATE CHILD LABOUR**

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#### **4.1 CHILD LABOUR PROGRAMME OF ACTION (CLPA)**

The CLPA is South Africa's roadmap towards the prevention, reduction and eventual elimination of child labour which affects an estimated one million children in the country. The CLPA serves to focus and guide the efforts of a number of government departments and civil society groups, including business organisations, labour federations and organisations serving the interest of these children.

The CLPA was first adopted in 2003 after extensive consultation within government, with a wide range of organisations outside government and with groups of teenage children involved in different forms of child labour. It sets out specific actions to be taken and assigns responsibility for these actions. As the lead department, the Department of Labour (DOL) must co-ordinate and monitor these steps.

Since the first adoption of the CLPA in 2003 significant progress has been made. There has been significant expansion of measures to retrieve household poverty which is the main driver of child labour. Legislation to address child labour has been strengthened substantially. The Children's Act as amended in 2007 deals explicitly with child trafficking, children used by adults to commit crime (CUBAC) and the commercial sexual exploitation of children. It also reinforces the provisions on forced labour in the Basic Conditions of Employment Act.

The second phase of the CLPA, adopted by Cabinet on 4 February 2009 covers the financial years 2008/2009 to 2012/2013 and represents South Africa's proposed actions enabling it to reach the 2015 target for eradication of the worst forms of child labour (WFCL).

This programme was drafted in compliance with South Africa's Constitution, the Basic Conditions of Employment Act, 1997 and South Africa's obligation in terms of international instruments such as the International Labour Organisation's Convention on Worst Forms of Child Labour and the UN Convention on the Rights of the Child 1989.

The CLPA identifies a wide range of activities falling within the mandates of a wide range of government departments and agencies. For each activity, the CLPA identifies the lead department as well as other departments and agencies, including non-government ones, which would be involved and form part of government policy.

Key elements of the CLPA are:

- targeting the implementation of government and other stakeholders' programmes and policies on poverty, employment, labour and social matters more effectively in areas where the work children do, has serious negative effects on them;
- promoting new legislative measures against WFCL;
- strengthening of national capacity to enforce legislative measures;
- increasing public awareness and social mobilization against WFCL.

The CLPA includes a core set of indicators for monitoring the programme and sets child labour targets, which relate to reducing key vulnerabilities in children that will impact on child labour, reducing the number of children falling within specific categories of child labour, and increasing specific steps by government to address the problems of child labour.

The implementation of the CLPA is coordinated by the Implementation Committee (IC) with representatives from government departments, organised business and labour and civil society.

The CLPA adopted by Cabinet requires that a report be submitted to Cabinet on progress made.

The reports, adopted by Cabinet in September 2012, noted that the government has performed relatively well in the areas of awareness raising, training, development of materials as well as the improvement of legislation.

It further revealed that special attention should be given where little progress has been reported and the main emphasis in the revision and updating of the CLPA should be placed on determining the reasons for non-completing of existing steps, amendment of steps where there are good reasons for doing so and improvement of monitoring to ensure that progress is made on non-completed steps.

The 3<sup>rd</sup> phase of the CLPA covered the period April 2013 to March 2016 and focusses on service delivery and implementation. The revision of the CLPA aimed to come up with a set of action steps that:

- are achievable within the period mentioned above;
- will make a positive difference for children engaged, or at risk of being engaged, in child labour;
- prioritise according to the seriousness of the issue being addressed and the likely impact of the action step.

The annual report submitted to the Minister in April 2017 showed that main departments as well as the department of labour have made progress on their action steps in order to reach their goals.

In September “a summit of state heads adopted the Sustainable Development Goals (SDGs) which will frame the global development agenda for the next 15 years”. One of the seventeen goals (goal 8) calls for the promotion of sustainable economic growth, full and productive employment.

A specific target 8.7 under this goal calls for effective measures to end forced labour, modern slavery, human trafficking and child labour in all its forms, including the worst forms of child labour.

The ILO has therefore proposed that all interested parties come together through a multi-stakeholder “Alliance 8.7”.<sup>88</sup>

## **4.2 CHILD LABOUR INTER-SECTORAL GROUP (CLIG) STRUCTURES**

In 1998, the Directorate Employment Standards facilitated the formation of the Child Labour Inter-sectoral Group (CLIG). In the provinces, a body consisting of key government departments, non-governmental organisations and employers’ and employers’ organisations.

Department of Labour’s purpose at these meetings will be:

- to ensure synergy in the implementation of CLPA and other government initiatives
- to facilitate the process of eliminating the most hazardous forms of child labour, with the long-term goal of eliminating all forms of child labour.
- co-ordinate policies and programmes in working towards eliminating child labour
- create awareness and ensure the mainstream of children’s issues specifically CLPA matters in the broader awareness creation strategies of these structures
- monitor progress on the elimination of child labour

## **4.3 ACCEPTABLE HOUSEHOLD CHORES**

As pointed out above in the BCEA<sup>89</sup> prohibits the engagement of children in activities classified as child labour, as they are considered to be harmful to children. In contrast, the CLPA recognizes that certain types of work such as household chores and fetching of water could be beneficial to children.<sup>90</sup>

The BCEA and the regulations published in terms of the BCEA provide for the conditions under which children may work. Section 43 of the BCEA fixes minimum age for employment at 15 years or the minimum school-going age and prohibits

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<sup>88</sup> This Alliance 8.7 renewed South Africa’s commitment to eradicate all forms of child labour. The fourth phase of the CLPA therefore covers the period April 2017 to March 2021.

<sup>89</sup> S 43.

<sup>90</sup> ...



employment that is “inappropriate for a person of that age” or that “places at risk the child’s well-being, education, physical or mental health, or spiritual, moral or social development”. Sections 44 and 45 of the BCEA and the regulations define the kind of work that can be undertaken by children older than 15 years. The regulations and section 141 of the Children’s Act<sup>91</sup> prohibit the employment of children in many activities considered hazardous and worst forms of child labour.

If an activity falls outside the boundaries of child labour as per the definition, performing such an activity is not expressly prohibited by the law and could, be considered as being acceptable. However, as recognized by the CLPA, “even activities that would be wholesome if done in moderation can become problematic when they interfere with child’s development”.

Children’s activities that are not prohibited by the law may nonetheless be harmful to them for a number of reasons, for instance because it involves long hours of work, interferes with schooling or affects academic performance, or has potentially negative incidence on the health or safety of the child. This would be the case, for instance, when children spend many hour or walk long distances to fetch fuel or water, or when they are made to carry out excessive chores at home.

The difference between acceptable work for children and child labour is not always clear-cut. Although household chores are usually considered non-threatening by most parents and society, it may be a strong deterrent to educational activities and the optimal development of a child. The Guidelines on Acceptable Household Chores developed by the Department of Labour and social partners ensure that a distinction is made.

#### **4.4 PUBLIC AWARENESS OF CHILD LABOUR**

In May 2010 South Africa became a signatory to the ILO Roadmap towards the Elimination of the Worst Forms of Child Labour by 2016. The raising of public

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<sup>91</sup> ...

awareness is done on a continuous basis and the Department of Labour has committed itself to commemorate a National Day Against Child Labour on an annual basis to:

- serve as a platform to highlight the problem of child labour;
- advocate collective efforts to curb this challenge;
- demonstrate the Department of Labour's commitment towards the eradication of the worst forms of child labour in South Africa; and
- demonstrate the commitment of the Department of Labour to the roadmap.

The first National Day was commemorated on April 2011 thereafter it was commemorated annually in a different province:

- 2012 in Mpumulanga
- 2013 in Limpopo
- 2014 in Northern Cape
- 2015 in KwaZulu – Natal
- 2016 in Gauteng
- 2017 in Eastern Cape
- 2018 in the Free State Province.

#### **4.5 NATIONAL DAY AGAINST CHILD LABOUR**

The National Day Against Child Labour is one of the highlights in the calendar of the Department of Labour and is used to mobilize employers, trade unions and community members to be vigilant against the use of child labour in South Africa. The Minister of Labour normally delivers the key-note address and business and trade-union leaders as well as the chairperson of the Employment Conditions Commission<sup>92</sup> pledge their support to eradicating child labour in South Africa.

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<sup>92</sup> This Commission has been replaced by the Minimum Wage Commission with effect from January 2019.

## **4.6 POVERTY ALLEVIATION**

In South Africa the state has adopted a comprehensive approach to eradicating extreme poverty and hunger. The Child Support Grant (CSG), Foster Child Grant, Care Dependency Grant Disability Grant and the Old Age Pension are provided on application through the South African Social Security Agency. The Integrated Community Registration Outreach Programme aims to promote accessibility of grants by eligible beneficiaries in remote areas.

The integrated Nutritional Project includes feeding schemes provided by provinces whilst NGO's are subsidized by provincial DSD to run feeding schemes. The Social Relief of Distress grant provides for those not covered by other measures. The National School Nutrition Programme has been rolled out to more than 80% of schools to ensure that children are not hungry at school. For those who are very poor, food parcels are provided to take home. The programme is monitored to ensure that schools adhere to requirements in terms of the food that should be provided to learners. The no-fee school policy was extended to poor learners nationally, 8 170 361 learners in 24 541 no fee schools.

Expansion of water and electricity infrastructure also assisted in alleviating the burden of water and wood fetching in some parts of the country. A great deal still needs to be done, including the maintenance of existing infrastructure. All these measures contribute to the decline of necessity of child labour in South Africa. As a result of corruption and poor administration these measures had not achieved their intention in many instances. However with the renewed urgency to remove corruption I remain hopeful that the social-assistance benefit which contribute to the reduction of child labour will be distributed more effectively.

Free basic services like water and electricity are available in most areas to the poor. Access to HIV and AIDS treatment has reduced mother to child transmission and have assisted to prolong the life of parents who are infected.

## 4.7 SETTING UP A DATABASE AND CONTINUED RESEARCH

In order to collect reliable and credible statistics on child work in the country, the Department of Labour commissioned Statistics South Africa in 1999, to conduct a national household-based survey; the *Survey on the Activities of Young People* (SAYP). This survey and the policy development process that followed were conducted with financial and other support procured by the ILO.<sup>93</sup>

The SAYP conducted by Statistics South Africa (StatsSA), was the first survey of this kind in South Africa. The official SAYP reports were released in October 2002 and provide a national quantitative picture of child labour in the country. They also illustrate the different categories of working children who are most in need or who are at the greatest risk.

In March 2006, StatsSA conducted the *Labour Force Survey* (LFS) which included a special module on children's work-related activities in its regular six-monthly labour force survey, based on a questionnaire addressed to all children aged 10 years and above in selected households. The standard questions related to economic activity were also directed at all household members aged 10 years and above. The LFS accordingly contains newer statistics on child labour.

Limited new data became available from March 2006 LFS and in various ways differed from the SAYP. Firstly, the age group covered was 10 years to 17 years of age rather than 5 years to 17 years of age covered by the SAYP. Secondly, because this was an add-on module, it included very few questions, compared to the SAYP. Thirdly, because it was not a dedicated survey and covered many other topics, fieldworkers did not receive the same intensive training on the child-related work aspects as they had for the SAYP. Fourthly, in many cases another member of the household rather than the child concerned was asked about activities performed. Fifthly, the LFS does not make a distinction between four types of settlement areas used for the SAYP, namely urban formal, urban informal, commercial farming, and deep rural (mostly ex-homeland).

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<sup>93</sup> ...

For these and other reasons, the LFS shows much lower rates of children's engagement in work-related activities than the SAYP did. It does not seem possible that the actual situation has improved to this significant extent over the seven years, suggesting that the LFS did not capture all children's work-related activities. There might also, however, have been some aspects of the SAYP that tended to bias estimates upwards.

The following are the key findings contained in the SAYP and the LFS:

- In the SAYP, about 1 in every 31 children (3% or 0.4 million) was found to be doing economic activity (excluding fetching wood and water) for twelve or more hours. Boys were more likely than girls to be doing economic work.
- The LFS found that 25% of all children ages 10-17 were doing some form of work when using the lower cut-offs. In absolute terms, 2 million of the 8.1 million children in this age group were doing this work. Girls (28%) were noticeably more likely than boys (23%) to be doing some forms of work, and children ages 15 to 17 years of age (28%) noticeably more likely than those aged 10 to 15 years of age (23%). African children, at 28%, were more likely than those of other race groups to be doing work. These comparative patterns were also found in the SAYP, although at much higher levels.
- Of the children reported to be engaged in economic activities in the SAYP, 59% said they were working because they had a duty to help their family, and a further 15% said they worked to assist the family with money. The only other significant reason – accounting for 16% of working children – was for pocket money. Adults shared the same view as to why children were engaged in economic activities.
- In the LFS of March 2006, a duty to help family again emerges clearly as the most common reason, as 65% of all children offered it. This reason was, however, offered less often in respect of 16 to 17 year olds, perhaps reflecting their engagement in a wider range of economic activities. The pattern among the older children is compensated for by the fact that earning money to assist the family

was more common for 16 to 17 year old's than for younger children. The second most common reason offered for working was, as in the SAYP, to earn pocket money for buying non-essentials. This reason was given in respect of nearly two-fifths (18%) of working children, with similar levels across all the sub-groups. Overall, most children appear to have been working as a result of economic need.

- If all the hours worked by a child per week was taken into consideration - adding time spent on economic activities to that spent on non-economic work activities - children working sixteen hours or more a week were more likely to have missed school days than those working fewer hours.

In 2010, StatsSA conducted a second Survey of Activities of Young People (SAYP) as an add-on to the Quarterly Labour Force Survey (QLFS). The first stage of this survey involved identifying households with children aged 7 to 17 years of age during the QLFS data collection that took place in the third quarter of 2010. The second stage involved a follow-up interview with children in those households to establish what kind of activities they were involved in.

Overall 784 000 children were revealed by the SAYP as being vulnerable on at least one of the indicators. This is slightly less than the 847 000 found in this position in 2006 despite the expanded age group covered by the SAYP (the 2006 survey covered the age group 10-17 years). Girls were more likely than boys to be affected in 2010. This is different to 2006 when there was little gender difference. As in 2006, children aged between 10 years to 15 years of age were more likely to be child labour.

Overall:

- 116 000 (93 000 in 2006) children appeared to be doing work prohibited by the BCEA.
- 431 000 (383 000 in 2006) appeared to be working excessive hours for their age when all types of work were combined.
- For 110 000 (108 000 in 2006) there were indications that school enrolment was affected by work.

- 36 000 (57 000 in 2006) children appeared to have been absent from school because of work-related activities.
- 290 000 children reported having been injured at work or exposed to hazardous conditions. In 2006, 183 000 children reported having been injured while working, but there was not a question on hazardous conditions.

The 2010 questionnaire did not include questions allowing assessment of whether children had difficulties at school beyond attendance that appeared to be related to work-related activities. The SAYP included a question on difficulties with schooling, but did not ask if these were the result of work-related activities. This was found to be the case for 268 000 children in 2006. The absence of this group of children could account for at least some of the difference between findings in 2006 and 2010.

#### **4.8 SURVEY OF ACTIVITIES OF YOUNG PEOPLE (SAYP) 2015**

In 2014 the SAYP embarked on a further study concerning child labour. The survey results were released on 16 March 2017 with the following results in terms of child labour:

- Of the 1.12 million South African children between ages 7 years and 17 years of age, 577 000 were involved in child labour in 2015. This figure is down from the 779 000 children in 2010.
- About 81 000 of the children involved in child labour appeared to be doing work prohibited by the Basic Conditions of Employment Act.
- In 2015 more boys were engaged in economic activity (22.3%) compared with girls (20.9%). Both sexes accordingly experienced decreases with the largest among girls at 3.6%.
- Many of the children involved in child labour were between the ages of 16 years and 17 years of age which is compliant with section 43 of the Basic Conditions of Employment Act.

## **4.9 CONCLUSION**

When the statistics of child labour and child work are considered, it is apparent that, unlike some other developing countries, South Africa has shown a significant decline in children involved in child labour. This is a positive trend and from the statistics it appears to be continuing.

It is submitted that the increasing reach of social-assistance legislation in recent years has contributed significantly to the decline in child labour. But the process must continue, until child labour in South Africa is completely eradicated.



## **CHAPTER 5**

### **CONCLUSION**

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Every child has the right to enjoy his or her childhood under the care of his or her parents or caregivers. The freedom of childhood includes the freedom not to be subjected to child labour. Depending on the age of the child a child may perform child work in the form of assisting with household chores. These chores should not be excessive, and too time-consuming and be age-appropriate.

The Constitution of South Africa prohibits child labour in section 28. National legislation in the form of the BCEA prohibits child labour in section 43.

In countries like South Africa where unemployment and poverty are rife there is an increased risk of child labour. Children are vulnerable and the most exploited of all labour groups. The low cost of child labour gives employers a competitive advantage in the labour market and may expose children to abuse. Continued and widespread vigilance is accordingly required in a given society to detect and act against the use of child labour.

In South Africa this vigilance is apparent, and society collectively portrays a general abhorrence against child labour. Child labour is accordingly apparent not in cities and towns but in the agricultural sector where detection is less apparent.

The reasons for child labour are poverty and unemployment. Therefore, although frowned upon in many instances child labour is resorted to in a particular household out of sheer necessity.

In this regard the state has the obligation to adopt and enhance mechanisms and strategies for poverty eradication. It was indicated that in this study that the South African state has embarked on a strategy of increasing social assistance measures with positive results. In a depressed economic climate improving social-assistance mechanisms is not always possible. The social-security measures have been

introduced. However, the efficiency and eradication of corruption in the system needs to be addressed.

By involving several state departments the CPLA, an integrated system of prevention child labour and eradication of child labour and has proved to be successful in South Africa. This incentive needs to be continued with vigour. The inspectorate of the Department of Labour also needs to remain vigilant and take steps to increase inspections in the informal sector and on farms where child labour is most apparent.

Teachers also have a role to play in the detection of child labour.

What became clear in the treatise is that child labour is not only a family concern, but also an issue which calls for international focus and interventions. International, regional and domestic laws have been adopted to protect children against exploitation in the form of child labour.

If child labour is to be jettisoned from the global economy, improved and effective enforcement mechanisms are required at international, regional and national level.

South Africa can increasingly be an example of good practice in this regard.

## BIBLIOGRAPHY

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### REFERENCES

Al-Gamal, E; Hamdan-Mansour, AM; Matrouk, R & Nawaiseh, MA “The Psychosocial Impact of Child Labour in Jordan: A National Study” 2013 48(6) *International Journal of Psychology* 1156-1164

Bourdillon, M “Children and Work: A Review of Current Literature and Debates” 2006 37(6) *Development & Change*, 1201-1226

Bowman, B and Duncan, N “Educational Aspirations, Child Labour Imperatives and Structural Inequality in the South African Agricultural Sector 2008 26(3) *Perspective in Education* 29-43

Cooper, DR and Schindler, PS *Business Research Methods* 12<sup>th</sup> ed (2014) Boston, MA: Irwin/McGraw-Hill

Cullen, H “Child Labour Standards: From Treaties to Labels” in Weston (ed) *Child Labour and Human Rights: Making Children Matter* (2005) Boulder, CO and London: Lynne Rienner

Government of South Africa (1994) Reconstruction and Development: White Paper Ministry in the Office of the President

Grugel, J “Children’s Rights and Children’s Welfare after the Convention on the Rights of the Child” 2013 13(1) *Progress In Development Studies* 19-30

Human Rights 2009 *South Africa Country Review* 32-34

International Labour Organisation *ILO World Report on Child Labour 2015: Paving the Way to Decent Work for Young People*

Laborda Castillo, L and Sotelsek Salem, D “Does Globalization Contribute to Decreasing Child Labour Rates?” 2016 (44) *Revista De Economía Mundial* 127-151

Meyers, WE “Can Children’s Work and Education be Reconciled” 2001 2(3) *International Journal of Educational Policy, Research and Practice*

Mokate, L and Morgan, R “Children and Development: Pursuing Policy Priority in the New South Africa” 1996 8(6) *Journal of International Development* 841-847

United Nations Children’s Fund (UNICEF) (1997) *The State of the World’s Children* New York: Oxford University Press

Yin, RK *Applications of Case Study Research* 06/2011 3<sup>rd</sup> ed Sage Publications Inc, VitalBook File