Child Labour in South Africa: Multiple Vulnerabilities

"Work which is suitable for a strong man cannot reasonably be required from a woman or a child… And in regard to children, great care should be taken not to place them in workshops and factories until their bodies and minds are sufficiently mature. For just as rough weather destroys the buds of spring, so too early an experience of life's hard work blights the promise of a child's powers and makes real education impossible".

Pope Leo XIII “Rerum Novarum”

"Child Labour has serious consequences that stay with the individual and with society far longer than the years of childhood. Young workers not only face dangerous working conditions. They face long term physical, intellectual and emotional stress. They face an adulthood of unemployment and illiteracy".

United Nations Secretary-General Kofi Annan

1. Introduction

The recent conference on child labour organized by the movement “Reducing Exploitative Child Labour in Southern Africa” (RECLISA), has brought the issue of child labour to the fore. Child labour clearly illustrates the multiple vulnerabilities of children in terms of their reasons for working, the work they perform, the conditions in which they work, and the socio-economic and psychosocial consequences of their work. The work done by children is often invisible and therefore it is easy to overlook. A report issued by the International Labour Organization in 1998 spoke of an 'invisible' army of child labourers in Africa, and warned that, should the prevailing economic and social trends persist, the number of working children would continue to


escalate. This has indeed been the case. A recent report estimated that there are between 248,000 and 3 million children engaged in exploitative labour in South Africa.

2. The History of Child Labour

Historically slavery, forced labour, debt bondage and domestic servitude have been the lot of countless children. The use of the young as workers in factories, on farms and in mines was first recognized as a social problem with the introduction of the factory system in late 18th century Britain. Child labour in South Africa was predicated on the exploitation of both race and class and the regulation of child labour was largely absent. The photographer Peter Magubane took powerful photographs of child labourers during the apartheid era – instances of children, some as young as four, working on farms, shovelling coal in the coal yards of Soweto, and carrying heavy loads as shop assistants and delivery boys. These photographs did much to expose the shocking reality of child labour.

In 1992 the International Labour Organisation established the International Programme for the Elimination of Child Labour (IPEC). Convention 182 of the ILO, adopted in 1999, set out to eliminate the worst forms of child labour. South Africa is one of 160 states that have acceded to this Convention. The worst forms of child labour include trafficking, debt bondage and forced labour, the use of children in pornography and prostitution, the peddling of drugs, dangerous work in mines, quarries, agriculture and manufacturing, and any type of work that may be harmful to the health, safety or morals of a child. There is an attempt on behalf of the international community to put safeguards in place to protect children and to provide tools for the evaluation of the circumstances of children at work.

The Basic Conditions of Employment Act 75 of 1997 specifically prohibits the employment of a child younger than 15 or who is under the minimum school-leaving age. Furthermore, no person may employ a child to perform work that is inappropriate for a person of that age and/or that places at risk the child's well-being, education, physical or mental health, or spiritual, moral or social development.

The 'Survey of Activities of Young People in South Africa', conducted in 1999, used three indicators to analyse child labour: the type of activity; the hours spent engaged in these activities; and working conditions that are dangerous or hazardous. These can provide useful criteria for examining and evaluating which types of work or labour can be considered exploitative, hazardous and dangerous for children.

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4 This research was conducted by Khulisa Management Services and presented as a research paper to the Reducing Exploitative Child Labour in South Africa Conference by Helene Aiello, 2nd August 2006. The lower figure refers to children working full-time, while the higher figure refers to children who work up to three hours a day, often engaged in domestic tasks.
6 The compulsory school-going age is currently from 7-15 years. Parents or caregivers are committing a criminal offence if they do not allow their children to attend school.
7 Section 43 of the Basic Conditions of Employment Act No.75, 1997.
The recently enacted Children's Act 38 of 2005 defines 'child labour' as work by a child which is "exploitative, hazardous or otherwise inappropriate for a person of that age; and places at risk the child's well-being, education, physical or mental health, or spiritual, moral, emotional or social development". Furthermore, the Act incorporates the Hague Convention on Human Trafficking.

The regulation of child labour is dealt with more specifically in that part of the Children's Bill which has not yet been enacted. In terms of article 141 of the Bill, the worst forms of child labour are prohibited. No person may employ a child under the age of 15; use, procure, offer or employ a child for the purposes of commercial sexual exploitation or illicit activities including drug production and trafficking; force a child to perform labour; or encourage, induce, force or allow a child to perform labour in circumstances that may be harmful to the health, safety or morals of a child; or which may compromise the child's well-being, education, physical or mental health and spiritual, moral, or social development. The focus, thus, is on exploitative and/or harmful labour practices.

However, subject to the provisions of the Basic Conditions of Employment Act, the Bill provides for the performance of labour by a child in an advertisement or in a sporting, cultural or theatrical event, as long as the child's participation does not place the child's well-being, education, physical or mental health, spiritual, moral or social development at risk. Furthermore, work that is designed to promote personal development, community responsibility and vocational training, and which takes place in terms of the Non-Profit Organisations Act 71 of 1997 is permitted. Children between the ages of 15 and 17 may be employed for light work as long as it does not interfere with their schooling.

3. What is Child Labour?

In terms of the above definitions there is a clear distinction between exploitative labour practices and work that is undertaken as part of domestic, social and civic responsibility or as part of cultural activities. IPEC's definition of domestic labour specifically excludes domestic work within home.8

Child labour, therefore, is work undertaken by children which is beyond their physical capacity and under conditions that threaten their health, safety and development. Work can contribute positively to a child's development and nurture skills that are of benefit both to the child and the community. It is important that there is a balance between normal family obligations, which teach responsibility, and those which give rise to exploitation and abuse. Edmunds posits the question 'what should children be doing rather than working?'9 The answer is that children should be attending school, playing, participating in sporting and other activities appropriate to the age and ability of the child concerned, and living in circumstances in which the appropriate psycho-social development can take place. Simply put, children have a right to a childhood. The Children's Charter of South Africa states "all children have the right to be

8 Exploitative domestic labour is discussed below.
protected from child labour and any other economic exploitation which endangers a child's mental, physical, or psychological health and interferes with his/her education so that he/she can develop properly and enjoy childhood”.

Research conducted by the ILO in 1998 found that, although child labour occurs everywhere in the world, it is primarily a phenomenon of the developing world and that Africa has the highest incidence of child labour internationally. These numbers were expected to rise with the advance and devastation of the HIV/AIDS pandemic. A recent ILO report estimates that 26% or 50 million children work in sub-Saharan Africa. The report of the National Child Labour Programme states that "HIV/AIDS can impact on child labour through two routes, either through its effect on households and communities, raising the probability of a child becoming a child labourer, or by raising the risks associated with child labour in general and sexual exploitation specifically.”

4. Where do Children Work?

Children work in a wide variety of social and economic settings where they are vulnerable to exploitation, physical and verbal abuse, and harmful working conditions. Some children start full time work at an early age; have excessive working hours; work in dangerous and harmful working conditions; and are badly paid. Children are rendered particularly vulnerable to exploitation and/or exposure to unacceptable risk due to their physical size, incomplete physical development, lack of experience, gullibility and lack of judgment, and the desperation of their immediate circumstances. Children are easier to control and dominate than adults and have little knowledge of their rights.

Notwithstanding the foregoing, some children may be required to work because of the extreme poverty of their socio-economic circumstances. In many cases there is a genuine and urgent economic imperative. In economic terms, the supply of child labour "is determined by the marginal utility of consumption rather than the relative return to educational investments". Parents having to deal with pressing poverty must weigh the value of a child's time in work against other things the child might be doing.

Poverty also renders the regulation of child labour difficult. Since many poor children work in the informal, unregulated and sometimes illegal sectors of the economy, documenting and researching the phenomenon is difficult; consequently, the number of working children may be underestimated. For example, there are only limited statistics available on the extent of child labour on South African farms. The most recent survey regarding child labour on commercial farms estimates that there are

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10 The Children’s Charter of South Africa was adopted by the Children’s Summit of South Africa on 1st June 1992.
14 World of Work, No.23, February 1998.
approximately 60 000 children working in the agricultural sector.¹⁶ In many countries, child labour is an overwhelmingly rural phenomenon.

The National Child Labour Programme advocates the drawing up of guidelines for the kinds of farm work that are appropriate for children. These guidelines would be relevant to children involved in commercial agriculture as well as subsistence farming. Collecting wood for fuel and carrying of water, perhaps the most common forms of rural child labour can be regarded as exploitative if they interfere with the child's schooling or are beyond the physical strength of the child. In commercial agriculture children may be exposed to dangerous machinery, harmful chemicals and adverse weather conditions.

Inspectors from the Department of Labour found that children as young as six were forced to work on the citrus and sugar plantations of Mpumalanga, earning as little as R2.08 per day, working from dawn to dusk. Many of these children were from impoverished areas of Mozambique and were in South Africa illegally.¹⁷ This proves, once again, that child labour on farms takes place in an extremely vulnerable sector.

The use of children in domestic labour outside their own homes appears to be on the increase. Research conducted in Zambia in 2000 found that child domestic labour is one of the ways that families cope with poverty.¹⁸ Although both boy and girl children may be engaged in domestic labour it primarily involves the latter. Children working as domestic servants are usually paid little if anything; often their only remuneration is food and lodging. They may be separated from their families for long periods of time, are socially isolated and in some instances confined. They become withdrawn, depressed and have little self-esteem, and they may also be subject to verbal and physical abuse.

Another type of domestic labour occurs when older children are kept from school in order to supervise younger children, thus freeing adults to work.

The advent of child-headed households, where an older sibling becomes the primary caregiver to younger siblings, means that many such children perform considerable amounts of domestic labour. These domestic responsibilities include cooking, laundry, cleaning, shopping, and the supervision of homework. In rural areas these tasks may include the fetching of water and the collection of firewood. The extent of these responsibilities is onerous and frequently compromises the school attendance of the child heading the household. Orphaned and vulnerable children living in child-headed households are undeniably part of the present and future South African reality, and there is an urgent need for policies and programmes to be put in place to assist these families.

The issue of child-headed households and the support needed for this vulnerable sector is addressed in section 136 of the Children’s Amendment Bill currently before Parliament. While the focus of this relief is primarily financial, the right of these children to social services is asserted. However, provision for other social support

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services such as home visits from social workers, health care and community workers is not spelt out. The child heading a household is shouldering adult responsibilities prematurely and would benefit from skills training in terms of parenting skills, budgeting, planning of meals and so on. Orphaned children would greatly benefit from bereavement counselling and other psychosocial interventions.

Increasingly children are being used by criminals in the commission of crimes - the so-called 'Cubac' phenomenon. Not only is this a form of child labour, it also brings children into conflict with the law and threatens their future in the most profound ways. The same can be said of children, both male and female, who are used as prostitutes and in the production of pornography. These children, it hardly needs to be said, are subject to many types of physical and emotional trauma, violence and abuse.

5. Conclusion

Child labour is a complicated issue with many nuances, where the lines between reasonable work and exploitation, legality and illegality, necessity and avarice are easily blurred, and where the needs and rights of children are routinely overlooked and compromised.

There is a clear economic incentive for the employment of children, poverty being the primary cause of child labour. "Most children work because their families are poor and their labour is necessary for their survival". Crime, trafficking, prostitution and pornography – the gross, opportunistic exploitation of children and families in distress – are, unfortunately, ever-present threats to the physical and moral integrity of our children.

International law, recognising the contribution of child labour to the income of an impoverished family, does not prohibit child labour outright. Rather, the international treaties and conventions provide for the regulation of child labour, stipulate the conditions under which a child may work, and set a minimum age for employment. Furthermore, "children, who work do not give up the basic human rights that all children are guaranteed; in particular, they continue to enjoy the right to education."

Child labour plays an important role in the intergenerational transmission of poverty. It perpetuates poverty in that children whose schooling has been compromised by working are likely to grow up to be unskilled labourers trapped in badly paying positions.

Social and economic measures to combat and contain the use of child labour include:
- the limiting of employment opportunities available to children;
- the undermining of the economic advantages of employing children to maximize profit;
- the introduction of a minimum wage for all workers;
- the maximising of adult employment;

19 This recently coined acronym stands for Children Used by Adults to Commit Crime.
20 Study conducted by the Community Law Centre, UWC, 2006.
- the provision of free and compulsory education;\textsuperscript{23}
- the regulation of the agricultural sector;
- 'learn and earn' where children attend school while at the same time working in regulated employment to supplement the family income;
- educating children about their rights;
- the extension of the child support grant to children between 15 and 18;\textsuperscript{24}
- regular inspections of businesses to ensure compliance with the Basic Conditions of Employment Act and the forthcoming Children's Amendment Bill;
- the enforcement of anti-trafficking legislation.

It is not enough to ban child labour without putting in place effective poverty-alleviation programmes. Professor Edmunds remarks: "Most child labour policy is directed at trying to get kids into unemployment, but if households are already in a situation where they don't want their children to be working, but they're forced to because of their circumstances, taking additional steps to prevent the kids from working is punishing the poorest for being poor".\textsuperscript{25} If there are circumstances which require a child to work this work must be regulated, not endanger the child's health or safety, and interrupt the child's schooling as little as possible. "Actions designed to prohibit child labour directly may impose costs on the poorest parents rather than the most callous and could, in the end, serve to exacerbate child labour and worsen schooling".\textsuperscript{26}

Attempting to ban child labour without addressing the social and economic conditions which give rise to it could push desperate children into even more perilous and dangerous situations such as prostitution, pornography and criminal activity. There is a need to evaluate whether attempts to eliminate the need for children to work are achieving that goal and bettering the lives of children, or whether we are simply forcing them into less desirable and even more dangerous jobs. Ultimately though, working children are invisible and as long as they remain so we run the risk of allowing their illegal and immoral exploitation to continue.

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\textsuperscript{23} There have been suggestions that a clear and immediate economic incentive for children to attend school in the form of a cash payment or payment in kind be introduced.
\textsuperscript{25} Interview with Professor Edmunds by Virginia Postrel, New York, 14th July 2005.
\textsuperscript{26} Ranyan quoted in Edmonds, April 2005.