

LAW GOVERNING CHILD LABOUR IN UGANDA.

CASE STUDY OF MAYUGE DISTRICT.

**A DISSERTATION SUBMITTED IN PARTIAL FULFILMENT OF THE
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DECLARATION

I **BIRUNGI LUKIA REG. NO: 1153-01024-01855** Hereby Declare that the work presented in this research is my original work except where acknowledged, and it has never been submitted for any academic award in any University before.

Signed 

Date 9th / 07 / 2019.

APPROVAL

certify that I have supervised and read this work and that in my opinion; it conforms to the acceptable to the acceptable standards of scholarly presentation and is fully adequate in scope and quality as a dissertation report in partial fulfillment for the award of degree of Bachelor of law of Kampala International University.

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Date 9th / 07 / 2019.

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List of Acronyms

ACRWC	African Charter on the Rights and Welfare of the Child
AIDS	Acquired Immune Deficiency Syndrome
AU	African Union
CDO	Collateralized Debt Obligation
CETS	Childcare Employment and Training Support
CFPUs	Police Family and Child protection Units
CPA	Child Protection and Advocacy
CRIN	Child Rights Information Network
CSOs	Civil Society Organizations
DCDO	District Community Development Officer
DCPWG	Digital Creation and Preservation Working Group.
DFID	Department for International Development
DNA	Deoxyribonucleic acid
DOVCC	District Orphans and Vulnerable Children Committee
DYFS	Division of Youth and Family Services
ETS	Employment and Training Support
FHRI	Foundation for Human Rights Initiative
HIV	Human Immune Virus
IRC	Innocent Research Centre
M&E	Monitoring and Evaluation
MDGs	Millennium Development Goals
MONEE	Monitoring Eastern Europe
NCANDS	National Child Abuse and Neglect Data system
NCC	Network Control Center

NGOs	Non-Governmental Organizations
NOSC	Network Operations and Security Center
OAU	Organisation of African Unity
OVC	Orphans and Vulnerable Children
PSWO	Peshawar Students Welfare Organization
SDC	Swiss Agency for Development and Cooperation
UCRNN	Uganda Child Rights NGO Network
UHRC	Uganda Human Rights Commission
UK	United Kingdom
UN	United Nations
UNCRC	United Nations Committee on the Rights of the Child.
UNHS	Uganda National Household Survey
UNICEF	United Nations International Children's Emergency Fund
UPE	Universal Primary Education
UPF	Uganda Police Force
VAC	Violence against children

List of Statutes

African Charter on the Rights and Welfare of the Child. 1990

Child Rights Information Network. 1995

National Council for Children's Statue 1996

The 1995 Constitution of the Republic of Uganda.

The Children's Act 2016(as amended)

The Committee on the Rights of the Child. 1991

The Local Councils Courts Act 2006, CAP 243

The penal code act (160)

The succession act 1964.

United Nations Convention on the Rights of the Child.1989

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Abstract

The study assessed the law governing child labour in Uganda, the study found out that Child labour is a common occurrence in Uganda and over e 2.7 million children engage in Child labour The study concluded that there is a serious gap between the perception of individuals and communities regarding child labour and government policies and programmes as demonstrated by the ratification of the international conventions and national legislation. Moreover, child labour is largely informal taking place in the context of domestic work; it is not viewed negatively and is largely out of reach of the authorities. The study recommended that there is need to meaningfully step up advocacy for resources for this cause at international, national and sub-national levels. This essentially requires that the petitioning and advocacy for the children's cause be brought to the political and corporate agenda of the controllers of resource allocation political leaders, legislators, other policy-makers or advisors at all levels. Since tenacious poverty is a major cause of harmful child labour including slavery, prostitution, forced labour, bonded labour, hazardous work and even participation in armed forces and armed conflict, poverty reduction should continue to be a top-order priority at all levels of promotion of development and resources allocation. Measures that can address income poverty through elimination of capital and product market constraints would help the children's cause both in the short, medium and long terms.

CHAPTER ONE: INTRODUCTION.

1.1. BACKGROUND

Child labour is described in Article 32(1) of the United Nations Convention on the Rights of the Child¹(hereafter UNCRC) as, (any form of) work performed by a child that is likely to interfere with his or her education, or to be harmful to their health or physical, mental, spiritual, moral or social development.² It is a phenomenon that deprives children of their childhood and a prospective future

The UN Convention on the Rights of the Child (CRC 1989) views child labour as a human right violation. Child labour is considered to be damaging, and to violate children's rights as it hampers children's appropriate emotional, physiological, psychological and social development (ILO 182). Child labour is then blamed for violating children's right to education (Kielland et al. 2006; Munthali 2003).

The Uganda National Household Survey [UNHS] 2005/2006,³provides recent indicators on the situation of working children in Uganda. The indicators demonstrate an attempt to draw a line between working children on one hand and child labourers on the other.

Building on the ILO definition with slight modifications, the UNHS 2005/2006 report defines child labourers as comprising: Children aged 5-11 who did any work (including household work) and those who worked more than 14 hours per week, Children aged

¹ 3UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, vol. 1577, 3, available at: <http://www.refworld.org/docid/3ae6b38f0.html> (accessed on 10 July 2019)

² Rea _Child Labcur' (2008) 7 available at <http://www.developmenteeducation.ie/media/documents/Concern%20Child%20Labou %20Resource.pdf>(accessed on 10 October 2014).

³ UBOS 2006: 126-127

12-14 who worked for more than 14 hours in a week, Children aged 5-17 who worked in the mining and construction industries.

Uganda government has put in place a comprehensive legal and policy framework which is a response to the undesirable situation of child labour and children rights in general. The Government has acceded to several international and regional treaties, including the 1989 United Nations Convention on the Rights of the Child [UNCRC], the ILO Convention on WFCL, the United Nations Protocol to combat the use of Children in Armed Conflict, the Optional Protocol on Commercial and Sexual Exploitation of Children [CSEC] and the African Charter on the Rights and Welfare of Children [ACWRC].

The Uganda 1995 Constitution, article 34(4) provides for the protection of children from performing work that is likely to be hazardous or injurious to their development. The Uganda, section 55(1) states that "no young person may be employed in any employment which is injurious to health, dangerous or otherwise unsuitable." Section 51 specifies that "no person may employ a person of or under the apparent age of twelve years except on such light work as the Minister may, from time to time, by statutory order, prescribe." The Children Act 2000 (cap 59) also prohibits the employment of children in any work that is likely to impact negatively on their physical, social and moral development. Section 5(9) prohibits the employment of children or their engagement in any activity that may be harmful to their lives, health, and education, mental, physical or moral development.

Uganda has been implementing a national programme on the elimination of child labour since August 1999. According to the ILO/IPEC/UBOS (2001), the population has steadily increased since the first population census was undertaken in 1948 from 4.96 million people to 16.67 million in 1991 and is 24.7 million in 2002. The major factor causing high population growth rate in Uganda is the high fertility rate in Uganda. And consequently, it is the nation with the youngest population in the world according to the United Nations Population Division (Larry/FNDC, 2007: 1).

1.2 STATEMENT OF PROBLEM

Child labour is a major problem, compromising future generations and undermining human capital around the world, mostly in African countries.⁴ It is an accepted fact that despite legislation being implemented in most countries in Africa, the problem of child labour still persists. In Uganda, the number of working children has grown to 2.7 millions⁵ Child labour has been identified as a hindrance to socio-economic development and it has generally got serious implications on the next generation. In the rural economies, children are still playing a significant role to support the family subsistence. Fetching water, collecting firewood, grazing cattle, caring for younger children and supporting parents in the fields are most common work of children in the rural areas. Nowadays, pushed by poverty and deprivation, many children are migrating to the urban areas. A majority of children are employed in informal sectors like market places, street vending, building and construction, stone quarries, agricultural fields and collection of scrap. If left unchecked, there is likely an occurrence of a vicious cycle of poverty; there will be continued exploitation, there will be no education, there will be exposure to HIV/AIDS and the risks of a multiplier effect of the pandemic and so forth.

⁴ R. Rena. 'The child labour in developing countries: A challenge' (2008)3(1) Industrial Journal of Management and Social Sciences 1, 2.

⁵ (MGLSD, 2006: 12).

1.3 JUSTIFICATION OF STUDY

The research will help in examining of the current laws on the protection of the child labour in Uganda and this will contribute to the scholarly materials and knowledge on the legal strength of the Ugandan law that seeks to protect the children from hard labour.

The research will facilitate to identify and expose the loopholes and weaknesses of the existing laws that seek to protect children from hard labour and this will be of great academic relevance to legal scholars as well as legal and policy framers of Uganda.

The research is expected to establish whether there are any recommendations for improvement of the existing laws that protect children from child labour in Uganda and this would in turn serve as a guide to the legislators in Uganda.

1.4 STATEMENT OF OBJECTIVES

- i. To examine the relevant laws enacted in Uganda prohibiting child labour.
- ii. To find out limitations/gaps in the laws in relation to child labour in Uganda.
- iii. To find out how these limitations are affecting the control of child labour in Uganda?
- iv. To find out recommendations that can be adopted regarding child labour protective laws for these laws to effectively combat child labour?

1.5 RESEARCH QUESTIONS

- v. What are the relevant laws enacted in Uganda prohibiting child labour?
- vi. What are the limitations/gaps in the laws in relation to child labour in Uganda.?
- vii. How are these limitations are affecting the control of child labour in Uganda?
- viii. What recommendations can be adopted regarding child labour protective laws for these laws to effectively combat child labour?

1.6 RESEARCH DESIGN AND METHODOLOGY

This study reviewed laws in relation to child labour, relevant laws enacted in Uganda prohibiting child labour, limitations/gaps in the laws in relation to child labour how the child labour has affected children, and recommendations can be adopted regarding child labour protective laws for these laws to effectively combat child labour A line was drawn between the acceptable and the unacceptable forms of child labour. The study focused on the kind of child labour considered negative, the child labour that manifests most extreme forms like child trafficking, stone quarrying and child soldiers among others. This study was basically qualitative and library-oriented. It was mainly desktop research and this included review of relevant literature such as statutes, text books and journal articles. The researcher accessed material and data from statutory bodies and specialized institutions and relevant government ministries. Reports were used to articulate the legal standing and arguments interpreted by courts to ascertain the current legal position of the courts on the notion of child labour.

1.7 LIMITATIONS

The main limitation to this study may be time frame the researcher may face a problem with time as the time table may not be given enough time to do the research.

The research was conducted during rainy season as such movements may delay and sometimes hinder, thus limiting timely collection of data.

1.8 CHAPTER BREAKDOWN

This research comprises of five chapters. This chapter has provided the context for the research by considering a brief historical background of child labour. It has outlined the purpose and rationale of the study.

Chapter two consists of a review of the literature on child labour, both regionally and internationally.

Chapter three identifies the factors in which child labour is rooted. The chapter also provides an overview of International Labour Conventions and other international instruments on which child labour finds expression. The review of the legal framework serves as a basis on which child labour can be analysed.

Chapter four provides the core discussion of the study. An analysis of child labour protective legislations in Uganda, Mayuge District is conducted. An analysis into the existence of potential gaps in the legislation will be undertaken to determine reasons for the difficulty in regulating child labour.

Chapter five proposes alternative remedies to child labour and then sums up the findings of the entire dissertation. The chapter allows for realistic recommendations on

how to fill the gaps in the legislation in an effort to improve the control of child labour in Uganda.

CHAPTER TWO: THEORITICAL FRAMEWORK

2.1 Historical Context and Perception of Child Labour

Perspectives on child labour can be understood by examining the history from which they draw meaning. "Child labour", in terms of harmful activities, as opposed to "child work", in terms of friendly activities for children, can be traced to the rise in industrial production and capitalism. For Shahrokhi (1996), records show that child labour appeared in the earlier stages in agricultural societies. However the practice became more conspicuous in the 18th century Britain, and this is when people began to be opposed to it. Boys as young as 10 were employed in factories and mines whose activities were deemed dangerous to children's health. By 1880, the English Education Act had decreed that all children between 5 and 10 years should attend school hoping that they would eventually be excluded from workplace considered to be adult sphere (James et al. 2004).

The term "child labour" was coined in Britain during the 19th century and it implied that the children were not supposed to work at all. Today, in the developed world, child labour is considered inappropriate for children below a certain age. Activities defined as child labour exclude household and school-related for these are considered not hazardous for children's health. However, the minimum age by which children should work varies from country to country and is sometimes dependent on the type of work that children do. Besides, languages in some countries lack phrases forbidding children to work. The most common expression used is the one similar to "child work"

(Dottridge et al. 2005). Many countries as well as international organisations consider child labour exploitative and have made it illegal (Pakhare 2007).

During the Industrial Revolution, children as young as 4, were employed in production factories. At that time, the conditions of work in factories were dangerous and often fatal. Children worked with cotton milling machines; they also worked in coal mines where they crawled through tunnels which were too narrow for adults. Some children worked as domestic servants while others worked as prostitutes (Pakhare 2007). Children worked as assistants or apprentices in the lodging industries. Girls learned how to sew, knit, and plait straw while boys learned how to soften leather, shape cast iron, and weave warp and weft. Tuttle (2006) argues that the industry preferred children to adults because children provided cheap labour as they were "submissive, uneducated and nimble" (Tuttle 2006:143). Children, mainly from poor families, were expected to help towards the family livelihood. Apart from wage employment, children also worked on the family farm where they pulled weeds, planted seeds and harvested crops. Such economic forces and stereotyping coupled with child vulnerability became so strong that neither child labour laws nor mandatory schooling legislation were an effective means to stop child labour.

The period of industrialisation in Great Britain and other European countries saw children's work shift from home and farm and into mills, factories and mines. The nature of child labour changed dramatically with changes from the informal to the formal production during the British Industrial Revolution, to bring them in line with new demands by industries. Unlike the pre-industrial era when children worked at home

with their families, children began to work outside the home –in factories and mines for strangers – for a wage, creating a rare opportunity for children to become independent wage earners. Children worked long hours in hot stuffy factories and in cold damp coal and metal mines, with only a few short recesses. It is claimed that children could work as much as 16 hours for a day (Tuttle 2006).

2.2 Child Labour Elimination in Britain and the United States

The crusade against child labour in most Western countries began in the late 19th century. Specifically this can be traced back to 1833 when Robert Peel’s Factories Act was passed in Great Britain. Since then, many societies have engaged themselves seriously and systematically to eliminate child labour (Basu et al. 2003). Despite the progress in world economic development and the presence of prohibitive acts such as the Factories Act, the world output of child labour continued to grow. However the period of activism and economic progress (19th and early 20th centuries) saw sharp reductions in child labour in industrialised nations (Basu et al. 2003). It has been argued that this reduction was due the shifting of child labour to the developing world which had also its own child labour problems. Indeed child labour was almost completely eliminated from the developed world while it migrated to the developing world which provided favourable social, cultural and economic climate.

In Britain the first meaningful investigation into issues of child labour took place in the 1830s when the English parliament set up a commission (Pakhare 2007). The commission found that children as young as 8 worked about 16 hours daily. Some children were being sold to mill owners and others were reportedly being locked up in

the mill day and night working. Some children who lived with their parents supplemented family income with their hard- earned wages (Shahrokhi 1996). When the Factory Act was passed in 1833 it banned work for persons less than 9 years old and restricted the working day to 8 hours for those less than 14 years. Such activities changed people's perception on child labour. Child labour was being likened to slavery, and this change in its perception helped the campaign. This change led into children being treated as persons whose rights mattered (Fyfe 2007).

In the US child labour became an issue in the 1850s especially in large cities like New York. Child labour worsened with increased industrialisation. Parents sent out children as young as 6, to earn something with which to contribute to the household economy. The jobs that children did were considered risky, endangering to children's lives, and low-paying. Children worked in dark textile mills and coal mines. Efforts to deal with child labour in the US have remained unsuccessful to the present day; children from migrant farming families still work in the US (Shahrokhi 1996).

Exploitation of working children in developing countries has been reported since the 1800s. However, political awareness concerning the effects of child labour has gained substantial momentum in the international community only since the start of the 1990s more specifically in 1999 with the adoption of the ILO Convention 182 which focuses on the worst forms of child labour (Law 2005). Even with this awareness and political intervention, child labour remains business as usual.

2.3 The UN Convention on the Rights of the Child (CRC 1989)

Calls to eliminate child labour resulted in the production of important documents used as global model of the rights of children and perhaps of childhood itself and have since been used in this fight (James et al. 2004). It was not until the 1990s and specifically with the ratification of the CRC in 1989, and through factors such as globalisation, that the world became aware of the persistence of child labour, and that the situation had not become much better than it had been during the industrial revolution. The only difference was that most developing countries had not industrialised much. The revelation of the magnitude and intensity of child labour presence gave rise to unprecedented levels of research with the hope of arriving at a sustainable global solution. However, two decades after the CRC, the problem seems to have defied best available means to its eradication or alleviation as provided for in the convention.

The fuller understanding of child labour and global commitment to its abolition have been summarised by the adoption and ratification of the 1989 CRC (UNICEF 2001). All countries but Somalia and the US became signatories of the convention. The US failure to ratify the treaty is partly due to potential conflicts with the constitution and opposition by some political and religious conservatives, arguing that the nation already has in place everything the treaty espouses. However, Somalia signed in 2002. The CRC provides the strongest possible international legal language prohibiting child labour practices although it does not explicitly make child labour illegal as it only expresses the desire for a child labour free global society (Gainborough et al. 2008). ILO Programme on the Elimination of Child Labour (IPEC) was launched in 1992 with

the overall goal of the progressive elimination of child labour in the world. This would be done by strengthening the capacity of countries to deal with the problem promoting world-wide movement to combat child labour (Pakhare,2007).

Human rights ideals or principles have been presented in ways that portray the evil side of child labour. The CRC conceives child labour in a damaging sense: a human rights violation which needs correction. Such violation can only be addressed through a wide range of measures from the enactment of laws to policies and mechanisms enforcing minimum working age regulations. It also advances the need to free children 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" (CRC art. 32). ILO (1996) reports that by 1995 many children of the ages between 5 and 14, estimated at 120million, did full-time paid job under hazardous and unhygienic conditions for more than 10 hours a day (Basu 1999). As well as attracting many to this cause, the UN has managed to get financial assistance mainly from the developed world to run its programmes.

2.4 Motivations and Problems in Combating Child Labour

The UN CRC also became a landmark development in international law, enhancing and underlining the commitment to assisting working children. Child rights are also mentioned, albeit in passing, in the major UN Human Rights Treaties. For example, the International Convention on Economic, Social and Cultural Rights (ICESCR 1996) obliges state parties to criminalise employment of children under conditions deemed "harmful

to their morals or health" (Art.10). However, the CRC was framed specifically to address children's concerns. Together with the ICESCR, it demands protection of the child against economic and social exploitation (Art. 32).

The CRC included novel aspects of child protection against sexual abuse and other forms of exploitation and against the recruitment of children to participate in any form of war activities (Art. 34; 36; 38). The ILO C182 also included aspects of child protection, prohibiting and demanding immediate elimination of the worst forms of child abuse such as slavery and forced labour, child trafficking, forced recruitment for armed conflict, child prostitution and pornography, production and trafficking of drugs (Law 2005). This categorisation, which reflects the global consensus to eliminate child labour, was unanimously agreed at the 1999 ILO Conference. The Convention mandates national governments to determine the exact types of work to be prohibited as hazardous work. It also requires ratifying States to design and implement programmes of action to eliminate existing child labour and to prevent emerging instances (C182 Art. 1). Such measures should include the rehabilitation and free education or vocational training for the children concerned. The ILO C138 has its ultimate objective as the effective abolition of child labour, using minimum age as an instrument to that end.

The CRC (Art. 28) provides for compulsory and free primary education to all children. Long before the convention, those people with keen interest realised there was a symbiotic relationship between child labour and compulsory education. As Stambler notes, "...compulsory education laws were buttressed by child labour laws. The

enforcement of these laws kept children in school longer and limited their job opportunities during school hours" (Stambler 1968:189). However, the first Compulsory Education Act which the New York State passed in 1874 lacked enforcement because it lacked funds. Child labour was also considered as a culture lag or an institutional carry-over from agrarian society into the new industrial framework, while the movement for compulsory education resulted from a growing technological society aiming at guaranteeing its manpower needs for survival for such a society. Thus, from the earliest efforts to eliminate child labour, legislation and compulsory education were logically interwoven. The enforcement of one would inevitably influence the other as a consequence (Stambler 1968).

£

Child labour legislation in the US was spearheaded by three groups of people identified by Stambler (1968) as: (1) those primarily interested in limiting competitive child labour, (2) educators and reformers interested in compulsory education and, (3) philanthropists who were interested in the moral issues surrounding child labour practices. Although these groups, had varying interests, they worked together in collaboration to see their interests carried out. Educators and those interested in lessening competition from child labourers cooperated along pragmatic lines (Stambler 1968). By sending children to school, the compulsory Education Act lessened competition from child labourers while creating jobs for adults.

The enforcement of compulsory education as a replacement for child labour had, according to Stambler, two major problems. First, the statistics provided for claiming effectiveness in the programme could not match the reality. A significant number of

children still worked and were unaccounted for. Secondly, the courts' attitude towards compulsory school attendance was indifferent as they supported the traditional parental right to wield authority over children. The courts sympathised with poor parents who depended on children's income, finding it even extremely difficult to fine parents found in breach of child labour legislation (Stambler 1968). Compulsory schooling was considered unfavourable for family survival. Failure to impose these compulsory school regulations in New York was also partly blamed on the general public's and parents' lack of conviction that school attendance was a valuable thing. Nonetheless, in enforcing compulsory education, they insisted on children securing papers which usually attested to their age and attendance at school, before children could be employed (Stambler 1968).

CHAPTER THREE

Legal laws and institutions regulating child labour

3.1 National Child Labour Policy in Uganda

The Policy, under the Ministry of Gender, Labour and Social Development defines and enumerates the socio-economic context of Child Labour in Uganda, the nature, extent and enormousness of Child Labour, causes and consequences, effects, and government response. A draft Plan of Action on the removal of Child Labour has been adopted by the National Steering Committee and disseminated to district line offices.

3.2 Constitution of the Republic of Uganda

The Constitution of Uganda, 1995, Chapter I, Article 34 (4)⁶, provides for the protection of a child from hazardous and exploitative work. The Constitution clearly spells out the following rights for children: "Children are entitled to be protected from social and economic exploitation and should not be employed in or required to perform work that is likely to be hazardous or to interfere in their education⁷, or to be harmful to their health or physical, mental and spiritual, moral or social development." The Employment Decree, 1975 limited employment of children between 12-18 years of age and prevented (prohibited) it for children below 12 years of age. (Part IV) The Decree however⁸, restricted employment for those aged 12-18 years and empowered labour

⁶ Constitution of Uganda, 1995, Chapter I, Article 34 (4),

⁷ Zelizer, V. A. (1994). Pricing the priceless child: The changing social value of children. Princeton University Press.

⁸ Campbell, A. J. (2016). Rethinking Children's Advertising Policies for the Digital Age. Loy. Consumer L. Rev., 29, 1.

inspectors to monitor compliance. This law has however since been revised, and the minimum age for employment of children was raised to 14 years.

Chapter Four of the Constitution provides for the protection and promotion of fundamental human rights and freedoms⁹. In particular, the Constitution enjoins the State to take affirmative action in favour of marginalized groups, protect the unique and natural maternal function of women, the rights of children, older persons, persons with disabilities, ethnic minorities and economic rights of every Ugandan. The Constitution further provides that a public officer shall upon retirement receive such pension as is commensurate with his or her rank, salary and length of service.

3.3 Children's Statute

The Children's Statute¹⁰ spells out the rights of a child and the welfare principles that guide those caring for children. Part 2, Section 9 states that: "A child has a right not to be made to work or take part in any activity whether for pay or not which is likely to injure the child's health, education, mental and physical, or moral development."

⁹ Constitution of Uganda, 1995 chapter four.

¹⁰ Children's Statute No.16, 1996

3.4 Other practical interventions that directly or indirectly prevent Child Labour in Uganda

Government has embarked on national Universal Primary and Secondary Education (UPE,USE) programmes¹¹, to ensure more children at primary and secondary level get access to formal education. The Poverty Eradication Action Plan (PEAP), The National Council for Children, (NCC), The Child Labour Unit at the Ministry of Gender¹², Labour and Social Development (MGLSD), are all streamlined directly and indirectly to address the plight of child labour in Uganda.

3.5 National Social Protection Policy

In March 2016, the Government of Uganda launched the country's National Social Protection Policy. The Dogma is premised on the provisions of the Constitution of the Republic of Uganda, laws in the country that address issues of risks and vulnerabilities as well as Regional and International Instruments the country has signed onto. According to the National Action Plan Against the worst Forms of Child Labour 2013/2013- 2016/2017, actions include withdrawal, rehabilitation, and integration of the affected children within the framework of their families and or communities¹³. The Strategy is also consistent with other national policies and development planning frameworks.

¹¹ Aguti, J. N. (2002). Facing up to the challenge of Universal Primary Education (UPE) in Uganda through distance teacher education programmes. A paper presented at Pan Commonwealth Forum on open Learning. Durban, South Africa 29th July.

¹² Anich, R., Biggeri, M., Libanora, R., & Mariani, S. (2011). Street children in Kampala and NGOs' actions: Understanding capabilities deprivation and expansion. In *Children and the capability approach* (pp. 107-136). Palgrave Macmillan, London.

¹³ Winch, P. J., Leban, K., Casazza, L., Walker, L., & Percy, K. (2002). An implementation framework for household and community integrated management of childhood illness. *Health policy and planning*, 17(4), 345-353.

3.6 Regional and International Frameworks

3.6.1 The International Labour Organization

The International Labour Organization, or ILO, is the prominent organization advocating against child labour¹⁴. The ILO mission is to promote the rights of workers, encourage decent employment opportunities, enhance social protection and increase awareness of work-related issues. Founded in 1919 after World War One. Since its inception, the ILO has promoted safe working environments. In 1973, the ILO drafted its first conventions. Since then it has had several modifications. Currently, the ILO contains 186 nations that have vowed to maintain the minimum labour requirements in these conventions. The ILO continues to push for global labour laws and restrictions on child labour.

Since its induction, the International Labour Organization currently has 23 conventions, or laws, within its constitution that regulate the labor of adults and children¹⁵. These laws include the minimum age restriction, protection against obligatory labor, holiday/vacation time granted, conditions of the workforce, safety standards, protection against pregnant women, and night time working conditions. Within these conditions are stricter standards set for the safety of children. Most of the conventions and recommendations for child labour fall under Article 3, The Elimination of child labour and the protection of children and young persons.

¹⁴ Rodgers, G., Lee, E., Swepston, L., & Van Daele, J. (2009). The International Labour Organization and the quest for social justice, 1919-2009. Book Samples, 53.

¹⁵ Nations Unies. Bureau du Haut Commissaire des Nations Unies aux droits de l'homme, Úrad vysokého komisára OSN pre ľudské práva (Ženeva, Švajčiarsko), International Consultation on HIV/AIDS, Human Rights, United Nations. Office of the High Commissioner for Human Rights, ... & UNAIDS (Program). (1998). HIV/AIDS and Human Rights, International Guidelines: Second International Consultation on HIV/AIDS and Human Rights, Geneva, 23-25 September 1996 (Vol. 676). United Nations Publications.

The first convention listed is the Minimum Age Convention, 1973. This convention states that a person under 18 cannot work in a facility that may jeopardize their safety, health, or morals¹⁶. This work includes mining, operation of heavy machinery, and heavy manual labor. Children ages 13–15 may perform light work as long as the work does not bring any harm or hinder their education. Children under 13 are restricted from working. The Worst Forms of Child Labor conventions mandates that persons under 18 cannot be used in work as slaves, prostitution, pornography, or drug trafficking¹⁷. The Medical Examination conventions hold that a child under 18 cannot work in an industrialized or non-industrialized position without being deemed fit by medical professional. Person's under the age of 18 are not permitted to work underground such as in a mine. Persons aged 18–21 are required to be supervised when working in an underground environment. Lastly, persons over the age of 14 but younger than 18 must have at least 12 hours off, 14 if currently engaged in school, and these hours must include the hours of 10PM through 6AM. These conventions and recommendations are in place to provide children with a safe working environment and promote their education. Since its start in 1919, 186 countries have become members of ILO¹⁸. As a member of the ILO, countries vow to keep the minimum conventions held in the ILO constitution.

¹⁶ Forastieri, V. (2002). Children at work: health and safety risks. International Labour Organization.

¹⁷ Scarpa, S. (2006). Child trafficking: International instruments to protect the most vulnerable victims. *Family Court Review*, 44(3), 429-447.

¹⁸ Paxton, J. (Ed.). (2016). *The Statesman's Year-Book 1980-81*. Springer.

3.6.2 The International Programme on the Elimination of Child Labour

The International Programme on the Elimination of Child Labour (IPEC) is an organization established in 1992 by the International Labour Organization¹⁹. Where the ILO is centered on reform in all forms of labour, both adult and child, the IPEC primarily focuses on the elimination of all forms of child labour²⁰. The IPEC uses programs to remove children from working environments and places the children in an educational setting. The IPEC provides job training for the parents to enhance their economic position to reduce the reliance of income from the child. The IPEC currently has operations in 88 countries and is the largest operation in the world working to reduce child labour.

3.6.3 United Nation Children's Fund

UNICEF, or the United Nation Children's Fund, was founded in 1919 after World War I. UNICEF promotes the safety and wellbeing of children and actively works to change harsh conditions that children live in²¹. UNICEF promotes education for all children. UNICEF also works against to reduce and eliminate child labour and the exploitation of children. Currently UNICEF has programs in 190 countries and programs.

¹⁹ Reinalda, B. (2009). Routledge history of international organizations: from 1815 to the present day. Routledge.

²⁰ Bourdillon, M. (2006). Children and work: A review of current literature and debates. *Development and Change*, 37(6), 1201-1226.

²¹ World Health Organisation Staff, World Health Organization, & UNICEF. (2003). Global strategy for infant and young child feeding. World Health Organization.

3.6.4 International Initiative to End Child Labor

The International Initiative to End Child Labor (IIECL) is a not-for-profit organization based out of the United States that actively works around the world to end child labor²².

The IIECL uses education and training programs to enable children and adults to gain an education and promote adult based labor skills. The organization also monitors and evaluates public and private sector, non-government organizations, organizational research, and development institutions to eliminate child labor.^[21]

3.6.5 Child Labor Coalition

The Child Labor Coalition was founded in 1989. The Child Labor Coalition uses its Stop Child Labor campaign to promote the education and well-being of working minors as well as actively work to eliminate the exploitation of children.

Child labour is a violation of fundamental human rights and has been shown to hinder children's development, potentially leading to lifelong physical or psychological damage. Evidence points to a strong link between household poverty and child labour, and child labour perpetuates poverty across generations by keeping the children of the poor out of school and limiting their prospects for upward social mobility. This lowering of human capital has been linked to slow economic growth and social development²³. An ILO study has shown that eliminating child labour in transition and developing economies could generate economic benefits nearly seven times greater than the costs, mostly associated with investment in better schooling and social services. (Note 1) The

²² Willis, L. (Ed.). (2011). Child Labor. Greenhaven Publishing LLC.

²³ Anand, S., & Ravallion, M. (1993). Human development in poor countries: on the role of private incomes and public services. *Journal of economic perspectives*, 7(1), 133-150.

fundamental ILO standards on child labour constitute the two legal pillars for the global fight against child labor.

3.6.6 Convention on the Rights of the Child

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights²⁴, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children²⁵, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community, Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding, Bearing in mind that the prerequisite to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural

²⁴ Assembly, U. G. (1989). Convention on the Rights of the Child. United Nations, Treaty Series, 1577(3).

²⁵ Wiesemann, C., Ude-Koeller, S., Sinnecker, G. H., & Thyen, U. (2010). Ethical principles and recommendations for the medical management of differences of sex development (DSD)/intersex in children and adolescents. *European journal of pediatrics*, 169(6), 671-679.

Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the safety of children, Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth"

CHAPTER FOUR

DISCUSSION OF FINDING

4.0 Introduction

This chapter presents discussion of findings on the causes of child labour and strategies to curb this problem

4.1 Weak laws

In Uganda Child labor continues despite new anti-exploitation laws a new law introduced in 2016 which criminalizes child labor has failed to stop exploitation due to inadequate implementation. More than 2 million children in Uganda are estimated to be affected.

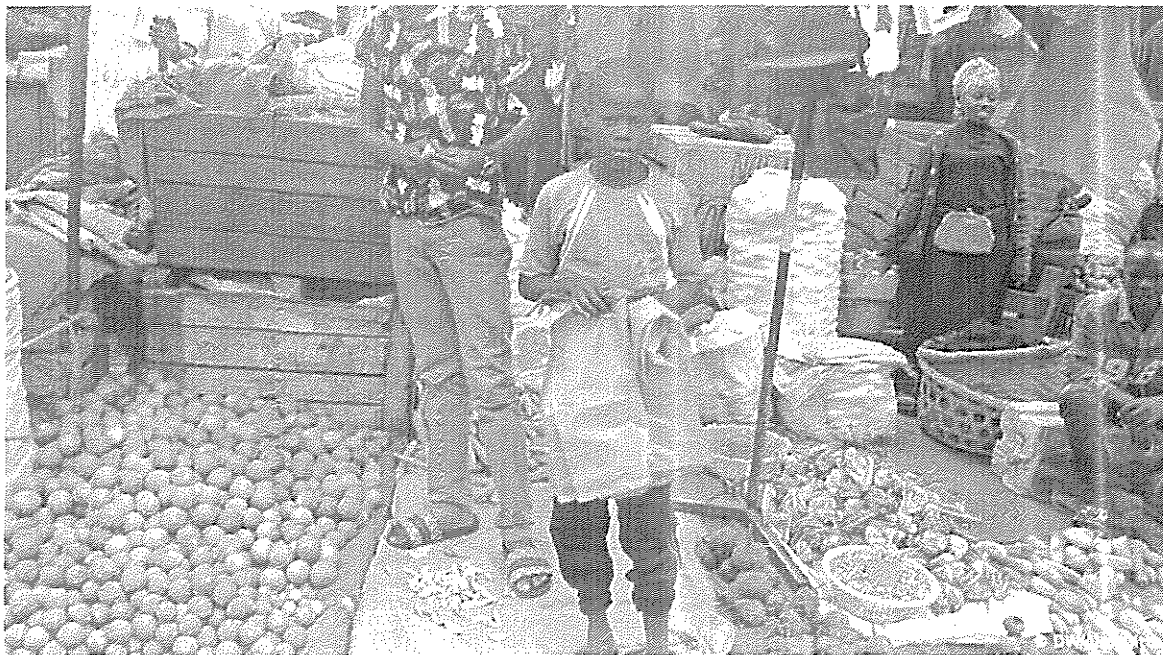


Thirteen-year-old Bugembe is just one of more than 2 million children in Uganda who are currently being exploited as child laborers.

He says *"I am not in school because I have no school fees, so I sell my uncle's polythene bags in Nakasero Market and I get here at 5 am – I have not been here for long,"* His work means he often stays in Kampala city until late in the evening and must be careful to avoid the yellow-clad Kampala City Council workers who arrest street vendors.

Bugembe says his uncle does not pay him for his work. But he still hopes to one day return to school and realize his dream of becoming a doctor.

Unfortunately, Bugembe's situation is not unique. In Ruti market near Mbarara in Western Uganda, a 13-year-old Colins Turyamuhaki, who earns a living by filling sacks of bananas. But he also must take on the duty of paying his own school fees, as well as those of his younger brother.



Thirteen-year-old Bugembe often stays in Kampala city until late in the evening to work

"I pack bags. For each bag I am paid 3000 (€0.70; \$0.85) or 2000 shillings, but in a day I can pack like three or four. So I use this money to buy books and school fees, and then my parents also top-up when they can," he told DW.

Turyamuhaki only manages to take a break once all of the banana trucks have left for Kampala. In the afternoon, he helps shoppers in the market carry their goods for a fee. Then in the evening, he sells fruit on the streets of Mbarara. He only hopes he will earn enough to complete his education. "I know this kind of work will never make me rich, so I want to make enough money to see me through school."

4.2 Children not aware of their rights

The Uganda Bureau of Statistics (UBOS) claims 45% of children from households living below the poverty line are forced out of school to work and supplement their parents' incomes, with children aged between 5 and 17 years the worst at risk.



Thirteen-year-old Colins Turyamuhaki hopes he will earn enough money to complete his education

But although the government approved the Children Amendment Act in 2016, which officially criminalizes child labor, follow-ups on identified cases are often not carried out.

The majority of human rights officers wait for affected children to report their cases first. However, not all children are aware of their rights when it comes to child labor.

Teopista Twembi works with the Uganda Human Rights Commission (UHRC) in Mbarara. She says that this responsibility ultimately comes down to the parents.

"They are supposed to do what is in line with their age – we want to guide the parents who we find are using these children to do work which is really beyond their age, and we condemn it," "If a child reports [child labor], then that's an issue we can handle, because we listen to this child and we call on the parents or the responsible person, and we guide them accordingly."

4.3 Implementation of child labor laws remains weak

But bodies, including the UHRC, who are required to tackle child labor say many challenges come with the job not least of which is the lack of will among the country's leaders to implement the laws, as they seek political popularity.

Jeremiah Kamurari, the chairperson of the Isingiro District in Uganda, says he will ensure child labor laws are implemented in his district

Despite the challenges, however, Jeremiah Kamurari, the chairperson of Isingiro District, says he is committed to seeing the law implemented in his district.

"I am going to ensure that no child within this area is doing such hard labor. All children must go to school," Kamurari said, adding that serious measures would be taken if the law is not followed: "We must apprehend the parents, arrest them and prosecute them, because the future of these children lies in their hands. If they misuse it, the children will also become a problem for the government in the future. I will not allow this."

But with limited funds available, this still leaves families headed by children with no adults to prosecute in an uncertain situation.

In some cases, families may have been unable to register a birth (distance from the village to the district capital, transport and document fees). This is a serious issue, both for employees who need proof of age, and for children who are too young to work and should remain in school. In these circumstances, you could contact the relevant authority to help your young employees gain their birth certificates. Often national law requires employers to keep records that document the age of workers and/or to keep a register of young workers under the age of 18. Such documentation is required under the relevant international standards. These practices can provide evidence to show that the employer is complying with laws against child labour.

The lack of enforcement of labor restrictions perpetuates child labor. This is manifested in different ways. The number of enforcement officials is very low, especially in developing countries where the immediate priority of subsistence takes precedence over anything else. There are also inconsistencies in legislation, which may pose problems.

4.4 Strategies

Education and Second Chance Learning: early childhood education programs can promote learning readiness, increase school registration and school survival and help children away from underage employment. Support for second chance policies is critical to avoid large numbers of children entering adulthood in a disadvantaged position permanently harmed by early work experience. They should be offered a bridge to successfully integrate or reintegrate into formal school class.

Expand Social Protection: social protection instruments will serve to prevent vulnerable households from having to resort to child labour as a buffer against poverty. The government has prioritized social safety expansion and started a social protection program known as the Social Assistance Grants for Empowerment (SAGE) 2011.

Promote Greater Public Awareness: child labour is a clear example which both social norms and economic considerations are important and strategic communication efforts need to be designed with this in mind. A mix of conventional e.g. radio, TV and print media and non-conventional e.g. religious leaders, school teachers, healthcare workers. Providing information on national child labour legislation in terms that are understandable.

Promote Social Mobilisation Against Child Labour: social actors including NGOs, faith-based organizations, teachers, teacher's organizations, the mass media have important roles to play in the broader societal effort against child labour.

Strengthening Child Labor Inspections & Monitoring: Employment Act No.6 2006 requires districts to appoint labour officers to provide technical advice to employers. The government's actual ability to monitor formal workplaces is limited;30/90 districts have recruited labour officers to enforce labour legislation.

An advocate of Political Commitment: at all levels is also desirable to ensure that child labour reduction actually happens. The government released NAP & CTIP reflecting their commitment to eliminating child labour.

Stop hiring children under the minimum age Why It is unacceptable for businesses to employ children in conditions of child labour. Companies of all sizes need to ensure that they do not use child labour anywhere in their operations. Youth employment, i.e. children who are above the minimum age for work, but under the age of 18, must have decent working conditions. This will ensure you are not adding to the problem. How immediately stop contracting children below the relevant minimum age. This does not mean you cannot recruit workers above the minimum age into decent youth employment. But there should be a permanent ban on underage recruitment. This should be understood by all employees accountable for hiring. More Some parts of the agricultural industry have dealt well with hazardous work issues in youth employment. Large industry associations (e.g. cocoa, tobacco, sugar, tea and coffee), as well as more localized industries (e.g. flower production and palm oil and rubber plantations) have tackled this issue successfully. As rural agriculture is still the largest form of employment in the world, it is necessary, wherever possible, to keep

employing children of legal age in this sector, but only in decent, non-exploitative conditions.

CHAPTER FIVE

CONCLUSIONS AND RECOMMENDATIONS

5.1 Conclusions

Child labour is a common occurrence in Uganda and a survey conducted in 2000/2001 estimated that there were 2.7 million children classified in this category. Out of a total of 16,345 households reached during the listing exercise for this survey 20 percent had children who were Child labour and armed conflict study in Uganda v working for pay, 34 percent had children working without pay, while 21 percent had children working as a result of armed conflict. It should be recognized that these are probably lower bound estimates since individual and community perceptions would lead to its concealment. Armed conflict has the obvious effect of increasing the incidence of orphanhood, especially paternal orphanhood. Living with non-biological parents as 'non relatives' or 'other relatives' is the commonest mechanism for coping with the increased incidence of orphanhood.

These data did not show an advantage of receiving districts over war torn districts regarding school attendance status. This is perhaps due to historical reasons where war torn districts may have a superior education infrastructure.

The terms of employment for working children show a very tenuous relationship with their employers (piece rates are the commonest terms of pay) and in-kind payments (food, clothing) are common. These modes of payment are likely to lead to economic exploitation of children.

There is a serious gap between the perception of individuals and communities regarding child labour and government policies and programmes as demonstrated by the ratification of the international conventions and national legislation. Moreover, child labour is largely informal taking place in the context of domestic work; it is not viewed negatively and is largely out of reach of the authorities.

5.2 Recommendations

Without effective enforcement, government policies and programmes on paper cannot achieve much. A plan fails not necessarily for the reason that of its formulation but in most cases, because of deficiencies in its implementation. An effective thrust for abolition of child labour requires not only commitment, especially from political and civic society perspectives, but also resources.

There is, therefore, need to meaningfully step up advocacy for resources for this cause at international, national and sub-national levels. This essentially requires that the petitioning and advocacy for the children's cause be brought to the political and corporate agenda of the controllers of resource allocation political leaders, legislators, other policy-makers or advisors at all levels. Inadequacy of resources undermines initiatives and implementation efforts and processes. Adequate apportionment needs to be made in national and local government budgets for child protection and development programmes. Child labour and armed conflict study in Uganda vi

Since tenacious poverty is a major cause of harmful child labour including slavery, prostitution, forced labour, bonded labour, hazardous work and even participation in

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armed forces and armed conflict, poverty reduction should continue to be a top-order priority at all levels of promotion of development and resources allocation. Measures that can address income poverty through elimination of capital and product market constraints would help the children's cause both in the short, medium and long terms.

As the influence of negative perceptions, cultural attitudes and cultural practices is tremendous, raising public attentiveness should be intensified to address the perception-attitude-cultural practices. This should include the sensitisation of civic leaders, leaders in armed forces, agencies of law and order, private sector entrepreneurs, communities and the general populace.

Just as there is an "Education Standards Agency" in the Ministry of Education, the department of Labour in the Ministry of Gender, Labour and Social Development needs a Labour Standards Agency to monitor violations.

A universally suggested solution to curbing child labour is keeping children in school longer. The policy of Universal Primary Education which started in 1997 has moved towards attainment of that objective. However many families lack the means to purchase scholastic materials resulting in an ironical situation where children work precisely to sustainance their education. And because most of child labour takes place in domestic and other informal settings, it remains largely concealed from government and is intractable.

With regard to armed conflict specifically, rehabilitation would aim at addressing both the physical and psychological effects of war. Reintegration into one's family does not

seem adequate for addressing the psychological scars of having been forced to kill or having been a sex slave. Families are not adequately prepared to deal with such forms of trauma.

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Bibliography

Books

Anich, R., Biggeri, M., Libanora, R., & Mariani, S. (2011). Street children in Kampala and NGOs' actions: Understanding capabilities deprivation and expansion. In *Children and the capability approach* (pp. 107-136). Palgrave Macmillan, London.

Campbell, A. J. (2016). Rethinking Children's Advertising Policies for the Digital Age. *Loy. Consumer L. Rev.*, 29, 1.

Paxton, J. (Ed.). (2016). *The Statesman's Year-Book 1980-81*. Springer.

Reinalda, B. (2009). *Routledge history of international organizations: from 1815 to the present day*. Routledge.

Rodgers, G., Lee, E., Swepston, L., & Van Daele, J. (2009). The International Labour Organization and the quest for social justice, 1919-2009. *Book Samples*, 53.

Zelizer, V. A. (1994). *Pricing the priceless child: The changing social value of children*. Princeton University Press.

Report

Aguti, J. N. (2002). Facing up to the challenge of Universal Primary Education (UPE) in Uganda through distance teacher education programmes. A paper presented at Pan Commonwealth Forum on open Learning. Durban, South Africa 29th July.

Articles

Winch, P. J., Leban, K., Casazza, L., Walker, L., & Pearcy, K. (2002). An implementation framework for household and community integrated management of childhood illness. *Health policy and planning, 17*(4), 345-353.

Forastieri, V. (2002). Children at work: health and safety risks. International Labour Organization.

Bourdillon, M. (2006). Children and work: A review of current literature and debates. *Development and Change, 37*(6), 1201-1226.

Scarpa, S. (2006). Child trafficking: International instruments to protect the most vulnerable victims. *Family Court Review, 44*(3), 429-447.

Wiesemann, C., Ude-Koeller, S., Sinnecker, G. H., & Thyen, U. (2010). Ethical principles and recommendations for the medical management of differences of sex development (DSD)/intersex in children and adolescents. *European journal of pediatrics, 169*(6), 671-679.

Journals

R. Rena. 'The child labour in developing countries: A challenge' (2008)3(1) *Industrial Journal of Management and Social Sciences* 1, 2. (MGLSD, 2006: 12).

World Health Organisation Staff, World Health Organization, & UNICEF. (2003). Global strategy for infant and young child feeding. World Health Organization.

Willis, L. (Ed.). (2011). Child Labor. Greenhaven Publishing LLC.

Anand, S., & Ravallion, M. (1993). Human development in poor countries: on the role of private incomes and public services. *Journal of economic perspectives*, 7(1), 133-150.