

**CHILD LABOUR IN AGRICULTURAL SECTOR. CASE STUDY KYAMUHUNGA TEA
ESTATE IN UGANDA**

BY

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1153-01024-00387

**A RESEARCH DISSERTATION SUBMITTED TO THE SCHOOL OF LAW IN
PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE
AWARD OF THE BACHELOR'S DEGREE IN LAWS OF
KAMPALA INTERNATIONAL UNIVERSITY**

JUNE 2019

DECLARATION

I, Muhumuza Sam hereby declare that this thesis is originally mine and has never been submitted in any other academic institution. I also declare that all secondary information used has been acknowledged accordingly.

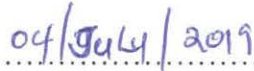
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APPROVAL

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4th July 2019.
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DEDICATION

This work is dedicated to my Mum, Kasande Resty, my siblings. Musiimire Violah, Muramiira Felix, my Uncle Mr. Kwesiga Brazza, Lecturer Ms. Mugisa Martha and Friends Munaaba John Apuuli, Talent Ansingire who guided me with advice and consultations throughout to the accomplishment of this work. Without your continued guidance and support this work would not have been a success.

ACKNOWLEDGEMENT

It is quite impossible to list all the people who have contributed to the success of this endeavor. However, I sincerely appreciate the efforts of my entire family for the financial support and encouragement, which they tirelessly gave me during my stay at KIU. My appreciation goes to the entire academic and non-academic staff of the Faculty of Law, Library Staff Kampala International University, who supported me with advice and various materials in relation to the realization of my research.

I particularly thank my supervisor, Mrs Mugisa Martha for all her patience, understanding, encouragement and meticulous guidance of this research from the start to the end.

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CHAPTER ONE

1.0 INTRODUCTION/ BACKGROUND

The complex issue of child labour is a developmental issue worth investigating. The notion that children are being exploited and forced into labour, while not receiving education crucial to development, concerns many people¹. Children only got involved in domestic chores together with other family members to meet the needs of the family which was part of a larger extended family.

Kyamuhunga area is found in Bushenyi district, Igara West County. The area originally comprised of the current Sub-county of Bitooma and Butare town council which were later cut off to be independent local government jurisdictions. The main economic Activities in Kyamuhunga are Pineapple growing and tea farming. Tea farming is the largest source of income for the residents in the area. They do earn either as individual farmers or as casual labourers in large estates of commercial farmers, factory tea estates or sometimes small -scale farmer's estates. Kyamuhunga has several tea processing factories and presently are four in number namely, Igara Growers Tea Factory, Swazi Tea Factory, Kyamuhunga Tea Company, Global Tea Factory, and James Finlay's (Mashonga) tea factory. All these are attributed to the fact that there is a need to meet process the available tea both from local farmers and the estates of these factories.

During the period of colonialism, agriculture was highly commercialized hence bringing new aspects in the production of family units. Such production took on a dual character of satisfying consumption needs of the family as well as the supply of raw materials like cotton and coffee to the colonial masters. There was thus an increase in commercial agriculture due to the dictates of trade and profits from colonialists. The end results increased in demand for labour from the family units. This, therefore, meant that even the children of the family had to work as hard and as much as their parents to meet the demands of the British colonial masters. This marked the advent of child labour in its exploitative forms as it is known today. It's quite unfortunate that the British colonialists allowed such a situation to prevail in the colonies even after they had ratified the International Labour Organization (ILO) Convention No 10 of 1921 on Minimum Age in

¹ Mahmood Mamdani, 'Politics and Class Formation in Uganda', Fountain Publishers , 1977, pg. 25,

agriculture. Since then child labour has been on the increase and has been aggravated by the indifference of previous governments towards it.

Child labour is a long established and existing problem since time immemorial but there seem to be some factors that guard and ring-fence it. Widespread practices of child labour were initially seen during the industrial revolution where children were working in mills and factories under very hazardous conditions and it was from such setting that child labour was not considered child abuse, but exploitation of a child through work². Child labour constitutes one of the greatest sources of child abuse and exploitation in the world. The International Labour Organization estimates that in developing countries alone there are at least 120 million children between the ages of 5 and 14 who work full time.³In Africa alone, there are 80 million children subjected to similar abuse⁴. While most child labour is primarily found in the developing regions of the world, industrialized countries are not entirely free of it either. In Eastern and Central Europe, as well as Asia, child labour has been re-appearing in the wake of social and economic dislocation caused by the transition to a market economy⁵.

According to UNICEF, although there has been a marked improvement in the awareness of children's rights, there is still a long way to go since it is not possible to know exactly how many children are at work in the world because many countries don't keep such statistics. However, it is estimated that the total number is in hundreds of millions⁶. In recent years there has been a

²Ms. Harriet Luyima, 'Report of the Thematic Study on Child Labour and Armed Conflict in Uganda,'

<http://www.ilo.org/ipecinfo/product/download.do?type=document&id=700>, accessed on the 21st of May 2019,

³ Silas Burns, 'Gender And Sustainable Development,' Kwabo and Kashagire, 'Statistics on Working Children and Hazardous Child Labour in brief (Geneva, ILO, 1997) page 3. published in 2016,

<https://slideplayer.com/slide/6102428/>, accessed on the 21st of May 2019,

⁴ International Labour Organization, 'Child Labour, Targeting the

Intolerable,' [https://www.ilo.org/global/publications/ilo-bookstore/order-](https://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_PUBL_9221103285_EN/lang--en/index.htm)

[online/books/WCMS_PUBL_9221103285_EN/lang--en/index.htm](https://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_PUBL_9221103285_EN/lang--en/index.htm), accessed on the 3rd of May 2019

⁵14th African Regional Meeting, <https://www.ilo.org/global/meetings-and-events/regional-meetings/africa/arm-14/lang--en/index.htm>, accessed 3rd of May 2019,

⁶ The State of the World's Children, 1997,

<https://reliefweb.int/sites/reliefweb.int/files/resources/57042290D4EBFD30C1256DBE003592AC-unicef-swc-1997.pdf>, accessed on the 24th of May 2019,

growing sensitivity to the problem of child labour due to increased concern for the respect of social justice and humanity. Overtime the concept of child labour has evolved from being perceived in terms of wage employment in the formal sector and has currently gained greater dimension to cover those Activities outside the formal industry, which economically exploit children, such as street vending, working in motor garages and domestic services.

State parties to the United Nations Convention on the Rights of the Child recognize the right of the child to be protected 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. Despite this, today millions of children work under abusive and exploitative conditions that are clearly dangerous to them.

According to the International Labour Organization (ILO), child labour is described as work carried out by children under conditions which stifle physical, emotional and intellectual development. Often children work for the longest hours and are the worst paid; all over the world and in Uganda in particular, child workers are exploited because they lack self-organization and presumed aptitudes for certain jobs.⁷This study, therefore, seeks to analyze the adequacy of the legal system in regard to child labour.

1.1 STATEMENT OF THE PROBLEM

Tea farming is the largest source of employment in Kyamuhunga sub-county and the neighbouring sub-counties of Bitooma, Ruhumuro and other areas wherein Kyamuhunga Tea factory and other factories get the Tea from individual farmers or factory estates. It also contributes to exploitative child labour. The prevalence of child labour in the agriculture sector is often ignored in favour of an urban and industrial view of what constitutes child labour. As a result of this attitude, a false view of the child labour which implies that it is prevalent in the formal sector is promoted and legislation that would protect children fails to cover most agricultural settings where these children are employed. Igara Tea Factory has a Human Resource policy⁸that stipulates that the factory shall

⁷ International Program on Elimination of Child Labour, <https://www.ilo.org/ipec/lang--en/index.htm>, accessed on the 3rd of June 2019,

⁸ Igara Growers Tea Factory Human resource Policy 2015 Version at Pg. 45-46. In addition, all tea collection centers have signposts whereon is written information to the effect that the factory does not employ persons below 18 years.

not employ persons wherein the factory does not employ persons below the age of 18. , however, despite the existence of such a policy child labour is rampant in the factory.

It is difficult to cite a current figure for the number of children engaged in child labour. This difficulty is attributed to the fact that the Ugandan Government "has been negligent in its refusal to collect and analyze current and relevant data regarding the incidence of child labour bearing in mind the fact that some statistics regarding child labour do exist though are outdated. Some statistics regarding child labour do exist but are outdated.

The laws that do exist for the protection of child workers have not been effective and have not fulfilled their aims and objectives. This is particularly so in the Tea farming sector. This may be attributed to the fact that most tea farmlands/ estates are situated in rural areas and individual owned where laws related to children are often disregarded mainly due to ignorance and indifference, and the need for cheap labour.

1.2 PURPOSE OF THE STUDY.

The research aims to assess the adequacy of the existing legal framework in the regulation of child labour in the agricultural sector in Uganda. It has been argued that many of Uganda's problems today arise due to inadequacy in the legal regime covering child labour and protecting children working on agricultural enterprises. This research aims at surveying the loopholes in the existing legislation.

This research further will investigate the causes of child labour in Kyamuhunga Tea factory and specifically propose what can be done as solutions to curb the problem.

1.3 OBJECTIVES OF THE STUDY.

1.3.1 GENERAL OBJECTIVE

The general objective of the study is to assess the extent of child labour in the agricultural sector.

1.3.2 Specific objectives.

- To assess the effectiveness of the legal framework protecting child workers in the agriculture sector.
- To find out the causes of child labour in Kyamuhunga tea factory.

- To make recommendations and proposals for changes in the policy approach as well as the legal framework governing child labourers in agriculture.

1.4 SCOPE OF THE RESEARCH

The study focuses on the legal and social implications of child labour in the agriculture sector as well as the effectiveness of the measures taken to combat the phenomena. In this regard, the paper will examine the legal regime on child labour generally and how such laws can be used to protect child labourers in the agriculture sector. The study will, in addition, revise the Causes and solutions to the problem of child labour in Kyamuhunga Tea estates. The study will also examine the extent to which international instruments on child labour are embodied in local legislation and policies. The study will consider a period of five years (2014-2019). As for purposes of a compilation of data and computation of the same, the researcher hopes to do this in a period of four months.

1.5 Significance of the study

The study will be significant for several reasons which include the fact that the researcher proposes an amendment to the existing legislation to meet the changing needs of child labourers. The study is also important for the fact that it urges employers to be the first enforcers of child labour laws as a means of good practice.

1.6 RESEARCH METHODOLOGY.

The researcher will adopt both qualitative and Quantitative methods of research. The researcher intends to conduct a desktop review by analyzing the secondary sources such as journal articles, websites and works by renowned intellectuals, publicists and textbooks. Also, the researcher will review the legislation pertaining to child labour in Uganda. Under quantitative, the researcher will due field visits at interview respondents who will mainly include children labourers in Kyamuhunga tea estates including in private farms. In addition, the researcher will conduct field visits and use the observation method.

1.7 Ethical considerations.

It will be important during the process of research for the researcher that participation is voluntary; participants are free to refuse to answer any question and withdraw anytime

Another important consideration involves getting the informed consent of those going to be met during the research process, which involved interviews and observations bearing in mind that the area bears conflict.

Accuracy and honesty during the research process are very important for academic research to proceed. The researcher should treat the project with the utmost care, in that there should be no temptation to cheat and generate research results since it jeopardizes the conception of research.

Personal confidentiality and privacy are very important since the thesis was public. If individuals have been used to provide information, it is important for their privacy to be respected. If confidential information has been accessed, then confidentiality must be maintained.

1.8 LITERATURE REVIEW

Child labour and children's rights are a grave concern. Key instruments on the subject are the Geneva Declaration of the Rights of the Child of 1924 and the Declaration on the Rights of the Child adopted by the General Assembly on the 20th November 1959 as well as the Universal Declaration of Human Rights.⁹

A study conducted by the Federation of Uganda Employers revealed that child labour in the agriculture sector is more prevalent in small out grower farms than in major agricultural enterprises which have memoranda of understanding with labour unions and have benefited from awareness campaigns conducted by the federation.¹⁰ The study points out that 80 % of employers in the sector have children as part of their labour force. The Federation of Uganda Employers also shares the view that child labour interferes with labour productivity as children are denied the right to develop their potential skills and its effects are more pronounced where the amount of work given to a child is too heavy in comparison to the age and gender as well as the tasks to be performed. The problem

⁹ The Universal Declaration of Human Rights; Article 25(2).

¹⁰ Federation of Uganda Employers; Employer's efforts in eliminating child labour in informal agriculture sector in Uganda. A study conducted by Federation of Uganda Employers in 1999. pg. 1 also see National Action Plan for Eliminating of the Worst forms of Child Labour, https://www.unicef.org/uganda/NAP_Uganda_June_2012.pdf. Accessed on the 4th of May, 2019,

is indeed compounded among situations where children are subject to a lot of work with poor or no remuneration.¹¹ This is indeed prevalent in the Igara Growers Tea Factory.

In rural areas of developing countries, where agriculture is the mainstay, children have been widely used to supplement adult labour in a variety of tasks¹². In locations close to urban areas, they increasingly participate in a range of economic Activities such as the sale of household products and working for a wage¹³. Although light Activities are acceptable for child development¹⁴, some conditions could prevail within the households or external environment such that children may work in risky Activities, or for the duration that impedes their physical and psychological development.¹⁵ For instance, insufficient adult labour in the household may induce households to supplement adult time with child work¹⁶. The incentive of households to supply more labour could, in part, stem from the presence of profitable economic Activities.¹⁷

Rebecca Nyonyitono draws a distinction between child labour and child work by arguing that the latter is what children do in families as part of the socialization and education process in

¹¹ Ibid

¹²Hanan G. Jacoby and Emmanuel Skoufias, 'Risk, Financial Markets, and Human Capital in a Developing Country,' 1997, 64(3), The Review of Economic Studies, https://www.jstor.org/stable/2971716?seq=1#page_scan_tab_contents, accessed on 7th June,

¹³Marcel Fafchamps and Jackline Wahba, 'Child Labor, Urban Proximity and Household Composition', 2006, 79(2), Journal of Development Economics, <https://econpapers.repec.org/paper/izaizadps/dp1966.htm>, accessed on the 7th June 2019,

¹⁴International Labour Office Geneva, International Programme on the Elimination of Child Labour, 'Children in hazardous work What we know, What we need to do,' https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_155428.pdf, accessed on the 7th June 2019,

¹⁵Ibid,

¹⁶Murphy and Tamura, 'Human Capital, Fertility, and Economic Growth', 1990, 98(5), The Journal of Political Economy, see also Rosenzweig, M. R. and R.E. Everson, 'Fertility, Schooling and economic Contribution of Children in Rural India,' 1977, 45(5), Baschieri, A. Floyd, S. Cleland, J. Dube, A., Molesworth A, Chihana M, Glynn, J.R. . Crampin, A.C. French, N, 'Unintended childbearing and children's growth in Northern Malawi,' <https://paa2013.princeton.edu/papers/131632>, accessed on 7th June 2019

¹⁷Ibid,

preparation for adult life.¹⁸ She considers such work to be the child's contribution to the wellbeing of the family and it's done under the supervision of adult members, therefore, child work doesn't deprive the children of proper growth and development. In that respect, therefore, she regards it as acceptable in society. On the other hand, she states that child labour is work which is harmful, exploitative and hazardous to the child. It involves children in tasks which extend beyond normal roles of their contribution to their own family or community wellbeing and development.

However, the Uganda National Council of Children asserts that there are cases where children participate in work Activities which are not suitable for their age or gender and are therefore excessive or exploitative and degenerate into a form of child abuse.¹⁹ Nevertheless, Nyonyitono and Uganda National Council of Children fail to spell out clearly what type of work is suitable for specific groups of children according to their age and gender, ability or disability.

Anne Babirye Ssempebwa²⁰ argues that problems of children in agriculture are enormous ranging from harsh conditions of work to sexual abuse and exploitation. She further points out that these children are hidden from the public eye and their problems are not known; they have not yet benefited from the current trend of publicizing and exposure of child abuse by the media. She recommends that the parents and employers of these children should be sensitized about children's rights and related laws. However, the above recommendation may not be very helpful since employers aim at maximizing profits using cheap labour. Further, in urban areas where there has been exposure of child workers and their problems by the media, there has been no associated change in their situation.

¹⁸ Rebecca Nyonyitono; Issues and Problems of Child Labour: The Case of Tororo.(2000)

¹⁹ Equality and vulnerability; situation analysis of women, adolescents and children in Uganda. (UNCC) 1994, S.E. Anderson, Improving Schools Through Teacher Development: A case study of Agha Khan,' Swets & Zeitlinger, 2002. [https://books.google.co.ug/books?id=gTuMg-WbLvcC&pg=PA311&lpg=PA311&dq=Equality+and+vulnerability;+situation+analysis+of+women,+adolescents+and+children+in+Uganda+\(UNCC\)+1994&source=bl&ots=wINxCO0OjS&sig=ACfU3U0v7Q11_wIZIEN7s_R3VjiuqwLZIA&hl=en&sa=X&ved=2ahUKEwjH6IGN54_jAhWvDWMBHVKHBEEQ6AEwAHoECAoQAQ#v=onepage&q=Equality%20and%20vulnerability%3B%20situation%20analysis%20of%20women%2C%20adolescents%20and%20children%20in%20Uganda%20\(UNCC\)%201994&f=false](https://books.google.co.ug/books?id=gTuMg-WbLvcC&pg=PA311&lpg=PA311&dq=Equality+and+vulnerability;+situation+analysis+of+women,+adolescents+and+children+in+Uganda+(UNCC)+1994&source=bl&ots=wINxCO0OjS&sig=ACfU3U0v7Q11_wIZIEN7s_R3VjiuqwLZIA&hl=en&sa=X&ved=2ahUKEwjH6IGN54_jAhWvDWMBHVKHBEEQ6AEwAHoECAoQAQ#v=onepage&q=Equality%20and%20vulnerability%3B%20situation%20analysis%20of%20women%2C%20adolescents%20and%20children%20in%20Uganda%20(UNCC)%201994&f=false), accessed on the 4th of May 2019.

²⁰ Child action; publication of Uganda National Council of Children, 1998

Samuel Ziwa and Daniel Maxwell conducted a study in Kampala which revealed that children are major participants in urban agriculture in the district²¹. The study also revealed that urban agriculture is a labour intensive exercise involving long hours of work on fields and farms. It's therefore not uncommon for children to work for up to 10 hours a day. The author further reveals that livestock present health risks to workers including children who are prone to physical injury from cattle as well as diseases from the waste products of these animals.

Murindwa Rutanga²² writing about conditions of labour on commercial dairy farms in Kabale reveals that employers prefer employing women and children because their labour is cheap and they are hardworking, easy to model as well as to administer.²³ They are submissive and tend to fear their employers due to cultural influence and age.²⁴ He further reveals that children have fewer economic demands than adults; their demands are mainly related to personal ones and such are not prone to strike. Equally, Geraldine Van Buren and Roger J.R. Levesque also argue that from an employer's perspective child labour represents stable sources of labour.²⁵ Children do not strike; they don't demand a lot of money as adults do and are easier to dismiss without any kind of consequences.²⁶

Peter Baguma explains the causes of child labour from an economic perspective in that poverty forces a respectable number of children to work to survive or to feed their families.²⁷ He, however,

²¹ Samuel Ziwa , *Urban Agriculture in Uganda*, 1970

²²Rutanga, Murindwa, ' Conditions of Labour on Commercial Dairy Farms in Kabale District'. https://www.researchgate.net/publication/265245076_Conditions_of_Labour_on_Commercial_Dairy_Farms_in_Kabale_District, accessed on the 25th of May 2019,

²³Rutanga, Murindwa, 'Conditions of Labour on Commercial Dairy Farms in Kabale District.' Working Paper No.1/1989, ISBN 9970-877-54-9, <http://murindwa-rutanga.com/pub/Conditions%20of%20Labour%20on%20Commercial%20Dairy%20farms%20in%20Kabale%20District.pdf>, accessed on 7th June 2019,

²⁴Ibid,

²⁵Roger J.R. Levesque, ' Geraldine Van Bueren, *The International Law on the Rights of the Child*,' 1995 19(2), *Fordham International Law Journal*, <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=2235&context=ilj>, accessed on 7th June 2019.

²⁶Ibid,

²⁷Peter Baguma and Irene Aheisibwe, ' *Issues in African Education*, ' Chapter 2, pg. 21, A. Bame Nsamenang

goes on to argue that economic reasons are not enough on their own to cause or to reduce child labour. This argument is supported by evidence that the economic growth of some countries has not been associated with a reduction in child labour.²⁸

The International Labour Organization, on the other hand, believes that AIDS is becoming one of the major causes of child labour.²⁹ They argue that the age and sex distribution of the labour force will change due to the rising number of widows and orphans seeking a livelihood and the substantial proportion of people with AIDS in the age group between 20- 45 resulting into the early entry of children into the Active labour force. In Uganda, specifically the Rakia district, the extended family system has failed to cope with the increase in the number of orphans forcing them to seek employment to survive.

Lloyd Timberlake is of the view that most African families rely on children for farm labour and he, therefore, encourages parents to have large families.³⁰ He reveals that many children are sometimes overwhelmed by the inability of their parents to feed or to provide them with the basics of life thus forcing them to work on estates as hired employees'. Lloyd advocates for family planning through contraception as a way of combating the phenomena of child labour. He, however, admits that many Africans are either Catholics or Muslims whose religions officially disapprove of contraception³¹. Lloyd's assertions are accurate; several Catholic-bishops and priests in Uganda have come out strongly against contraception especially the use of condoms³².

And Therese M.S. T chombe *Handbook Of African Educational Theories And Practices: A Generative Teacher Education Curriculum, Human Development Resource Centre (HDRC), 2011,* https://www.academia.edu/23501143/Managing_Africa_s_multiculturalism, accessed on 7th June 2019,

²⁸ ²⁸Peter Baguma and Irene Aheisibwe, ' *Issues in African Education,* ' Chapter 2, pg. 21, A. Bame Nsameng

²⁹International Labour Organization Report on HIV/AIDS, 1999https://www.ilo.org/wcmsp5/groups/public/@ed_protect/@protrav/@ilo_aids/documents/publication/wcms_115114.pdf accessed on the 4th of June 2019,

³⁰ Lloyd Timberlake, ' *Africa in Crisis* ', East African educational publishers, 1994

³¹ Ibid

³² Cardinal Joseph Ratzinger, catholic and Muslims in Uganda, The Catholic Herald Newspaper Issue 2 pg. 4, published on the 20th June 2010.

Alec Fyfe is of the opinion that children who live in rural communities face the greatest risk of hazardous and exploitative labour³³. The children pick crops still dripping with pesticides and other agrochemicals without any kind of protective wear. According to Alec in Sri Lanka death from pesticides, poisoning on farms and plantations is greater than from other childhood diseases like malaria and tetanus. Indeed, Ugandan children workers also face similar problems resulting from the use of agrochemicals though there are no available statistics to show the fatalities or injuries from such hazards.

Morris Class points out those early practitioners in the field of child welfare proceeded on the assumption that physical abuse was associated almost exclusively with poverty, slums, ignorance, industrial exploitation and immigration.³⁴ Physical mistreatment was quite open in these sectors and it was not difficult to introduce admissible evidence to the courts in the prosecution of abusive parents. Most working children are denied meals, beaten, burnt and work without protective gear like gloves and eye protectors for garage boys, as confirmed by one Mukasa in Kisenyi region.

Peter Fallon, Zafiris and Tzantostou which I agree, observe that the indicators which should be considered to determine whether work has a negative impact on a child's development include; working conditions, working hours, exposure to physical hazards plus other risks and abuses to which a child may be prone to³⁵.

James Aliro Omara discusses the rights of a child as articulated in the Constitution of the Republic of Uganda in 1995 and the Children's Statute 1997. He goes on to suggest strategies for the protection and promotion of those rights while recognizing the challenges of such customs

³³Alec Fyfe, '*Child labour and education: progress, challenges and future directions*,' International Labour Office, International Programme on the Elimination of Child Labour (IPEC) - Geneva: ILO, 2015.

<http://www.ilo.org/ipecinfo/product/download.do?type=document&id=26435>, accessed on the 7th June 2019.

³⁴ Morris Class, '*Child at risk; A report by the standing senate committee on health, welfare and science; Canada 1980*', <https://eric.ed.gov/?id=ED195326>, accessed on the 6th of June 2019,

³⁵Fallon Peter, Tzannatos and Zafiris, '*Child Labour: Issues and Directions, 1998*', <http://documents.worldbank.org/curated/en/822881468764092813/pdf/multi-page.pdf>, accessed on 7th June 2019,

practices and beliefs.³⁶ The paper is however silent on the strategies for the promotion and protection of the rights of children especially children who are subjected to child labour at an early age.

Boyden in his book *children of the cities* focuses only on the rights of children in urban areas of Africa. However, he doesn't investigate the rights of children in rural areas, yet children in rural areas are more prone to abuse³⁷. They are forced to work long hours in fields sometimes at the expense of their education.

Kekurutso Syson equally focuses on child labour in Kampala city.³⁸ However, the plight of children being exploited in other parts of the country both rural and urban needs to be brought to the attention of the lawmakers as a matter of urgency if such children are to be delivered from the yoke of their disguised slavery.

The report of Michael Hansen the Director General of the International Labour Organization³⁹ suggests that the organization and the United Nations member states should adopt a time-bound programme of Action to eliminate child labour focusing basically on degrading and particularly hazardous forms of work. He called for complete prohibition of work by young children under fifteen. This is an excellent but sadly overzealous and ambitious strategy for a country like Uganda where there is no Centre to deal with disadvantaged children apart from the Uganda women's efforts to save orphans (UWESO) organization which is a nongovernmental organization and cannot deal with all orphans. I hope in this research to establish that the feasible approach should be improving conditions of work and remuneration for child workers where it is not hazardous or degrading and on eliminating all forms of hazardous work unless the employers improve on the conditions of work as it is the responsibility of the employer. This research will discover that laws

³⁶ James Omara Aliro; *'The rights of children in the Constitution and the Children's Statute, strategies for the protection and promotion of those rights'*, A paper presented by commissioner James Aliro Omara of Uganda human rights commission at a seminar on the rights of children and oppressive customs

³⁷ Aheng, *'Child labour in; Boyden and Holden (EDS) Children of the cities'*, Zed books limited. 1991

³⁸ Kekurutso Syson, *'Child labour in the informal sector; A human rights perspective, a case study of Kampala city'*

³⁹ The report of the Director General of the International Labour Organization. Michael Hansene on child labour.

and policies are in place to address child labour and improve on working conditions; however, the issue of implementation remains the initiative of the employer.

The international child welfare review focuses on children who miss out on education because of poverty and hence don't enjoy their right to education. However, children's rights to education are not violated only because of poverty but because of other myriad reasons. I hope to throw light in the other reasons why children fail to enjoy their right to school.

UNICEF is one of the United Nations branches that work hand in hand with the Uganda government in promoting the welfare of children. UNICEF mandate is to protect the lives of children and to promote their development worldwide. UNICEF, the United Nations Declaration on Minorities and other international children's instruments has come up to emphasize the need to protect vulnerable communities. Several bodies in Uganda have been set up including the National Council for Children, African Network for the Protection and Prevention of Child abuse and neglect (ANPPCAN) and Red Barnet save the children. All these are aimed at stimulating the dialogue between the government and state-related agencies. Some non-government organizations have already undertaken to combine their efforts with government's ministry of gender and labour to fight child labour. The efforts are set out to remove children from the informal sector of employment. To fight the abuse of children's rights further in June 1999 Uganda adopted the child labour convention 1999 number 182 which gives more hope to the destitute children in Uganda.

Harriet Luyima argues that child labour is a problem that has existed for a long time. She argues that child labour is almost a century old but that discussions on child labour among various communities in the past have often generated a mixture of feelings, indifference, apathy and sometimes denial that the problem doesn't exist.⁴⁰ She fails to explain why this is so and doesn't focus on the argument on certain traditional practices that are appropriate for children to engage in because of societal attitude, which gives legitimacy to the exploitation of children. Where there is a general failure to distinguish between normal family obligations and appropriate training on one hand and work which gives rise to exploitation and abuse on the other hand.

⁴⁰ Paper on the situation of the child in Uganda and current responses presented by Ms. Harriet Luyima training workshop of social partners o project design, IPEC financial and administrative guidelines, Kampala 27- 30 March 2001 pg. 1s

Ironically, economic and social rights were internationally recognized and enforced even before the promulgation of the universal declaration of human rights as Stefanie grant points out. Such rights were the first to be incorporated into international law as far back as 1919 with the establishment of the international labour organization.

1.9 Mini- Conclusion.

Most literature highlights poverty as the major cause of child labour . Even though children are paid less than adults, whatever income they earn is of benefit to poor families. In addition to poverty, the lack of adequate and accessible sources of credit forces poor parents to engage their children in harsh forms of child labour. Some parents also feel that formal education is not beneficial and that children learn work skills through labour at an early age. These views are narrow and do not take the long-term developmental benefits of education into account. With no other alternatives, children spend their time working. The researcher, however, hopes that there are other many socio-economic causes of child labour and hopes to add to the already available literature with this research paper.

CHAPTER TWO

LEGAL FRAMEWORK AND POLICY FRAMEWORK ON CHILD LABOUR.

2.0 Introduction.

This chapter in detail discusses the available legal framework regarding the menace of child labour in Uganda. The researcher herein reviews the available international and domestic legislation governing child labour.

2.1 NATIONAL LAW REGULATING CHILD LABOUR

2.1.1 THE CONSTITUTION OF THE REPUBLIC OF UGANDA 1995

The Constitution of the Republic of Uganda entitles children to protection from social or economic exploitation and employment or work that requires them to do anything that is likely to be hazardous or to interfere with their education or to be harmful to their health or physical, mental, spiritual, moral or social development

The constitution being the basic law in the country, it is very crucial and encouraging that the issue of child labour is addressed therein. Article 34(4) prohibits the social and economic exploitation of children as well as employment that is likely to be hazardous.

The constitution also places an obligation on the government to put in place the relevant laws and policies that will ensure the protection of the Ugandan child from economic exploitation whether in the informal or formal sector of the economy⁴¹. This obligation is largely being fulfilled by the government in that it has enacted the children Act cap 59 , a statute which specifically makes provision for child labour policies which have also been put in place to address the economic exploitation of children through child labour⁴².

⁴¹ The 1996 Constitution of the Republic of Uganda, Art.34(4)

⁴²Report of the Thematic Study on Child Labour and Armed Conflict in Uganda, June 2004, Ministry of labour, Gender and social affairs, <http://www.ilo.org/ipeinfo/product/download.do?type=document&id=700>. accessed on the 7th of May 2019,

2.1.2 THE CHILDREN'S ACT CAP 59

The Children's Act provides an overarching legal framework for child protection in Uganda. The Act includes a clear statement banning harmful employment of children. Specifically, the Act states: "No child shall be employed or engaged in any Activity that may be harmful to his or her health, education, mental, physical, or moral development" This statement re-emphasizes Uganda's Constitutional commitment to protect children from exploitative labour. "Children are entitled to be protected from social or economic exploitation and shall not be employed in or required to perform work that is likely to be hazardous or to interfere with their education. For example, all children must help in household work, but they must do so according to their age and ability.⁴³

The children statute is one of the most significant legal achievements in as far as children rights are concerned in Uganda. It is a comprehensive statute which reforms and consolidates the law pertaining to children in Uganda. It among others provides for the care, protection and maintenance of children. In the above instrument, a child is defined as a person below 18 years of age⁴⁴. No child shall be employed or engaged in any activity that may be harmful to his or her health, education, mental physical and moral development.

This provision is wide. It tackles all sectors of the economy including the agricultural sector. The test in relation to the above provision is whether any activity infringes on the rights stated in the section. If the answer is in the affirmative, then the above provision prohibits such employment or engagement. Section 9 also covers situations where children are engaged in activities within their families which amount to child labour. This is an innovation in Ugandan law related to child labour because formerly the law restricted itself only in the informal sector.

The statute further provides for ways and means through which the abuse of children through child labour can be monitored within local communities. It, therefore, imposes a duty on any member of the community who has evidence that a child's rights are being infringed to report the matter to the local council of the area which is given the powers to decide in the best interest of the child. In

⁴³ The Children's Act Cap 59, S.8

⁴⁴ The Children's Act Cap 59,

doing so the statute involves the community in the fight against child abuse hence the community's support and cooperation is one of the most vital elements in this fight.

2.1.3 THE EMPLOYMENT ACT OF 2006.

This piece of legislation is one of the basic laws governing employment in Uganda. Its basic objective is to regulate employment conditions for both young persons and adults as well. The Act recognizes that some children must work not as a matter of choice but one of necessity. In this regard, therefore, it seeks to regulate conditions under which these children work so that risks associated with working children are minimized as much as possible. The Employment Act prohibits the employment of young persons in any employment which is injurious to health or otherwise unsuitable. S.49 of the Act, therefore, provides that a person under the age of 18 years shall not be employed other than as provided in the Act. Sections 33-34 of the Employment Act 2006, among others, restricts employment of children under the age of 18 and prevents the employment of children under the age of 14 except in light work.

The Act prohibits the employment of children of the apparent age of 12 years except on such light work as the Minister may from time to time prescribe by statutory order⁴⁵. In effect, this section sets a minimum age below which a child must not be employed, and this applies to all sectors of the economy including the agriculture sector. The above provision is in line with international principles and legislation which obliges state parties to set an age limit for children who can be employed⁴⁶. The rationale of the above provisions is that below the age of 12 years employment of children can only be detrimental to their health and as such should be discouraged.

The Act prohibits the employment of children for night working in the industry⁴⁷. It also requires employers employing young persons in any industrial undertaking to keep a special register of young persons employed⁴⁸. The rationale of this provision is that it is deemed that prohibition of night work for children will reduce hazards children face while working at night, given the fact

⁴⁵ The Employment Act 2006, s. 50

⁴⁶ International Labour Organisation (ILO), Minimum Age Convention no 138, Entry into force: 19 Jun 1976, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138, accessed on the 5th of June 2019,

⁴⁷ The Employment Act, 2006, s. 52

⁴⁸ The Employment Act, 2006, s. 55

that children tire quickly especially at night and need all the rest they can get. The Act also reiterates the Constitution by stating that no young person may be employed in any employment which is injurious to the health, dangerous or otherwise unsuitable. As noted earlier this is a wide covering provision and covers the agriculture sector.

2.1.4 EMPLOYMENT REGULATIONS OF 2011

These regulations require a person employing young persons of less than 18 years of age underground in mines to make available a register of young persons⁴⁹. The regulations also make provision for medical examination to be conducted periodically at intervals of not more than one year; the rationale being to discover whether or not such persons are suitable for employment in mines.⁵⁰ On close examination of both the Employment regulations and the Employment Act, it is glaringly apparent that these pieces of legislation are lacking when it comes to addressing the issue of child labour in agriculture which is the most widespread form of child labour in Uganda.⁵¹ These statutes only address the issue of child labour in industry and mining thus making both of them inappropriate in tackling child labour in agriculture.

Child labour legislation falls directly under the administration of the Ministry of Gender, Labour, and Social Development. The major labour laws are the Employment Act 2006, and the Occupational Safety and Health Act No.9, 2006. The Occupational Safety and Health Act No.9, 2006, among others, provides for the inspection of workplaces, identification of hazards at the workplace and other connected matters. Other laws that have a bearing on child labour include, the Local Government Act Cap 243 laws of Uganda, The Penal Code Act Cap 120, The Uganda Citizenship and Immigration Control Act Cap 56, The National Drug Policy and Authority Act Cap 206 and the Mining Act, 2005 that protect children from working in mines. The new laws serve as a deterrent to child labour and will provide a framework for developing regulations, listing of the hazardous forms of child labour and improved inspection and enforcement to stop the worst forms of child labour.

⁴⁹The Employment Regulations 2011, Reg. 41

⁵⁰ Ibid, Reg. 42.

⁵¹ George M Caington, State of action against child labour in Uganda 1996 pg. 36

2.2 THE NON-LEGAL MEASURES/POLICIES OF COMBATING CHILD LABOUR

This part of the text is going to show different measures undertaken by different organizations to fight the phenomenon. It should be noted that the efforts undertaken are not limited to child labour in agriculture but apply to child labour generally.

2.2.1 THE NATIONAL CHILD LABOUR POLICY

Child labour is one of the main sources of child abuse, exploitation and a potential threat to the health, safety, moral and psychological development of children. Many children are caught up in hazardous and life-threatening Activities in the informal sector, domestic service, in the streets, plantations and brothels. The Ministry of Gender, Labour and Social Development in consultation with a wide spectrum of stakeholders has developed a national policy on child labour. The policy is inspired by the National Constitution Article 34(4). The main thrust of this policy is to guide and promote sustainable Action aimed at the progressive elimination of child labour, starting with the worst forms. To achieve this goal more efforts will be directed at increasing public awareness on the risks, dangers and other negative effects of child labour, integrating child labour issues in national and district programmes, stimulating 'collective and concerted Action at all levels of society and providing a legislative and institutional framework to eliminate child labour.

2.2.2 THE FEDERATION OF UGANDAN EMPLOYERS

The above federation is conducting an Action programme on the elimination of child labour within the sugar and rice subsectors in Uganda. The programme has been implemented in 3 enterprises namely; Sugar Corporation of Uganda limited. The programme aims at prevention, removal and rehabilitation of children who are working⁵². This will involve intensive awareness, sensitization of employers and out growers to appreciate the negative consequences of employing children and increase their knowledge of existing child labour legislation. The federation also aims at encouraging communities to form committees which will include representatives of employers, workers, teachers, parents, local council leaders, religious leaders and other community leaders to monitor the impact of the programme and the conditions under which they work.

⁵²Federation of Uganda employers; 'Trainer's Manual for Child Labour Education' 2000 pg.

2.2.3 I.L.O/I.P.E.C PROGRAMME IN UGANDA

The above programme concentrates on strengthening the national capacity to address child labour problems. In this regard, the officials of IPEC are encouraging the government to live up to its expectations, under International Labour Conventions which Uganda has ratified by embodying such instruments into local legislation. The programme is also financing most of the major Activities aimed at eliminating child labour, especially in the agricultural sector. Its programmes related to eradicating child labour ran smoothly. IPEC is also partly financing the IPEC is also involved in making situational analysis to establish the nature and magnitude of child labour in the country. One thing to note is that IPEC can facilitate the development of national policies to combat child labour problems but the Actual work of development of policies and their implementation is done by local agencies and governments⁵³

2.2.4 AMALGAMATED TRANSPORT AND GENERAL WORKERS UNION.

The above trade union has carried out several Activities aimed at eliminating child labour in tea estates. These Activities are carried out in conjunction with the American centre for international labour solidarity which partly finances the trade union.⁵⁴The Activities of the above union concentrate on sensitizing local communities about child labour, its effects and the fact that it is prohibited by law in Uganda. The trade union is also involved in educational Activities aimed at improving family incomes. In this respect, the union encourages the establishment of self-help groups which pool resources and invest in an economic Activity that brings benefit to all members of the group.

2.2.5 UGANDA ASSOCIATION OF WOMEN LAWYERS (F.I.D.A)

FIDA is one of the non-governmental organizations involved in the fight against child labour. Their contribution has been in the review of labour laws related to child labour. The objective of the review was to find out whether children who are employed are protected under current labour legislation. The research revealed that the protection of working children under the labour laws is very inadequate⁵⁵. As a result of the above findings, FIDA made the following recommendations;

⁵³ State action against child labour in Uganda.

⁵⁴ Interview with Mr. Michael Ouma general secretary of amalgamated transport and general workers union.

⁵⁵ Ministry of gender and labor, The report on the review of labour laws 1997 page 29.

A register of all children who are employed should be kept with local councils at all levels. Efforts should be made to enable children in employment to undergo some form of training or education.

Legislation should be extended to children working in the informal sector. Children in employment should through their parents or guardians or local council secretaries, enter contracts of service with their employers. The representatives of children should be allowed to sit on industrial courts to safeguard the interests of children. The type of work children can do should also be defined.

It should be noted that this review by FIDA was aimed at child labour generally and was not limited to any specific sector; nevertheless, it helped to highlight the inadequacy of the current labour laws in relation to child labour. A strong legal framework is one of the most important ways of eradicating the phenomenon of child labour. The recommendations given by FIDA for achieving an ideal legal framework are quite substantive.

2.2.6 THE GOVERNMENTS EFFORTS.

Some of the measures undertaken by the government do not specifically target child labour but if they are successfully implemented, they will have a significant impact on child labour. The government has implemented different policies like the universal primary education that has helped children obtain cheap education to be free from child labour.

The government has also tried to eradicate its people about poverty since it's the major cause of child labour by establishing micro-finance institutions to provide credit and other financial services to the poor. Credit is provided with a view that recipients will invest the money well and thus be able to improve their incomes.

2.3 INTERNATIONAL LAW REGULATING CHILD LABOUR

The measures undertaken to combat child labour include both legal and non-legal measures covering not only the agricultural sector but all the other sectors of the economy as well. The laws related to child labour take on a dual character. On one hand, they prohibit the employment of children under certain circumstances where their rights are infringed. On the other hand, the law is not rigid, and it considers the fact that child labour can only be progressively eliminated in the long run and in the meantime, it provides protection to those children who still must work.

Apart from national legislation, there are several international instruments which address the phenomenon of child labour generally. Some of these instruments have been ratified by the Ugandan government and these include the International Labour Organization Convention no 182, UN Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child. The last two instruments have been given legal status in Uganda by the Children's statute and as such the rights embodied therein are also enjoyed by children in Uganda.

2.3.1 AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD.

The charter is an attempt by the African community to give effect to the protection of children within the family and the state considering African traditions which recognize the fact that children have obligations to their families. In regard to child labour, the charter states 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.⁵⁶The gist of this provision is embodied in article 34(4) of the Ugandan constitution as well as the children's statute. In light of article 31 of the charter, which places responsibilities on a child towards his family or community, the effectiveness of the charter in addressing the issue of child labour is questionable; given the fact that a lot of Activities done by children which amount to child labour will be condoned under the guise that they are responsibilities of a child towards his community or family. The charter further obliges member states to provide minimum wages for admission to every employment, regulate hours and conditions of work for children, and provide for penalties or other sanctions to ensure effective enforcement and to promote dissemination information on hazards of child labour to all sectors of the community. On the whole, the government of Uganda is largely complying with the above obligations though no minimum wages have been set for admission to employment, regulation of hours and conditions of work for children is still the same as that of adults and thus doesn't take into account the peculiarities of children.

⁵⁶The African Charter on the Rights and Welfare of the Child, Art. 15(2)

2.3.2 UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD 1989.

The United Nations Convention is one of the other international instruments which deals with child labour and as noted earlier in addition to ratifying it, Uganda has embodied it into local legislation giving its provisions legal recognition in Uganda. Article 32 of the convention is similar to article 15 of the African Charter on the rights of the child, with regard to child labour; except that the latter instrument goes further and addresses the issue of child labour in the informal sector since it is mainly in this sector that this form of child abuse is prevalent.

The United Nations Convention on the Rights of the Child provides that state parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education or to be harmful to the child's mental, physical or social development⁵⁷ and goes on to prohibit the use of children in the illicit production and trafficking of such substances as narcotic drugs and psychotropic substances.⁵⁸

The United Nations Convention on the Rights of the Child 1989 article 27 provides that state parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development. Article 31 requires state parties to recognize the right of the child to rest and leisure.

2.3.3 MINIMUM AGE CONVENTION NO 138 OF 1973.

The basic aim of the convention is to regulate the age at which children get into employment whether for wages or not. In this regard there is a requirement for the signatories to set up a minimum age applicable to all sectors and this age should not be less than the age of completion of compulsory schooling and in any case not less than 15 years⁵⁹. The rationale for the above provision is that employment of a child should not in any way conflict with the ability of the child to obtain at the very least primary education given the vital role played by education in society. The Convention is a flexible instrument which considers the fact that not all countries are the same. The result is that countries whose economy and educational facilities are insufficiently developed may after carrying out extensive consultations initially specify the minimum age to 14 years. The

⁵⁷The Convention on the Rights of the Child, Art 32(1)

⁵⁸The Convention on the Rights of the Child, Art 32 (1)

⁵⁹Supra, n. 47, Minimum Age Convention, Art. 2(3)

lowering of the minimum age to 14 years should be done with the intention of later raising it as advocated by Article 1 of Convention.

2.3.4 WORST FORMS OF CHILD LABOUR CONVENTION NO.182

While all the above legal instruments brought the problem of child labour close to the arena of implementation, it is convention no 182, adopted by the International Labour Organization in 1999, which led to the intensification of Activities to eliminate the worst forms of child labour. Uganda ratified it in 2000. A unique aspect of this convention is in identifying certain aspects of child labour which need special attention. The forms identified are;

All forms of slavery or practice like slavery such as the sale and trafficking of children, debt bondage, and serfdom or compulsory labour including forced or compulsory recruitment of children for use in armed conflict

In identifying these forms of child labour the Convention advocated for immediate and effective Action to secure their prohibition and elimination. Measures undertaken should provide for penal sanctions. Not only does the convention identify the worst forms of child labour, but it also points out certain categories of children who need special consideration. The girl child is stated to need special consideration probably because of the old age tradition in many societies which force girls to engage in the bulk of domestic labour at home.

2.3.5 THE FORCED LABOUR CONVENTION, NO 29 of 1930.

This statute prohibits the use of forced or compulsory labour in all its forms. Under article 2 the convention defines the term forced or compulsory labour to mean work or service which is exerted on any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

2.3.6 INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

This covenant also reaffirms the principles of the Universal Declaration of Human Rights but regarding economic, social and cultural rights. For instance, Article 10 enjoins state parties to protect young people from economic exploitation and from employment in work harmful to their morals, their health or their lives or likely to hamper their normal development.

The convention also commits states parties to set age limits below that the paid employment of child labour should be prohibited and punishable by law.

CHAPTER THREE

CONCEPTUAL ANALYSIS OF CHILD LABOUR IN THE AGRICULTURE SECTOR

In this chapter the two concepts of child labour and child work are examined in detail; particularly the distinction that underlies both. The chapter also gives a critique of child labour laws in relation to agriculture.

3.1 BACKGROUND.

Child labour is the employment of anyone below the age of eighteen by another person for any gainful activity the International Labour Organization has a broader definition which states that “child labour is remunerated or unremunerated work which impairs the young’s personal development, health, safety, wellbeing physically, mentally, psychologically impaired of which is a violation of national and international law”⁶⁰. The criteria for determining child labour, therefore, include the age and nature of the work as well as the work hazards faced by the child in a particular occupation. The concept of work hazard has been defined as the element of risks associated with certain occupations. These risks might relate to disease or injury.

.In the colonial era child labour increased with the advent of mines, plantations and construction works that were going on to generate money for the colonial masters. Many children ended up as house and shamba boys and domestic servants of the colonial masters. Sometimes these children worked as porters for the missionaries. In the post-colonial era, child labour continued. Most of these children were mostly under twelve and were not paid a decent salary⁶¹.

In Sub-Saharan Africa, the only way the urban poor could survive is by putting as many members of the household as possible to work. Where there are no state welfare payments and where self-employment and low unstable incomes are widespread the labour of children is crucial.⁶² Much as children are very instrumental in some enterprises the work they engage in is at times hazardous and exploitative. In many countries’ child labour is mainly an agricultural issue. Worldwide 60 percent of all child labourers in the age group 5-17 years’ work in agriculture, including farming.

⁶⁰International Labour Office, ‘Programming and Operational Manual for International Program for the Elimination of Child Labour, field offices 1999 pg.19

⁶¹ Child action 2000 ministry of women in development 1992 page 13.

⁶²Children of the cities; to Boyden with pat Holden zed books limited and New Jersey.

fishing, aquaculture, forestry, and livestock. This amounts to over 98 million girls and boys. The majority (67.5%) of child labourers are unpaid family members. In agriculture, this percentage is higher and is combined with very early entry into work, sometimes between 5 and 7 years of age⁶³. Agriculture is one of the three most dangerous sectors in terms of work-related fatalities

Poverty is the main cause of child labour in agriculture, together with limited access to quality education, inadequate agricultural technology, high hazards and risks, and traditional attitudes towards children's participation in agricultural activities especially in the context of family farming, small-scale fisheries and livestock husbandry. Some participation of children in non-hazardous activities can be positive as it contributes to the inter-generational transfer of skills and children's food security. It is important to distinguish between light duties that do no harm to the child and child labour, which is work that interferes with compulsory schooling and damages health and personal development, based on hours and conditions of work, child's age, activities performed, and hazards involved.

3.2 CHILD WORK

There is a tendency to regard child labour and child work as one thing, yet this is not necessarily true. The two concepts are quite distinct though they may be interrelated. The importance of drawing such a distinction lies in the fact that child work is considered to be acceptable in Uganda and is regarded as part of the normal process of child development⁶⁴ while on the other hand child labour is considered unacceptable in Uganda and elsewhere in the world because of its harmful and exploitative nature. The fight is therefore against child labour as opposed to child work. In Uganda like any other African society, children have worked within their families. They participate in activities like fetching water, cooking, washing, gradually through observation and supervision: they are prepared for the roles they will take on during adulthood. The children's performance of tasks in the households and communities is also regarded as part of the process of home socialization and education as well as training intended to instill and impart capabilities, skills.

⁶³Accelerating action against child labour. Global report under the follow up to the International Labour Organization. Declaration on fundamental principles and rights at work.2010.(Geneva 2010)

⁶⁴ Harriet Luyima; child labour in Uganda; paper presented at policy makers seminar Kampala 7th June 2000 pg. 2

responsibilities, obligations, cultural values to the children⁶⁵. Normally in such situations, there is equitable distribution of work and tasks taking into account the child's age and gender.

The Employment Act also refers to child work as light work performed by children below the age of 12 years.⁶⁶ Such work is supposed to be prescribed by the minister from time to time by statutory order. Age-appropriate tasks that are of lower risk and do not interfere with a child's schooling and leisure time can be a normal part of growing up in a rural environment especially in the context of family farming, small-scale fisheries and livestock husbandry. Some participation of children in non-hazardous activities can be positive as it contributes to the inter-generational transfer of technical and social skills and children's food security. Improved self-confidence, self-esteem and work skills are attributes often detected in young people engaged in some aspects of farm work. Therefore, it is important to distinguish between light duties that do no harm to the child and child labour, which is work that interferes with compulsory schooling and damages health and personal development, based on hours and conditions of work, child's age, activities performed, and hazards involved.

The General Conference of the International Labour Organization, in its Third Session on 25 October 1921, decided upon the adoption of certain proposals with regard to the employment of children in agriculture during compulsory school hours, stipulated that Children under the age of fourteen years may not be employed or work in any public or private agricultural undertaking, or in any branch thereof, save outside the hours fixed for school attendance. If they are employed outside the hours of school attendance, the employer shall not be such as to prejudice their attendance at school⁶⁷. This suffices to mean that work carried out by children, not during school time could be referred to as child work.

⁶⁵ Uganda's report and position on child labour 1998 pg. 18 [

⁶⁶ Employment decree no 4 of 1975

⁶⁷ Article 1; General Conference of the International Labour Organization.

3.3 CRITIQUE OF CHILD LABOUR LAWS IN RELATION TO AGRICULTURE.

The field findings have revealed gross abuse of children's rights through child labour in agriculture. This part of the text is, therefore, going to point out the latent defects in the child labour laws.

3.3.1 THE CHILDREN ACT CAP 59

The issue of child labour is addressed in S.3 of the statute which prohibits the employment of children in activities that might be harmful to them. The above provision doesn't specifically mention agriculture as a harmful activity but rather gives a general and insufficient outline of factors to be considered when considering the term harmful. The term harmful as applied in the above provision is meant to be a subject of interpretation to be done by probation and welfare officers considering the circumstances of a case. Given the fact that probation and welfare officers are often lacking in educational qualifications, it might give them problems in interpretation. The statute should, therefore, have done better by outlining specific activities that can be regarded as harmful to children. This makes the work of probation officers easier considering their limited background in the interpretation of statutes.

S.11 of the statute provides for a mechanism whereby abuse of children's rights through activities like child labour can be checked or monitored. In this respect, the statute obliges members of the community to report to the authorities if they are aware of any infringement by anyone of a child's rights. The problem with this provision is that it assumes that all members of the community are well versed with what constitutes children's rights and can identify any infringements. This is not necessarily so especially in rural areas where the bulk of child labour in agriculture takes place. Illiteracy has kept most of the rural folks uninformed about their own rights, let alone those of the children they are supposed to protect. This problem is compounded by the fact that many of the people in rural areas fail to come to terms with the reality currently that children have rights. With such an attitude it is difficult to see how members of the communities in rural areas can protect children against child labour.

In the statute probation and welfare, officers play a crucial role in the protection of children from child labour and other activities that infringe children's rights. Their role is basically inspection of children and application for supervision orders in case a child's rights are being infringed. Probation and welfare officers are concentrated in urban areas like Kampala and Masaka. In rural

areas for example in Kyamuhunga district where the bulk of child labourers in agriculture is concentrated, there are very few probation officers; which means that they cannot be effective in tackling child labour. Children in rural areas, therefore, lack protection against abuse.

Under S.10 of the statute, local council authorities are mandated to safeguard and promote the welfare of children. This study involves ensuring that children do not engage in harmful agricultural activities. Most rural areas in Kyamuhunga where the bulk of child labour in agriculture takes place have local council officials who are hardly literate. It is questionable whether an official who cannot interpret provisions of the statute is able to safeguard the child's welfare. Local council officials are even known to be indifferent to the plight of children leaving them at the mercy of employers⁶⁸.

3.3.2 THE EMPLOYMENT ACT

The act generally empowers officers to inspect any land where an employee is housed or employed.⁶⁹The above provision is aimed at ensuring that the provisions of the statute are complied with including those related to child labour in agriculture. The problem with the provision is that inspectors are few and are concentrated in urban areas. This is because most of the labour inspectors have been retrenched through structural adjustment programs. They are therefore inadequate for the establishments they must cover. Children in agriculture, therefore, do not enjoy the services of these inspectors and are prone to abuse. Labour inspectors who are supposed to enforce child labour laws operate within an unfavourable environment of hostile employers who want cheap labour and are unwilling to lose it. Some parents attach great economic value to child labour than to education. This is compounded by the fact that at times the children themselves want to work and resist being excluded from employment. Children and their families are often among the staunchest opponents of child labour prohibitions. Under contract law the minimum age prescribed is 21 years meaning that a child cannot legally contract.⁷⁰

S.50 of the statute prohibits the employment of children below the age of 12 years except if the kind of activities he or she is engaged in can be considered as light work. The problem with this

⁶⁸New vision 24.8.2000 page 16.

⁶⁹The Employment Act, 2006, s.3

⁷⁰ Report on the review of labour laws 1997 pg. 15 FIDA.

provision is that the term light work referred to is not broadly defined by the statute. This provision has, therefore, had no impact on child labour in agriculture. On close observation of part four of the statute especially s.51, 52, 53, 54 and 55 it is evident that the statute concentrates too much on child labour in the informal sector, mining and industry. Children working in the agriculture sector are therefore inadequately protected.

The other deficiency of part four is that it only regulates children who are working for a wage. It, therefore, fails to protect those ones who are engaged by their families into activities that amount to child labour. This is common in the agriculture sector and has been noted in areas like kabarole where children help their mothers to pick tea.

3.3.3 TRADE UNION DECREE NO 2 OF 1976

This decree is aimed at regulating the activities of the national organization of trade unions which is an umbrella organization for all trade unions in Uganda. The decree also provides for the formation by employees of trade unions and branch union of their choice. The underlying theme behind trade unions is that all workers should benefit from it through collective bargaining carried out by the trade union on behalf of its members. Since the decree acknowledges that children are part of the labour force by allowing them membership in trade unions⁷¹ given proper conditions, a trade union can be a vehicle through which grievances of child workers in the agriculture sector can be forwarded to employers for action. However, the problem is that there are few trade unions within the agriculture sector. Currently, the only existing trade union is the national union of plantation and agricultural workers Uganda which means that few children benefit from the union's activities. Secondly, the existing unions are concentrated on large commercial entities like Lugazi sugar works, which means that those children working on smaller agricultural enterprises do not get the benefit of trade unions.

The other deficiency of trade unions is that they are very weak and poorly funded which affects their ability to negotiate with the employers for the rights of its members. The other reason for their weakness is that successive governments have always tried to undermine them as much as

⁷¹The Trade Union's Decree No.2 1976, Section 122

possible. Governments view trade unions as an impediment to foreign investment.⁷²it's therefore difficult to see how a weak union can protect the rights of its members let alone those of the child labourers.

Like many other employees, children in the agriculture sector do not know that they have a right to form a trade union of their choice or join an existing one to bargain with employers for improvement of their conditions of work. This, therefore, has a negative impact on the ability of children from collective agreements.

3.3.4 WORKERS COMPENSATION ACT 2000

This piece of legislation is aimed at compensating workers for injuries sustained in the course of their employment. The act doesn't specifically mention children but they are covered impliedly under the definition of a worker, who is said to be any person performing services in exchange for remuneration.⁷³The implication of the above definition is that children in agriculture who work for monetary consideration are capable of receiving compensation under this act in case they get injured while at work.

However, there are noticeable discrepancies which limit the effective compensation of children under the act. One of them is the fact that the act doesn't distinguish between an adult and a child worker. The blanket protection of all doesn't consider the special perils faced by a child on occasion of injury. For instance, if a child is injured at work, the damage is more manifested due to his or her tender age. The child is even expected to live longer and to work for a longer period than an adult. Consequently, the damage is more aggravated if it is of a permanent nature. To entitle one to compensation, a medical practitioner must issue a certificate stating that the employee is suffering from a scheduled disease.⁷⁴This particular provision is not in favour of children working in the agriculture sector given the fact that they are mostly situated in rural areas like kakonde where the services of medical practitioners are virtually non-existent. In other words,

⁷²John-Jean B Barya, 'Workers and the Law in Uganda', Centre for Basic Research, 1991, CBR Publications.<https://www.worldcat.org/title/workers-and-the-law-in-uganda/oclc/50587205>, accessed on the 27th of June 2019,

⁷³The Worker's Compensation Act, 2000, S.2

⁷⁴The Worker's Compensation Act, 2000, S.28

it is practically impossible for these children to acquire a medical practitioner's certificate to entitle them to compensation.

3.3.5 LABOUR DISPUTES (ARBITRATION AND SETTLEMENT) ACT CAP 200

This instrument was enacted to provide a means of dispute resolution between employers and employees. Mechanisms of dispute resolution include arbitration tribunals, boards of inquiry and the industrial court. The act doesn't mention children however its definition of workmen impliedly includes them.

The Act assumes that workmen including children are organized into trade unions and can coordinate amongst themselves effectively to achieve a common goal about their employment. In reality, the majority of workers especially children employed in agriculture are ignorant of the law and are not organized into effective lobby groups.⁷⁵This, therefore, means that any dispute between a child working in agriculture and his employer is always resolved in the employers to favour given the fact that he has more bargaining power than an individual employee more so a child.

Even if child workers were organized into effective lobby groups or trade unions, the act lays down elaborate and difficult procedures to be followed when a dispute arises. For instance, it is an offence for any person whether a trade union leader or not to declare, instigate or abate a strike in connection with a trade dispute without first exhausting the voluntary dispute settlement machinery at the workplace and the machinery in the act relating to conciliation.⁷⁶These procedures pose a lot of difficulties not only for child workers but adults as well.

The other deficiency in the act is one of the mechanisms of dispute resolution.⁷⁷The fact that the court is situated in Kampala means that child labourers in agriculture cannot get an audience before the court since most of them work in rural areas far from Kampala. The issue of jurisdiction comes into play and hence the court cannot try some matters due to lack of jurisdiction. This, therefore, denies the children a channel through which they can resolve their differences with the employers.

⁷⁵ FIDA, Report on the review of labour laws; 1996 pg. 23 FIDA

⁷⁶The Labour Disputes (Arbitration and Settlement) Act, s.15

⁷⁷Muntu E, New vision pg. 1 2001,<http://www.newvision.com>

In conclusion, the major obstacle to effective legal protection o against child labour in agriculture is the enforcement mechanism and the deficiency in child labour legislation. It barely covers the agriculture sector where most working children are employed. The contradiction in the statutes about who is a child makes the legal framework non-effective. Different statutes define a child differently that is the Convention on the Rights of the Child defines a child as any human being below eighteen years⁷⁸ while the Approved school's act defines a child as a person below the age of 12 years, such inconsistencies in the legal instruments have led to ambiguity. To this effect, therefore, one can rightly say that children in agriculture do not get the benefit of labour legislation.

3.4 CRITIQUE OF NON-LEGAL MEASURES.

3.4.1 UNIVERSAL PRIMARY EDUCATION

Corruption is so rampant in the programme that it is not being implemented effectively. Reports indicate that up to 64% of the entire education budget is lost through corruption and misallocation.⁷⁹This is, therefore, affecting the ability of the programme to withdraw children from work activities not only in agriculture but in other sectors of the economy as well.

With the introduction of universal primary education, the number of children attending school increased drastically without a proportional increase in the facilities available. This, therefore, means that some classes are conducted under trees and when it rains the children do not study. Research by Kansiime J in Tula primary school in Kawempe revealed that the situation as portrayed above has discouraged some children from attending school.⁸⁰

U.P.E also fails to equip children with the necessary skills and training to enable them to get gainfully employed after completion of primary school in case they don't continue with the school as it often happens. This, therefore, means that they will revert to child labour since they basically have nothing else to do.

The government also seems to be too obsessed with the success of U.P.E that the post-primary sector where the primary school leavers will be absorbed has been forgotten. Currently, there are

⁷⁸ Convention on the Rights of the Child part 1, Art. 1

⁷⁹ Naluswa O, Corruption in UPE, New vision 26 1997 page 3, <http://newvision.com>, 30 June 2019

⁸⁰ Kansiime J, 'Children's Right to Education a case study of U.P.E in Kawempe.sss

basically two admission outlets available for absorption of primary school leaver's that is secondary and tertiary institutions. UPE can only make meaning when it flows into the secondary level of education. The government must, therefore, increase funding of secondary education to cater for the increased number of U.P.E graduates. Otherwise, they will revert to work.

3.4.2 POVERTY ERADICATION

Provision of credit to rural farmers is one of the ways the government is trying to eradicate poverty. This scheme has however been affected by political bickering. Credit is given to people as a form of political reward. This is especially so regarding the *entandikwa* scheme which was meant to encourage small scale enterprises around the country. A revolving fund was set up and borrowers were expected to pay back the money at stipulated intervals. However, many people in rural areas thought that they had been given this money as a token of appreciation for supporting Museveni in the 1996 elections and as such were under no obligation to pay back the money.

Minister of finance also admitted that the initial failure of the scheme was due to political interference. This admission by the minister points to the fact that the management of most credit schemes is not professional since the criteria of awarding credit is one's political inclinations rather than a sound business plan. This, therefore, details the whole purpose of poverty eradication.

In conclusion, child labour is entwined and closely linked to poverty if efforts to eradicate poverty fail it is inevitable that child labour in agriculture will remain a reality within Uganda irrespective of the laws put in place to combat the phenomenon.

CHAPTER FOUR

DISCUSSION OF RESEARCH FINDINGS

4.0 INTRODUCTION

The socio-economic status today has forced many children to come out and participate fully in the agriculture sector to support themselves and their families. This chapter presents the findings of this study on the incidence of child labour in the agricultural sector in Uganda as well as a critique of measures taken to combat child labour.

4.1 STUDY FINDINGS

This data was obtained from 35 participants, 6 employers, 17 parents and 12 children. This was through interviews and reading. The findings are based on the tea estates from Kyamuhunga tea estates and small family plantations.

FIGURE 1

SAMPLE CATEGORY	SIZE	PERCENTAGE
WORKING CHILDREN	12	34.3%
EMPLOYERS	6	17.1%
PARENTS	17	48.6%
TOTAL	35	100%

Sources; field findings from Kyamuhunga tea estate.

This category was chosen for purposes of this research because it was the most vulnerable participants in child labour. The children were between 7 and 14 years.

FIGURE 2

AGE DISTRIBUTION OF CHILDREN

AGE GROUP	MALE	FEMALE	PERCENTAGE
8-10	4	2	24%
11-14	5	4	36%
15-17	7	3	40%
TOTAL	16	9	100%

Source; field findings from the Swazi tea estate.

It can be observed that the lowest percentage of working children is to be found in the age group of 8-10 years (24%). This is probably because few employers are willing to employ them due to their limited physical ability. Those that seem to be working are engaged in agriculture activities within their own homes.

The most active age group is that one between the ages of 15-17 years (40%). A probable explanation is that they are physically capable of taking on any manual job that is offered. In Kyamuhunga, this is the age at which a child is considered old enough to be responsible for himself. For the girls, it's at this age that some of them are taken as wives to start working on their husbands' plantations. This also brings out the fact that more boys than girls are engaged in child labour in agriculture. This is because agriculture involves a lot of physical exertion something which boys are more suited to do than the girls.

4.2 NATURE OF WORK CHILDREN DO

The study overall established that most of the tasks performed by children on farms and plantations are part of the day to day activities for all workers and not just for children. Generally, the kinds of tasks children engage in are normally manual and field-based because they lack any kind of specialized skill or technical knowledge. Most of them are engaged in plucking tea, land preparation, irrigation, spraying crops. At times the roles of these children are not specific and include a combination of all the above tasks.

TASKS COMMONLY PERFORMED BY CHILDREN AT KYAMUHUNGA TEA ESTATE

TASK	NUMBER	PERCENTAGE
Land preparations	7	28%
Spraying plants	5	20%
Weeding	5	20%
plucking tea	8	32%
TOTAL	25	100%

Source; interviews with children at Kyamuhunga tea estate

4.3 WORKING CONDITIONS OF CHILD LABOURERS.

4.3.1 HEALTH AND SAFETY CONDITIONS

The degree of mechanization at Kyamuhunga and local plantations tea estate is minimal therefore the hoe still exists as the main tool of production⁸¹. Children in the course of their employment often use the hoe which poses a considerable risk for a person using it as the likelihood of self-inflicted injury is quite high especially for a child whose physical size is not suited for the standard hoe. Ordinarily one would expect boots to be provided to not only child employees but to other workers as well, but this is not done. Children, therefore, work barefooted even in damp and wet conditions. The risk of stepping on dangerous creatures like snakes and scorpions also increases given the fact that plantations, where some of them work, are bush-like.

In relation to small individual owned tea plantations in the surrounding areas, children often take part in the pruning and plucking of tea plus the weeding and spraying of the tea plantations⁸². This

⁸¹ Field findings from Kyamuhunga and kakonde tea estates.

⁸² A survey on child labour in kinyara sugar corporation of Uganda. Conducted by the national union of plantation and agricultural workers Uganda 2001.

process is performed using sharp machetes or pangas, which pose a considerable risk of severing or injuring a finger, and this has at times happened to some of the children. Despite such risk's children working in such occupations are never provided with gloves to reduce the risk of injury.

Agriculture involves the practice of spraying crops and animals. Children are at times participants in this activity. One glaring fact which is apparent is that at Kyamuhunga tea estate where children take part in spraying, none of them is provided protective wear to minimize the risk of getting in contact with dangerous chemicals. These child labourers at times mix the chemicals with their bare hands. Surely this is appalling given the dangers associated with such chemicals. Children are never informed about the dangers involved in using such chemicals. Maybe if the workers were told of the dangers posed by these chemicals, they would handle them cautiously.

Children are never even examined to find out whether they are suited for spraying chemicals or pesticides. The practice of medical examination is a pre-requisite under section 15 of the Employment act section 15 before one can be employed in such work. The conditions under which children in commercial agriculture enterprises work are so bad to the extent that even when they are injured in the course of their employment no treatment is given to them for the injuries sustained. The children at their own expense or that of their parents treat such injuries. The above practice does not conform to the S.25 of the workers' compensation act that makes an employer liable to pay compensation to a worker in case he or she is injured while at work. In conclusion, safety measures for child labourers are virtually non-existent within the agriculture sector.

4.3.2 REMUNERATION.

One critical question in relation to child labour in agriculture is whether children are paid for the work they do. Only a small fraction of employers said that they did not pay children for the work they performed since some enterprises are dealt with by the parents who at times carry the children along to achieve production targets. This practice of bringing children to work is common among women who claim that they cannot leave the children at home as there is no one to look after them.

Most employers at Kyamuhunga tea estate ⁸³ stated that they paid children for their labour. The payment was, however, subject to completion of agreed tasks by the children. On average the rate

⁸³ Research findings from Kyamuhunga tea estate

of payment was between UGX 3500 and 8000 shillings per day however some of them complained that the payment they received was little compared to the amount of work they had to do. One Robert Mugira a 12-year-old boy said that he spends the entire day plucking tea leaves receives only 2000 for the whole day's work. The implication of this is that for these children the volume of earnings is established without any reference to the amount of time worked for it is not the amount of time worked that establishes the basis of calculation, but the particular kilograms plucked, or volume of work done. The employers blame low wages on the fact that agricultural prices are always fluctuating on both local and international markets leading to low profitability hence low wages for all employees⁸⁴.

Other complaints by child workers centered on the fact that foremen charged with supervising and paying workers often cheat them of their money on the pretext that their work is not satisfactory. It also transpired that some of them are paid in kind⁸⁵. They receive a small amount of money, which is supplemented by food and housing. In other cases, however, children work only for shelter and food without any kind of remuneration. Such a scenario exists where a child is being exploited by his or her relatives under the guise of taking care of him. It should be noted further that the former practice contravenes provisions of the employment decree which provides that wages are payable in legal tender.⁸⁶The fact that the practice continues points to a problem in the statute.

The study also revealed that sometimes children work on plantations and farms, but their wages are paid to their parents or guardians⁸⁷. This is especially so where children are employed by a relative. This practice is also illegal by virtue of the employment decree which provides that the payment of someone's wages to another without written permission⁸⁸ is void. Children who work with their parents on the family plantations do not receive any kind of remuneration yet at times they are overworked due to the need to supply themselves and their families with food for subsistence.

⁸⁴ The state of child labour in Uganda; Kampala. Ministry of labour and social affairs.

⁸⁵ Findings by NUPAW. a survey on child labour in kinyara sugar works corporation

⁸⁶Employment Decree, 1975:decee no4 of 1975,s4

⁸⁷ An interview with Anthony Tumukunde a child labourers at Kyamuhunga tea estate.

⁸⁸ Employment Decree, 1975:decree of 1975, s3

4.3.3 EMPLOYMENT CONTRACTS.

For those children selling their labour within the agriculture sector, problems associated with remuneration are bought by the fact that children do not enter into any employment contracts with their employers. The employer-employee relationship is mostly based on oral understanding between the two parties and is normally for a task at a time. Such oral agreement has no clear terms or conditions of service and is predominantly casual with the employer dictating the terms as he or she thinks fit.

In relation to the termination of services of a child worker, most employers do not give the child a notice of termination of his or her services⁸⁹. All they do is to tell the child that his or her services are no longer needed. This kind of termination is not limited to child workers but to adult workers as well. Therefore, the employer as a master dismisses at his discretion without giving any reasons and no one will question his competence to do so. It should be noted that the employment act makes provision for notice before one is fired from work. The acts of dismissing children without notice in effect amount to violating the decree.

4.3.4 DURATION OF WORK ACTIVITIES.

Given that agriculture is a labour intensive enterprise, workers spend a lot of time working on plantations especially during land preparation and harvesting. The situation is no different for child workers as they must work as much and if their adult counterparts. The length of a working day for a child worker depends on the amount of work that is available. It is not uncommon for them to work for more than ten hours a day.

Employers at Kyamuhunga tea estate are of the view that it is for the best interest of the child workers to work for as long as possible because their pay is determined by the amount of work that is done⁹⁰. It is only by working for long hours that one can earn reasonable amounts of money. This kind of attitude by the employer shows that he is not interested in the welfare of the children but only their exploitation. It is important to note that the employment decree limits hours that an employee can work to ten hours.⁹¹ Working overtime is also a common phenomenon for children

⁸⁹ Child link-ANNPCAN Uganda charter. Vol.1 no 2 June-august 1995

⁹⁰ Interviews with one ssembatya David an employer at Kyamuhunga tea estate.

⁹¹ Employment Decree, 1975:decece of 1975,s10

working within commercial agricultural entities. Overtime it is mostly undertaken due to the need to meet a specific target.

In addition to working for extended periods of time another issue which has been noted is the fact that the volume of work allocated to children is way beyond their ability. In other words, work given to them is the same as that of an adult. Most of the child workers carry out duties like lifting heavy loads for paddocking, herding animals as well as fetching water for the animals. Clearly, this is too much work for a person below eighteen years of age.

On most of the agricultural enterprises i.e. at kakombe and Kyamuhunga tea estate visited rest periods can all workers including children⁹². Periods of rest are normally between 15-30 minutes during lunch hours. In some cases, however, the resting periods depend on the work available as well as the urgency in which it is required to be done. If the work is a lot, then periods of rest are not allowed or are reduced drastically until the work is completed. The above practice is however prohibited by the employment decree, which mandates a resting period of 30 minutes for every 6 hours worked.⁹³ In conclusion, conditions under which children work are really appalling and it is very evident that the laws relating to child labour are completely disregarded either out of ignorance or indifference.

⁹² Child labour in Uganda. A case of the informal sector in Kampala city. by Nsiima Andrea.

⁹³ S.38(3)

CHAPTER FIVE

5.0 CONCLUSION AND RECOMMENDATIONS

5.1 INTRODUCTION

The situation of children working in agriculture is appalling and unsatisfactory as shown by the findings. Despite vehement condemnation of child labour from many quarters at government level, in professional circles and among children's rights activists both at local and international levels the problem of child labour still persists in the agriculture sector. Child labour is becoming more diverse and complex calling for flexible and diverse intervention to address it rather than the long-standing and impracticable strategy of blanket prohibition. The purpose of this chapter, therefore, is to conclude the study and set out recommendations which the researcher thinks could be valuable for the protection of children employed by agricultural enterprises in the short run and eradication of child labour in the long run. The recommendations are drawn from the researchers' personal study. It is hoped that they can, therefore, provide policymakers with useful information and the most effective ways of protecting children from exploitative child labour in agriculture.

5.2 CONCLUSION

Child labour is not a new phenomenon. It is a social-economic problem not only in Uganda but in world history. The presence of children employed in agriculture is an inseparable component of poverty hence the problem can only be dealt with from its root causes.

Though the causes of child labour are invariably many and complex, it can be controlled by introducing concrete measures to address them. The solution is not in the law as such but in improving the general economic conditions of most families in Uganda.

The efforts of various actors in the fight against child labour, especially in agriculture, are commendable and if maintained over a long period of time they will have a significant impact on the phenomenon. It is however unfortunate that most Ugandans have not even realized the serious consequences that child labour has on children, their families and the nation as a whole. Short term monetary interests of employers and poor families have continued to stand in the way of many serious attempts to eradicate the problem.

Although child labour cannot be abolished or controlled all at once this must remain an objective for many years to come. The government should begin to halt a practice, which is universally recognized as unacceptable. While child labour is a global concern the global system has the ultimate responsibility of vesting the concern at the national level. The government and the people of Uganda have the power to end the worst forms of child labour that are stunting the lives of millions of girls and boys. We have not yet mustered enough courage and imagination to really go beyond chipping at the margins and stop child labour. The children sense our actions and in-actions even if we don't hear them speak. In a world bereft of causes that unite us as human beings, let us all make the elimination of child labour a global cause that galvanizes our will to act and our decision to make a world of difference.

Although prevailing social and economic conditions are such that working children will continue to be a reality in the agriculture sector for some time to come ,every effort must be made to bring about improvement in the conditions of work and life through appropriate intervention .Such intervention must be an art of a comprehensive approach which would address those factors that are contributing to the current crisis

5.3 RECOMMENDATIONS

5.3.1 REVIEW OF LEGAL PROVISIONS

The findings in the preceding chapters reveal that the safety conditions of children working in agriculture are virtually nonexistent. It would thus be appropriate if laws are put in place to provide for minimum safety conditions for children which are quite different from those of adults given the peculiar circumstances of children for instance gloves and gumboots of their own size would go a long way in reducing the hazards faced by children working in agriculture. It is clear from the findings that children working in agriculture often work for more than ten hours a day. I recommend that a law should be put in place to regulate the hours and resting periods that children are supposed to work.

It would also be appropriate to have a law providing for the right of children to enter into written undertakings or contracts, which are evidenced by local officials so that they are not cheated out of their earnings .This will enable them to seek redress from the courts of law through lawful avenues in case their rights have been infringed. A law should also be put in place to specifically

address the economic exploitation of children within their own families. This practice is common in the agriculture sector.

The minimum age for admission to work in agriculture should be put in place given that children as young as eight years are involved in agricultural activities which amount to child labour especially within their homes. Minimum age of twelve years would be appropriate for both wage and non-wage labour.

The industrial court is one of the mechanisms of dispute resolution between employees and employers. Children working in agriculture are however not benefiting from it. Consequently, there is a need to increase its capacity to handle many cases involving among other children in agriculture. Appointing a judge to specifically handle child-related disputes could increase the capacity of the court.

5.3.2 ENFORCEMENT OF CHILD LABOUR LAWS.

This is the most critical area which needs attention if child labour in agriculture is to be eradicated for without enforcement mechanisms the law protecting children at work is virtually useless. In an article “child labour is often taken for granted⁹⁴” it was argued by officials of the national council for children that government and the public have not been very keen on adopting policies to alleviate child labour. There is a general absence of adequate and sometimes even any sensitivity among policy makers and planners.

The ministry of labour and social affairs is facing considerable handicaps especially in the labour inspectorate, which is understaffed, poorly paid with no motivation and yet they are expected to cover a wide range of labour activities all over the country including child labour in agriculture. The efficiency of the inspectorate can be improved by increasing its size and resources so that it can cover a wide range of activities. The inspectors should also be provided with specialized training to identify and handle child labour cases, especially in agriculture.

Regarding the enforcement of the children statute, probation and welfare officers are too few to have any impact on child labour in agriculture. The country currently has few probation officers which number is practically insignificant. In my opinion, the number of probation officers should

⁹⁴ The new vision October 24th 1996 page 5

be drastically increased so that each district has more than five officers depending on its size. In this way, they will be capable of covering even rural areas where the majority of child labourers in agriculture are situated.

5.3.3 RAISING AWARENESS ON THE PROBLEM OF CHILD LABOUR

A widespread problem is inherent in the fact that children working in rural areas, in urban informal sector workshops or as domestic servants in private households are not readily visible but invisible. An effective effort to protect children from such workplace hazards or abuses must, therefore, begin by making the invisible visible. For instance, at the national level, it is necessary for the government of Uganda to develop effective means of investigation and supervision by labour inspectors to detect and prosecute cases of exploitation of child labour. There must be government support and encouragement to journalists and other media professionals who may contribute to social mobilization by providing information of the highest quality, reliability and ethical standards concerning all aspects of child labour. The press is also an effective asset for ensuring public awareness. These are clear indications that the daily new vision has embarked on the battle against child labour, others should follow suit.

5.3.4 CREATING A BROAD SOCIAL ALLIANCE

Many governments have restricted their role to enacting child labour legislation, a legislation that has been passive in its enforcement. This is because most initiatives against child labour come from NGO,s. However, these organizations hold the view that their resources cannot be equal to the magnitude of the task and all levels of society also need to do their share.⁹⁵For instance, trade unions are directly placed to document concrete cases of abusive child labour and to monitor the effectiveness of legal instruments and the performance of the labour important in the child labour fields. According to a recent survey on child labour⁹⁶accommodation, food, medical care, compensation for injuries and better salaries are issues that clearly need to be addressed.

⁹⁵A survey on child labour. In kinyara sugar works corporation of Uganda and kakira sugar works. Conducted by the national union of plantation and agricultural workers-Uganda 2000 pg. 10.

⁹⁶ Ibid page 36

5.3.5 AVAILABILITY AND ACCESSIBILITY OF ADEQUATE AND RELIABLE RESEARCH.

Almost everywhere in the world, hard information is lacking on how many children are working, what they are doing, where and in what conditions. Without such data, it is virtually impossible to develop effective policies and programmes against child labour. In Uganda, obtaining adequate statistical data and accessibility to various aspects such as child labour is also a problem. Some have argued that the inadequacy of statistical data has been because of the exclusion of domestic workers who are invisible.

To the researcher, there is great need to improve the national research system in Uganda comprising the scale, distribution and characteristics of child labour and related socio-economic data, including work carried out by very young children. Work within the informal sector, inter-alia through national censuses and household surveys, and develop the collection of statistical documentation on the progress made in accordance with appropriate indicators.

5.3.6 POVERTY ERADICATION

A common attitude towards child labour especially in developing countries is to accept it as an unavoidable consequence of poverty. This is in line with the argument that poverty is the main cause of child labour. However, this argument is very convenient for people who benefit from the status quo, but poverty is not the only cause of child labour.

On the other hand, some critics agree that child labour will never be eliminated until poverty disappears completely from the African traditional setting. It is true that the poorest, most disadvantaged sectors of society constitute the vast majority of child labourers. To the researcher, the government of Uganda should create and exercise an explicit policy on poverty alleviation which may include the enforcement of social and economic policies to promote economic growth.

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