

# Should child labour be outlawed?

Many international standards prohibit child labour yet in reality child labour is a large part of many children's experience in the world. **Michael Bourdillon** argues that in many cases work is important to children's development and survival, and that certain standards can be more of a hindrance than a help.

**W**hen I was growing up, we children used to help our mother in looking after commercial chickens, and occasionally helped our father on the farm. Nowadays, international standards classify such work in a commercial enterprise as under-age economic activity, and therefore as child labour that must be eliminated.

Was there something wrong with our childhood? Or is something wrong with these international standards?

The 1948 Universal Declaration of Human Rights set out rights and freedoms to which everyone is entitled 'without distinction of any kind'. It declares everyone's right to work, to free choice of employment, and to just and favourable conditions of employment (article 23.1). This is not simply a right to income: work provides identity and status in society, and participation in the community. We often identify people by their work: a teacher, a miner, or a clerk. People relate to each other through work. Those who do not work are often without status and at the periphery of society.

How does this fundamental human right apply to children?

## CHILDREN'S RIGHT TO WORK

In 1966, two international covenants defined childhood as a state requiring special protection, with rights different from those of adults. Protection is widely assumed to mean that children should not work below a minimum age, negating their human right to work. Is this assumption justified?

Children sometimes need to earn. Many in Africa cannot rely on support from their elders, perhaps because supporting adults have died, or are abusive, or simply have insufficient resources and adequate state support is not available or accessible to children. They may need money for schooling (sometimes work makes school possible), for clothes, and even sometimes to feed themselves and their siblings. For them, work is crucial and their right to appropriate work needs to be respected and protected. Simply to stop them from earning makes their situation worse.

Even when their work is not strictly necessary, children's earned

income can contribute to their family's livelihood. Besides, family enterprises in agriculture or other production or services may need the support of children to be sustainable and to provide an adequate income for the family. Young people who help in these ways deserve respectful acknowledgement rather than condemnation.

## WORK IN CHILD DEVELOPMENT

Apart from the need for income, a more fundamental reason to recognise the right of children to work is the place of work in growing up. In most African cultures, appropriate work for children is considered integral to their upbringing.

Some psychologists argue that imitating and participating in social activities, like work, is the most fundamental mechanism of human cognitive development. Small children playfully mimic activities of adults, including their work. When their work is appreciated, they grow in self-confidence and competence. Work is a way of fitting into the family and community, learning life skills, and developing responsibility.

The importance of learning by working goes beyond activities in the home. In poor urban communities, children learn to trade or to participate in informal productive activities in a similar way, perhaps initially accompanying and imitating parents. They learn how to relate to outsiders such as clients and employers. In developed countries, adolescent children frequently work part-time to broaden their experience and their social contacts, and to learn how to deal with the world in which they are growing up.

In many societies, children learn skills and establish themselves in trading communities through apprenticeships. These are sometimes exploitative, with the master offering little instruction in return for free labour; nevertheless, for numbers of children throughout Africa, apprenticeship is the best available way to acquire a future.

Important classroom skills, such as reading and mathematics, come from practise in the classroom. Many life skills require learning through practise outside the classroom. So in the past many educationalists advocated 'education with production'. Education must be broader than simply schooling, and schooling that does not allow for other activities is itself harmful to children.

Since work is so fundamental to their development, it is logical that children should, like all humans, have the right to appropriate work. Many, in both high- and low-income countries, have claimed this right.

### PROBLEMS WITH CHILDREN'S WORK

What then is the problem? One is that some employers abuse and exploit children. Another is that some work interferes with schooling, which provides knowledge and skills necessary to

compete in the modern world.

The most common problem raised by South African children arises in the home, (See *SALB 30.4*. 'The long walk burden of child water collection'.) Many children complain that their unpaid housework makes them late for school, or sometimes prevents them from attending school, or interferes with school assignments, or leaves them insufficient time to sleep and makes them tired in class.

So problems arise in children's work, and international treaties have something to say about it. The African Charter on the Rights and Welfare of the Child (OAU 1990) does not forbid work as such and asserts the responsibility of children to help their families and communities. But, in line with the UN Convention on the Rights of the Child (CRC - 1989, article 32), it insists, 'Every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's physical, mental, spiritual, moral, or social development,' (article 15).

Neither document defines the term 'exploitation'. For adults, 'exploitation' refers to inadequate remuneration or harmful conditions of work. When adults are exploited, attention is paid to these conditions. Some people assume that in the case of children any employment is exploitation so instead of attending to conditions, authorities stop children from working. This approach ignores the potential benefits of work, and that some employers care for their child employees.

In 1999, the International Labour Organisation (ILO) passed a Convention (182) demanding the urgent elimination of the 'Worst Forms of Child Labour'. This has

been the most widely and rapidly accepted of all ILO conventions. It discusses two types of 'Worst Forms'. Intolerable work includes forms of slavery, forced participation in armed conflict, the sex trade, and other illegal activities. Second is hazardous work that 'by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children'.

When children are caught up in these intolerable forms, rescue and prosecution is usually the appropriate urgent action. The same may be true for hazardous work, but it is possible to remove some hazards without stopping the work and its potential benefits. In any case, the children concerned should be respected and consulted about how to improve their lives, to ensure that rescue is not even more traumatic for them than the work.



Mark Langham

*Is stopping 'under-age' work a matter of child rights?*

### APPROPRIATE MINIMUM AGE

More questionable is the ILO Convention 138 (1973) on the Minimum Age for Employment. This forbids children below a fixed minimum age (normally 15) from entering 'employment or work in any occupation', except non-economic work.

Children two years below the minimum age are allowed to undertake 'light work' that is not harmful and does not interfere with schooling. For younger children, no work or employment is allowed.

Many people assume that stopping 'under-age' work is a matter of child rights. Indeed, this is implied in the CRC. In practice, however, a minimum age for work in any occupation appears to violate rather than protect children's rights. It denies younger children the human right to appropriate work, and to learn and develop through work experience.

When children work in spite of the legislation, they are sometimes denied the right to payment for work done, on the grounds that they were not legally employed. Working children are regularly denied the right to join workers' unions for the same reason. Children are denied protection from arbitrary and unjust dismissal—indeed, those claiming to protect children often initiate such dismissal.

How is it possible that a standard so widely taken for granted can be detrimental to the development and welfare of children? History provides some answers.

Concerns about 'child labour' first became a public issue in England, fuelled by abusive treatment of children in the new and growing industries in the 19th century. Many changes contributed to improved lives for British

children by the early 20th century: economic growth and higher family incomes, improved and universal schooling, a developed regulatory structure, changing ideas about childhood; and legislation. Legislation applied to specific kinds of work at the end of the 18th century and then progressed to a general minimum age for employment more than a century later.

Most of these changes are difficult to reproduce elsewhere in the world. Legislation, however, is simple to pass and has been applied widely, without considering whether or not it is appropriate in the absence of other changes. Indeed, in Britain itself, many adolescents today engage in part-time employment in defiance of regulations concerning the employment of children, which they and their families regard as restrictive rather than protective.

### DISCUSSION

In practice, many children throughout the world, in both high- and low-income countries, combine part-time work with schooling, and wish to continue to do so.

While high-quality schools undoubtedly offer huge benefits for children with academic ability, the benefits are often diminished for children of the poor, with schools inaccessible or of poor quality, and offering few subsequent opportunities. For children with limited academic ability, or where schooling is of poor quality, the workplace can provide a good environment for learning life skills. In Africa, many children are out of school before the age of 15, and for them work is more constructive than most available alternatives.

What about 'stopping child labour'? This way of thinking focuses only on harmful aspects of

work, ignoring its benefits and it usually focuses on age and employment, rather than on conditions of work. It ignores problems in the school system that should be addressed. And it fails to address poverty and structural inequality, where exploited communities are forced to rely on contributions from children.

Certainly, abusive and exploitative employment should be eliminated. But in South Africa, this affects only a small minority of working children.

The vast majority of working children undertake unpaid tasks within their families. Parents and guardians need to be sensitised on how such work can be excessive and interfere with the child's broader development.

Instead of stopping children from working, we should:

- Protect working children from harm or excess in their work whether unpaid in the home or in informal or formal employment.
- Insist on children's rights to appropriate compensation for the work they do whether in kind within the family or community, or in wages where appropriate.
- Recognise working children as workers, with all the rights of workers.
- Acknowledge children's right to appropriate work should they need it or wish for it.

Rather than blindly enforcing international standards, we should first consider whether and how they serve the interests and development of our children. LB

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