

**A COMPARISON BETWEEN SOUTH AFRICA AND UGANDA, IN RESPECT OF
CHILD LABOUR AS A HINDRANCE TO THE RIGHT TO EDUCATION**

By

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**Submitted in partial fulfilment of the requirements for the MPhil degree in
Multidisciplinary Human Rights, in the Faculty of Law at the University of
Pretoria**

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October 2014

DECLARATION

I declare that this Mini-Dissertation which is hereby submitted for the award of Master of Philosophy(MPhil) in Multidisciplinary Human Rights at Centre for Human Rights, Faculty of Law, University of Pretoria, is my original work and it has not been previously submitted for the award of a degree at this or any other tertiary institution

Signed

Angela Bukenya

Acknowledgements

First and foremost I would like thank God, who is my greatest source of strength, for the gifts of wisdom, understanding, knowledge and guidance throughout my academic experience. I am truly grateful for all his blessings and love.

I would like to take this opportunity to express my deepest and sincere appreciation to my supervisor Prof Hansungule for his support and guidance in the writing of this mini-dissertation. I am honoured, humbled to have worked with Prof Hansungule who is a great source of inspiration.

I would also like to thank Prof Frans Viljoen for granting me the opportunity to be part of this programme and for his selfless dedication to support, assist and guide us to do our best throughout the course of the programme and for the being a great source of knowledge and inspiration.

Finally, I would to thank my parents, Mr Achilles Bukenya and Mrs Anne Bukenya, and siblings Anne, John Carol, John Benjamin and Arthur John, for the support, love and constant encouragement.

Abbreviations

ACRWC	- African Charter on the Rights and Welfare of the Child
BCEA	- Basic Conditions of Employment Act
CLPA	- Child Labour Programme of Action
CRC	- Convention on the Rights of the Child
DOA	- Department of Agriculture
DBE	- Department of Education
DEAT	- Department of Environmental Affairs and Tourism
DOH	- Department of Health
DOL	- Department of Labour
DPLG	- Department of Provincial and Local Government
DSD	- Department of Social Development
DT	- Department of Transport
IDP	- Integrated Development Plan
EBSST	- Electricity Based Support Service Tariff
IGA	- Income Generating Activities
ILO-IPEC	- International Labour Organisation International Programme on the Elimination of Child Labour
MIG	- Municipal Infrastructure Grant
MGLSD	- Ministry of Gender, Labour and Social Development
NPO	- Non- Profit Organisation
PEAP	- Poverty Eradication Action Plan
SASSA	- South African Social Security Agency
SAGE	- Social Assistance Grants for Empowerment
SAYP	- Survey of Activities of Young People

- UBS - Ugandan Bureau of Statistics
- UWC - Understanding Children's Work
- UNICEF - United Nations International Children's Emergency Fund
- UPE - Universal Primary Education

Abstract

In many parts of the world children are engaged in child labour, some of the key factors that contribute to the prevalence of child labour include; poverty, societal perception of child labour and cultural influences. A child's right to education is essential for the growth and development of a child in order the knowledge and skills needed to progress in life and better exposure to better opportunities in life. However when child labour interferes with or hinders a child's right to education, this limits a child's opportunity to grow, thus subjecting them to low paying jobs and keeping them in the cycle of poverty.

South Africa and Uganda recognise the importance of the rights of the child which is evident in existing legalisation protecting the rights of the child in both countries, the ratification, by both countries, of international law and instruments protecting the rights of children, as well the establishment policies, programmes, and other initiatives protecting the rights of the child. Basic education is compulsory in both countries and duties are placed on parents and guardians ensure they receive this. However there still exist large amounts of children involved in child labour, many of whom are dropping out of school due financial hardships and other circumstances and thus resorting to child labour to assist and take care of their families. This research argues that education and increased awareness about the detrimental effect of child are both important tools in the elimination of child labour. This research reviews existing legalisation, policies and programmes and initiatives in place for the reduction and elimination of child labour in Uganda and South Africa and identifies good practices in both countries which could be implemented to create new and strengthen existing systems and mechanism in place against child labour.

Table of Contents

Chapter One.....	8
Introduction.....	8
1.1 Introduction.....	8
1.2 Background.....	9
1.2.1 South Africa.....	9
1.2.2 Uganda.....	11
1.3 Research Questions.....	14
1.4 Research Methodology.....	14
1.5 Significance of Research.....	15
1.6 Literature Review.....	15
1.7 Overview of Chapters.....	20
Chapter Two.....	22
Child labour in South Africa.....	22
2.1 Introduction.....	22
2.2 South Africa and children rights.....	22
2.3 South African national policy protecting children against child labour	26
2.4 Good practices against child labour in South Africa.....	35
2.5 Concluding remarks.....	37
Chapter Three.....	39
Child labour in Uganda.....	39
3.1 Introduction.....	39
3.2 Aspects of child labour practices in Uganda.....	39
3.3 Legislation protecting against child labour.....	40
3.4 Policies against child labour in Uganda.....	43
3.5 Practices against child labour in Uganda.....	49
3.6 Concluding remarks.....	54
Chapter Four.....	56
Regional and global measures in line with International Child labour Instruments.....	56
4.1 Introduction.....	56
4.2 Legislation, policies, practices and initiatives in line with international child labour instruments.....	56
4.3 Concluding remarks.....	65

Chapter Five.....	66
Conclusion and recommendations.....	66
5.1 Summary of findings.....	66
5.2 Conclusion.....	67
5.3 Recommendations.....	68
Bibliography.....	70

CHAPTER 1

INTRODUCTION

1.1 Introduction

Child labour is a major issue that is experienced in many parts of the world, however due to the intertwined nature with a cultural definition of the kind of work children are supposed to do in order to develop, there is a tendency to dismiss child labour as a huge issue in many African cultures, thus the prevalence of the child labour. A large number of children are exposed to child labour on a daily basis at the expense of their education. Several factors contribute to this such as poverty, child headed homes, neglect by or irresponsible parenting, unawareness of one's rights of the child and the parents.

In a several rural settings, a child is given a lot of responsibilities to assist with the daily household chores. Now if we look at a case in point where parents struggle to make enough income to take care of their families, typically in a rural setting, most likely a child would have to assist in taking care of the family. Duties would range from increased domestic chores and work, to taking on a part time job in order to provide extra income that is needed within the household.

Many of times having to take on extra domestic duties and jobs have conflicted with a child's education, such as having to miss school to take care of younger siblings, or being too exhausted to effectively and fully function in school in order to achieve the best out of school, therefore showing hindrance on the right to education.

Cultural influences and societal perceptions of child labour play a big role in the prevalence of child labour. A fine line exist between duties and work that is productive and those which are harmful to the development of a child and unfortunately in most rural and poorer communities and households this difference is not known, rather in most cases the duty and responsibility of the child to the family, in terms of the carrying out of domestic chores or the taking on labour to support the family is regarded as most important. To a certain extent one could understand why this type of mentality exist within rural areas, however this poses a problem when it denies the child the right to education and proper development therefore limiting

these children from access to better opportunities and thus keeping them within the cycle of poverty.

1.2 Background

1.2.1 South Africa

The South African constitution has a specific section for the protection and promotion of children rights which is under section 28 of the constitution, this indicates the importance of the wellbeing of children with South Africa. Conventions ratified by South Africa include the Convention on the rights of the Child(CRC), African Charter on the Rights and Welfare of the Child(ACRWC), “The International Labour Organisation Minimum Age Convention1973”¹, “ILO Worst Forms of Child Labour Convention 1999”².

Article 27-29 of the African charter makes provisions for the responsibility of each individual to the community and that all rights should be exercised in respect to the rights of others and for the greater development of one’s community.³ This signifies the importance and the influence of the community in the development of an individual and the manner in which the individual performs their duties. In respect to this research, we see the importance of family in terms of the duty and responsibility that is placed on children, to take care of their family, however some level of protection has to exist to protect individuals particularly children from being misused especially in the cases whereby child labour interferes with the right to education and development, thus the importance of article 18 of the African charter.

Article 18 ,makes provisions for the duties of the state in not only providing for the needs, support and protection of the family, but most importantly ensuring the protection of children according to the provisions stipulated in international

¹ Minimum Age Convention, 1973 (No. 138)

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312283:NO accessed 11 February 2014

² Worst Forms of Child Labour Convention, 1999 (No. 182)

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C182 accessed 11 February 2014

³ African Charter on Human and Peoples Rights, article 27-29

http://www.achpr.org/files/instruments/achpr/banjul_charter.pdf accessed 11 February 2014

conventions protecting the rights of children, thus the need to protect children against the hazardous and harmful child labour.⁴

The minimum age convention was ratified by South Africa and it stipulates parties to the convention should establish policies to eliminate child labour and legislation indicating the minimum age for employment. As a result the Basic Conditions of Employment Act (BCEA) was implemented; this act prohibits any form of forced labour and the employment of children under the age of 15.⁵

More specifically was the development of the Child Labour Programme of Action (CLPA) by the Department of Labour (DOL) which was developed with the aim of reducing and eliminating child labour.⁶ The CLPA focuses on all forms of work, with or without remuneration, which is regarded as harmful to the child. The first nationwide survey on child work, known as the “Survey of Activities of Young People”⁷(SAYP), was conducted in 1999. The survey intentionally did not focus on the labour but on activities in order to cover areas in which children were involved in harmful activities such as domestic chores that have a negative impact on their development. Findings indicated that a large number of children were engaging in the harmful and large amounts of work, and this survey contributed to the formulation of the CLPA, in order to properly address the problem and establish appropriate measure to eliminate child labour.⁸

According to the “South African Schools Act”⁹ it is compulsory for children from the ages of seven to fifteen to attend school or until the completion of the Grade nine.¹⁰ Furthermore the act stipulates that no child may be refused admission, inter alia, on

⁴ n3 above http://www.achpr.org/files/instruments/achpr/banjul_charter.pdf accessed 11 February 2014

⁵ Basic Conditions of Employment Act of 1997 secs 43(1)

⁶ Department of Labour, “The National Child Labour Action Programme for South Africa” October 2003, pg 2 <http://www.labour.gov.za/DOL/documents/useful-documents/basic-conditions-of-employment/national-child-labour-action-programme-for-south-africa> accessed 11 February

⁷ Statistics South Africa “ Surveys of activities of young people in South Africa” 2001 file:///C:/Users/User/Desktop/recent%20songs/2001_sa_survey_young_people_SA_en_new.pdf accessed 11 February 2014

⁸ n6 above pg2-3 <http://www.labour.gov.za/DOL/documents/useful-documents/basic-conditions-of-employment/national-child-labour-action-programme-for-south-africa> accessed 11 February

⁹ South African schools Act 84 of 1996 secs 4(1)

¹⁰ South African schools Act 84 of 1996 secs 4(1)

the grounds of inability to pay for school funds and in such cases parents may apply to be exempted from paying schools fees.¹¹

Unfortunately, most families living in rural areas are not aware of this provision and if they are unable to provide pay school fees, this most likely results in children having to work in order to assist their parents, thus interfering with their right to education as some children have to miss school due to longer working hours or large amount of household activities.¹²

Several factors contribute to the prevalence of child labour the main one being poverty. South Africa has one of the highest levels of inequality in terms of income distribution with majority of the Africans living in poor living conditions. Subsequently, many children even as young as five years are forced to engage in child labour and domestic work as a means to assist the family in taking care of household expenses.

One could argue that because of the high level of poverty many African parents would not consider child labour as a problem but as a means to assist them with taking care of their family. However South African legislation states otherwise, such as chapter six of the BCEA which stipulates that no child younger than fifteen should be involved in any form of child labour and children between the ages of fifteen and seventeen can be employed but cannot be employed in a nature of work which is detrimental in any way to the wellbeing of the child and their education.¹³

There exists a large number of children involved in child labour in South Africa about 800 000 which was reported by the Minister of Labour, although there has been a slight decrease in this number, it is still a huge number of children involved in child labour and according to the SAYP of 2010, there exist a large number of children who miss school as a result of child labour. This inevitably results in the continuous cycle of poverty as children who cannot continue with their education miss out on better opportunities to improve their lives.¹⁴

1.2.2 Uganda

¹¹ n9 above sec5 (3)

¹² n6 above pg20 <http://www.labour.gov.za/DOL/documents/useful-documents/basic-conditions-of-employment/national-child-labour-action-programme-for-south-africa> accessed 11 February

¹³ n5 above secs43

¹⁴ Statistics SA, "Survey of Activities of Young People" 2010
<http://www.statssa.gov.za/Publications/statsdownload.asp?PPN=P0212> accessed 11 February 2014

Article 34 of the constitution of Uganda lays out the rights of children within Uganda, amongst this is the right to basic education and the protection of children from being exploited economically and engaging in labour that is dangerous and disruptive to the education of the child. Pertaining to this section it refers to children who are younger than 16.¹⁵

Uganda has ratified the CRC, ACRWC and the “National Child Labour Policy”¹⁶ was implemented in 2006¹⁷ and in 2012 the “National Action Plan on Elimination of the Worst Forms of Child Labour”¹⁸ was formulated. The “National Labour Force and Child Activities Survey of 2011/12”¹⁹ acknowledges that child labour is detrimental to development within the country and to the reduction of poverty.²⁰

In 1997 the Universal Primary Education (UPE) system was introduced as a measure to improve the enrolment of children and the education levels at primary level, however child labour has challenged the move towards the achievement of UPE.²¹ Although there has been an increase in enrolment into school, the level of completion and attainment of education has decreased and one of the contributing factors is child labour.²² One of the factors which have contributed to child labour is the HIV/AIDS pandemic which has left a number of children without one or both of

¹⁵ Constitution of the Republic of Uganda, 199, Art 34

¹⁶ Ministry of Gender Labour and Social Development “National Child Labour Policy”
<http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> 12 February 2014

¹⁷ n16 <http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> 12 February 2014

¹⁸ Ministry of Gender, Labour and Social Development, 2012 National Action Plan on Elimination of the Worst Forms of Child Labour http://www.unicef.org/uganda/NAP_Uganda_June_2012.pdf accessed 11 February 2014

¹⁹ Uganda Bureau of Statistics, “The National Labour Force and Child Activities Survey 2011/12” pg2 http://www.ubos.org/onlinefiles/uploads/ubos/pdf%20documents/NCLS%20Report%202011_12.pdf accessed 12 February 2014

²⁰ n19 above pg ix
http://www.ubos.org/onlinefiles/uploads/ubos/pdf%20documents/NCLS%20Report%202011_12.pdf accessed 12 February 2014

²¹ n19 above pg 2
http://www.ubos.org/onlinefiles/uploads/ubos/pdf%20documents/NCLS%20Report%202011_12.pdf accessed 12 February 2014

²² n19 above pg 35
http://www.ubos.org/onlinefiles/uploads/ubos/pdf%20documents/NCLS%20Report%202011_12.pdf accessed 12 February 2014

the parents and according to the survey it indicates that orphans who have lost both parents are highly engaged in child labour and as a result have to drop out of school.²³ According to the information from the “Ugandan Bureau of Statistics (UBS)”²⁴ about two million children are involved in child labour²⁵, furthermore there has been an increase of the involvement of children in child labour of about 300 000.²⁶

In both countries, child labour is highly prevalent in rural areas and one could argue that three key issues contribute to the high nature of child labour which are; lack of development in rural area, lack of access to proper schools and societal perception of child labour within rural areas.

Lack of development is a huge issue in rural areas and as a result of this families are faced with the following predicaments; Parents have to leave their home for long periods in search of employment opportunities, children have to drop out of school in search of employment opportunities, and children have to engage in extra amounts of household chores due to the lack of access to basic necessities, such as water and electricity which are time-consuming. All these situations result in children having to miss school or drop out of school at some point in order to support their family.

Lack of access to nearby schools, in most rural areas, results in children having to walk a long distances in order to get to school and by the time they arrive they are exhausted and cannot perform as well as they should, furthermore when they get home they have to immediately attend to household activities, which may not give them enough time to concentrate on homework and preparations for school, furthermore some of these children have to miss school in order to take care of younger siblings, therefore this takes away from their right to education and ability to

²³ n19 above pg 33

http://www.ubos.org/onlinefiles/uploads/ubos/pdf%20documents/NCLS%20Report%202011_12.pdf accessed 12 February 2014

²⁴ n19 above pg2

http://www.ubos.org/onlinefiles/uploads/ubos/pdf%20documents/NCLS%20Report%202011_12.pdf accessed 12 February 2014

²⁵ Kulabako F ‘Two million in child labour, Uganda statistics body says’ 28 September 2013

<http://www.thecitizen.co.tz/News/Two-million-in-child-labour--Uganda-statistics-body-says/-/1840360/2010596/-/104sil1z/-/index.html> accessed 20 February 2014

²⁶ Anguyo I “Child Labour Keeps two million out of school” 11 October 2013

<http://www.newvision.co.ug/news/648301-child-labour-keeps-two-million-out-of-school.html> accessed 20 February 2014

do well in school, thus resulting in dropouts and resorting to child labour as the next best alternative.

A society's perception of child labour also contributes to the prevalence of child labour. In a community whereby little is known about detrimental effect of child labour or harmful house chores that infringe on a child's schooling, it more likely to continue as priority will be given to the child's duty to take care of the family over the importance of the child's right to education.

In as much as progress has been made in terms of the implementation of policies and the existence of awareness programmes about the detrimental effect of child labour, much greater effort needs to be put into the addressing of underlying causes of child labour particularly on the importance of the right to education in the battle against child labour. More needs to be put into the importance of the right to education and development within rural areas in order to create better opportunities for parents and to reduce the responsibility of the child, so that the child can receive the education needed to improve their life.

1.3 Research Questions

1. To investigate the prevalence of child labour practices in South Africa and Uganda
2. To identify underlying factors that contribute to the prevalence of child labour in South Africa and Uganda
3. To investigate measures and efforts, legislative and others, taken against the practice of child labour in the two countries and determine their shortcomings
4. To identify regional and global measures and solutions pursuant to the international child labour instruments applicable to these countries
5. To come up with recommendations in light of national, regional and global standards the two countries have adopted in a bid to stem the scourge.

1.4 Research Methodology

This following research will mainly take place through desk research which will comprise of primary and secondary sources. Primary sources include policies and legislation related to child labour and secondary sources reports, surveys, papers and journal articles. The research will also rely on internet public sources.

The research will also comprise of a comparative study between South Africa and Uganda, looking at best practices to help improve looking at best practice to help improve the child labour issues.

1.5 Significance of Research

Several documentation and provisions exist for the protection of the rights of the children against child labour, however child labour occurs, in most cases it is due to circumstances out of the control of the child and the parent, thus posing the question of what would be an effective alternative to ensure the protection of children against having to resort to child labour to survive.

As the focus is on the hindrance of child labour on the right to education, the following research focuses on the need to emphasize the importance of education in order to break free from this cycle of child labour, and to try reach a medium in which those trapped in the cycle of child labour also have access to good education that will help them get out of this situation through the prioritisation of development in rural areas and most importantly in the provision and access to education which will contribute immensely to the elimination of child labour.

1.6 Literature Review

Efforts have been made for the fight against child labour as we see that in both Uganda and South Africa, policies against child labour have been implemented and awareness campaigns have taken place, however there exist a need for more to be done in terms of the right to education as a measure to effectively fight child labour, as well as mechanisms to focus on improving the achievement of the right to education particularly in the rural areas.

In the South Africa, the development of the CLPA was an important step in efforts to eliminate child labour. It was first adopted in 2003 and the second phase was later adopted in 2009 to cover the financial years of 2008-2013. The CLPA aims to work with different government departments through the identification of different actions steps to eliminate child labour and thus assigning responsibility to the relevant

departments to carry out these action steps. The DOL is in charge of the coordination and monitoring of the carrying out of these action steps.²⁷

The CLPA has contributed to the decline in the number of children involved in child labour from a million to 800 000²⁸, however this is still a large number and there still exist concerns in terms of the achievement of actions steps assigned to relevant government departments. If we take a look at the DBE, the CLPA report states some action steps to be carried out by the DBE, under accessibility and availability of schools, the department is to provide transport for children living far away from school, however the report indicates that there has been no progress in this regard, which is a key issue as some children miss out of school due to lack of nearby schools, therefore they have to resort to child labour as an alternative.²⁹

Under curriculum development, the report indicates little efforts been made in terms of the inclusion of the issue of child labour in the school curriculum as well as the training of staff members to assist learners who are faced with the issue of child labour. This is essential to provide learners with the support that is needed and to create awareness and better understanding of the detrimental effect that child labour could have on their future.³⁰

In a study done by Budlender and Bosch on child domestic work within South Africa, they recognize that majority of children involved in domestic work are from rural areas and that a large number of children are involved in unpaid domestic work. In many cases this work can be time consuming which affects the schooling of the child

²⁷ Department of Labour “The National Child Labour Programme of Action for South Africa” 2008-2012, pg1 <http://www.labour.gov.za/DOL/downloads/documents/annual-reports/child-labour-programme-of-action-for-south-africa/2012/Child%20Labour%20Programme%20of%20Action.pdf> accessed 22 February 2014

²⁸ Sapa, “ Child labour still unacceptably high-minister” 1 August 2013 <http://www.citypress.co.za/news/child-labour-still-unacceptably-high-minister/> accessed 27 February 2014

²⁹ n27 above pg29 <http://www.labour.gov.za/DOL/downloads/documents/annual-reports/child-labour-programme-of-action-for-south-africa/2012/Child%20Labour%20Programme%20of%20Action.pdf> accessed 22 February 2014

³⁰ n27 above pg30 <http://www.labour.gov.za/DOL/downloads/documents/annual-reports/child-labour-programme-of-action-for-south-africa/2012/Child%20Labour%20Programme%20of%20Action.pdf> accessed 22 February 2014

and furthermore some of these chores are hazardous and detrimental to the health of the child.³¹

Nicolaou and Durieux point out the issue of circumstances whereby parents are unable to provide for their family, therefore resulting in responsibilities being shifted to children to take care of their families, either through added domestic work, taking care of younger siblings or taking on a job, which all have detrimental effects on the education of the child when it conflicts with schooling of the child, and this obviously occurs within in poverty stricken areas in which there is a lack of proper development and employment opportunities for parents or guardians, therefore indicating a dire need for more efforts on development within in these areas.³²

In the research done by Nturi and Nzimande, they also acknowledge the cultural influence on the persistence of child labour. From a young age, children are assigned the type of tasks they need to carry out as part of their development, with girls taking on a more nurturing and supportive role and boys taking on a providing role and would therefore would be given preference in terms of access to schooling.³³ Children learn from a young age that they have a duty to take care of their families and more especially in cases whereby their parents unable to do so and in some cases this takes priority over the child's right to education³⁴, "Family links, relations and interactions therefore play a key role in the dynamics of child labour".³⁵

The HIV/AIDS pandemic has left a lot of children orphaned and having to resort to child labour to make a living as the high levels of poverty and unemployment within rural areas has made it difficult for extended family to take care of these children,

³¹ Budlender D & Bosch D, 2002 " South Africa Child Domestic Workers: A National Report" May 2002 http://www.anexcdw.org.za/index.php?option=com_content&view=article&id=39:ilo-ipec-national-report-on-child-domestic-workers-in-south-africa&catid=8:research-papers&Itemid=17 accessed 5 March 2014

³² Nicolaou K, & Durieux M, 2005, "Addressing Child Rights and Child Labour- Poverty Strategy for South Africa" 14 October 2005 <http://www.ci.org.za/depts/ci/pubs/pdf/poverty/workpap/Unemployment-Treasury.pdf> accessed 28 February 2014

³³ Mturi A & Nzimande N, 2003, "HIV/AIDS and Child Labour in South Africa: The case study of KwaZulu-Natal" March 2003 pg2 http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/publication/wcms_119217.pdf accessed 6 March 2014

³⁴ n33 above pg7 http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/publication/wcms_119217.pdf accessed 6 March 2014

³⁵ n33 above pg2 http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/publication/wcms_119217.pdf accessed 6 March 2014

therefore resulting in children having to sacrifice school in order to take care of their needs.³⁶

In Uganda, the policy on child labour was developed and implemented in 2006, the policy provides a brief discussion on the socio- economic context of Uganda and its impact on the prevalence of child labour, highlighting poverty, armed conflict, large population, societal perceptions, HIV/AIDS, and irresponsible parenting as some of the major contributing factors in the prevalence of child labour.³⁷

The policy discusses the importance of education, particularly in terms of efforts to reduce child labour, “Child labour cannot be approached separately from the issue of education.”³⁸ UPE was implemented as a means to increase the number of children enrolled at school, and though it achieved an increase a large number of children either dropped out of school or did not attend school at all due to responsibilities to take care of the family and thus resorted to child labour.³⁹ The policy acknowledges the damaging effect that child labour has on the right to education in that a lack of education limits a child’s exposure to better job opportunities thus contributing to the continuous cycle of poverty and keeping them in the same predicament.⁴⁰ The policy outlines objectives it aims to achieve in order to reduce child labour, in relation to education this involves increased access to primary education, training of teaches to cater to the needs of children who are working, incorporation of child labour as an issue into the curriculum.⁴¹

³⁶ n33 above pg 2 http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/publication/wcms_119217.pdf accessed 6 March 2014

³⁷ n16 above pg 5-10 <http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> accessed 22 February 2014

³⁸ n16 above pg 7 <http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> accessed 22 February 2014

³⁹ n16 above pg 8 <http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> accessed 22 February 2014

⁴⁰ n16 above pg 18 <http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> accessed 22 February 2014

⁴¹ n16 above pg 32-34 <http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> accessed 22 February 2014

Another key document in the Uganda is the “National Action Plan(NAP) on Elimination of the Worst Forms of Child Labour in Uganda”⁴², focused mainly on the elimination of worst forms of child labour and it aims to achieve this through the following objectives; increased enrolment as well as the completion of school, increasing public awareness about child labour, strengthening of laws prohibiting child labour, increasing the social protection and assistance of children affected by child labour.⁴³ Although the policies are in place there was an increase in the number of children involved in child labour by 300 000 children, and this clearly indicates that a gap that exist in the implementation process.⁴⁴

UWC Country Report points out from analysis that children with educated fathers are less likely to work and more likely to attend school as compared to children with illiterate fathers. This demonstrates the importance of education and the detrimental effect of child labour when it interferes with a child access to education as without education the cycle of poverty will continue.⁴⁵ The report further points out that level of attainment of education is low, and one of the contributing factors is the intensity of work that is done by children, forcing them to drop out of school.⁴⁶

Kabasiita points out the influence of culture in child labour, particularly with regards to the girl child. In some cases desperate measures can result in parents denying the girl child the right to education and rather limiting her to domestic duties at home and other homes for payment.⁴⁷ Kabasiita, further points out the influence of societal

⁴² Ministry of Gender, Labour and Social Development “National Action Plan on Elimination of the Worst Forms of Child Labour in Uganda” May 2012 pg viii

http://www.unicef.org/uganda/NAP_Uganda_June_2012.pdf accessed 22 February 2014

⁴³ Ministry of Gender, Labour and Social Development “National Action Plan on Elimination of the Worst Forms of Child Labour in Uganda” May 2012 pg viii

http://www.unicef.org/uganda/NAP_Uganda_June_2012.pdf accessed 22 February 2014

⁴⁴ Kulabako F “Two million in child labour, Uganda statistics body says” 28 September 2013

<http://www.thecitizen.co.tz/News/Two-million-in-child-labour--Uganda-statistics-body-says/-/1840360/2010596/-/104sil1z/-/index.html> accessed 28 January 2014

⁴⁵ UWC Country Report Series “ Understanding children’s work in Uganda” August 2008 pg v

http://www.ucw-project.org/attachment/child_labour_Uganda20110628_105759.pdf accessed 3 March 2014

⁴⁶ n 45 above pg 32-34 http://www.ucw-project.org/attachment/child_labour_Uganda20110628_105759.pdf accessed 3 March 2014

⁴⁷ Kabasiita M, “ Combating Child Labour in Uganda: Challenges and prospects from a development perspective” Jul y2009 pg 20

views on child labour in that there is a general misperception of the detrimental effects of child labour most especially when it hinders the child's access to education.⁴⁸

Three important factors that need to be considered, Firstly, the impact of societal perception of child labour, particularly within rural areas, as some parents and elders are not aware of the detrimental effect of child labour on children and their future, secondly is the need for development within rural areas, in order to provide for employment for parents and remove the strain from children. Thirdly is the need for the prioritisation of the importance of education in the elimination of child labour through increased awareness about child labour as an issue and establishment of support structures in schools to assist children faced with this issue.

1.7 Overview of Chapters

Chapter one will cover the background to the research, research thesis, research questions, significance of research, literature review and research methodology

Chapter two will cover the child labour issue in South Africa with a comprehensive discussion on existing policies, legislation and efforts to protect children against child labour with particular focus on the right to education.

Chapter three will cover the child labour issue in Uganda with a comprehensive discussion on existing policies, legislation and efforts to protect children against child labour with particular focus on the right to education.

Chapter four will cover regional and global measures and solutions in line with the international child labour instruments applicable to these countries

Chapter five will provide a comparative study between South Africa and Uganda with a focus best practices, legislation and programmes in place to reduce and eliminate child labour in South Africa and Uganda

http://uir.unisa.ac.za/bitstream/handle/10500/4670/dissertation_kabasiita_m.pdf?sequence=1
accessed 3 March 2014

⁴⁸ n 47 above pg 24

http://uir.unisa.ac.za/bitstream/handle/10500/4670/dissertation_kabasiita_m.pdf?sequence=1
accessed 3 March 2014

Chapter six

Conclusions and recommendations

CHAPTER 2

CHILD LABOUR IN SOUTH AFRICA

2.1 Introduction

South Africa is actively involved in the positive development and protection of children. There exist several policies, legislation and mechanism for the participation of NGO's and other stakeholders for the protection and promotion of children's rights. The section below seeks to provide a comprehensive discussion on existing policies, legislation and efforts to protect children against child labour with particular focus on the right to education.

2.2 South Africa and children rights

Section 28 of the constitution of South African protects the rights of children. It states that children are to be protected from any form of abuse, should have access to essential services, be brought up in a good family environment and have access to good care centres and caretakers in cases whereby they are removed from family or are left orphaned, so as to ensure the child is not mistreated or exploited.⁴⁹

Section 28 further prohibits the involvement of children from form of work which is economically exploitative and harmful to the child.⁵⁰ However such practices are common in poorer communities and due to financial circumstances, child labour is accepted as a norm in order for children to assist the family financially. Subsequently this interferes with the child's education and wellbeing and limits the child's exposure to better opportunities due to the lack of qualifications. Section 28 of the constitution is extremely important in the fight against child labour so that children in such circumstances are protected by law and can seek out help or be protected by institutions who can remove them from such situations.⁵¹

If we take a look at the distribution of power between national and provincial legislation in South Africa, "The national parliament has legislative authority over any matter, including the concurrent functional areas mentioned in Schedule 4 to the Constitution, but excluding the functional areas in Schedule 5 over which the

⁴⁹ Constitution of the Republic of South Africa, 1996 secs 28 subsection 1(b)

⁵⁰ n49 above secs 28 subsection 1(e) & (f)

⁵¹ n49 above secs 28

provinces have exclusive legislative authority.”⁵² In relation to the right to education it is important to note that education falls under schedule 4 of the constitution of functional areas for which national and provincial authorities share concurrent functions and therefore national power has authority over legislative power in these regard. However section 146 of the constitution lays out conditions in which national legislation prevails over provincial and vice versa, particularly in cases whereby different powers share concurrent powers in section 4 of the constitution, which states that :

- National legislation prevails over provincial legislation in case whereby in matter which cannot be effectively regulated by provincial legislation.⁵³ “If the national legislation deals with a matter that to be dealt with effectively requires uniformity across the nation, and the national legislation provides such uniformity by establishing norms and standards, frameworks or national policies.”⁵⁴. Furthermore if national legislation is needed for maintaining economic unity, national security, protection of the common market, promotion of economic activities across the different provincial boundaries and the promoting of equal access to services offered by government.⁵⁵
- The national legalisation also has authority in cases to protect against irrational decisions or action taken by province that is prejudicial to the nation or another province and hinders the implementing of the national economic policy.⁵⁶

However in case whereby the conditions above are not met, the provinces have authority or can prevail over national legislation.⁵⁷

The BCEA is an important document in the prohibiting of child labour, in that it sets out the minimum age in which a person may start working, and any organisation or person who employs or assists in the employment of children younger than the set

⁵² R Malherbe “The constitutional distribution of powers” in B de Villiers *Review of provinces and local governments in South Africa: Constitutional foundations and practice* (2008) 20

⁵³ n49 above section 146(2)(a)

⁵⁴ R Malherbe “The constitutional distribution of powers” in B de Villiers *Review of provinces and local governments in South Africa: Constitutional foundations and practice* (2008) 20

⁵⁵ n49 above section 146(2)(b)(c)

⁵⁶ n49 above section 146(3)

⁵⁷ n49 above section 146(5)

age will be committing an offence. Chapter six of the BCEA stipulates that no child under the age of fifteen may be employed and it acknowledges the need to prevent employment which negatively affects a child's access to education.⁵⁸ This is important in the eradication of child labour so as to ensure that on a legal aspect no child may be employed and those in contraventions of this law will be punished accordingly.⁵⁹

Another important document is the "Child Care Act"⁶⁰, section 52A of the act deals with the prohibition and conditions of the employment of children. This act focuses mainly on the protection and care of vulnerable, orphaned and adopted children, so as to ensure that they are protected from exploitation. The act includes a children's court, "Every magistrate's court shall be a children's court for the area of its jurisdiction."⁶¹ This provides children with a place of legal support which they can turn to or in which a concerned party, police officer or social worker can seek legal protection for the child from harm and exploitation.⁶²

Section 13 of the act, focuses on the issue of children who are brought to court, particularly in cases whereby the child may not have a parent, care taker or guardian, or cases whereby a policeman or authorised person is of the opinion that the child needs to be removed from a harmful situation.⁶³ An inquiry is made in order to determine whether the child is in need of proper protection and the court will then determine whether the child is in need of protection in cases whereby, inter alia, the child "lives in or is exposed to circumstances which may seriously harm the physical, mental or social well-being of the child."⁶⁴ This is definitely applicable to cases of forced child labour and harmful domestic chores most especially if it interferes with the child's education.⁶⁵

⁵⁸ Basic Conditions of Employment Act 75 of 1997, secs 43

⁵⁹ n58 above secs 43

⁶⁰ Child Care Act of 1893 secs 52A(1)

⁶¹ n60 above secs 5(1)

⁶² n60 above secs 5

⁶³ n60 above secs 13

⁶⁴ n60 above secs 14(4) (aB)(iv)

⁶⁵ n60 above secs 12

“Every magistrate shall be a commissioner of child welfare”⁶⁶ It is the commissioner who is in charge of presiding over the children’s court.⁶⁷ In cases whereby a social worker or police officer have grounds to believe that a child needs to be moved to a place of safety, a warrant can be used by a commissioner for the child to be placed in a safer environment.⁶⁸

The “Prevention of Family Violence act”⁶⁹ protects children against mistreatment, according to section 4: “Any person who examines, treats, attends to, advises, instructs or cares for any child in circumstances which ought to give rise to the reasonable suspicion that such child has been ill-treated, or suffers from any injury the probable cause of which was deliberate, shall immediately report such circumstances”⁷⁰, child labour and irregular and harmful domestic work would constitute as ill-treatment particularly in cases whereby the child has to engage in excessive domestic work which interferes with their education and is hazardous to the health and wellbeing of the child. Such a situation would have to be reported in order for the child to be removed from this environment or to seek better remedy to assist the family and child.⁷¹

The right to education is an important right in the fight against child labour. In the constitution of South Africa, all have the right to basic education and it is the responsibility of the state to ensure measures are in place for accessibility to education.⁷² With specific focus on children, section 3 of the “South African Schools act”⁷³ stipulates that it is compulsory for children to attend school, and receive their basic education and it is the duty of the parent or guardian of the child to ensure that the child receives their basic education.⁷⁴ Should a parent or guardian fails to do so, responsibility is placed on a head of the department of education to conduct an

⁶⁶ n60 above secs 6(1)

⁶⁷ n60 above secs 7(1)

⁶⁸ n60 above secs 11

⁶⁹ Prevention of Family Violence Act 133 of 1993 secs 4

⁷⁰ n69 above secs 4

⁷¹ n69 above secs 4

⁷² South African Human Rights Commission “ 3rd Economic and Social Rights Report 1999/2000 Executive summary” 2001 pg 81

http://www.sahrc.org.za/home/21/files/Reports/3rd%20ESR%20report%20chapter_3.pdf accessed 26 June 2014

⁷³ South African Schools Act no 84 of 1996 section 3

⁷⁴ n73 above section 3

investigation and take appropriate action to solve the situation. And if a parent or guardian is found guilty of the prevention of a child attending school, then they will be found guilty of committing an offence with punishable outcomes.⁷⁵

No child may be denied education on the grounds of inability to pay school fees and section 39 of the schools act allows for the exemption of parents from paying school fees in cases whereby they cannot afford to pay for school fees.⁷⁶ This is determined by a set of criteria which the guardian or parents need to qualify for in order to be exempted fully or partially from paying school fees.⁷⁷ There has also been the development of schools particular in rural areas, which do not charge school fees so as to provide education to families in communities who cannot afford school fees.⁷⁸

The minimum age convention was ratified by South Africa in 2000. The convention stipulates the need for the members to the convention to develop a national policy that indicates a minimum age for the admission of individuals to work and furthermore work towards the eradication of child labour. Such a policy which was developed by South Africa is the CLPA.⁷⁹

2.3 South African national policy protecting children against child labour

The CLPA is an important national policy which was developed for the main purpose of the eradication of child labour and harmful domestic work. The policy aims to involve different government departments in the eradication of child labour, by including sections of the mandates of these government departments which directly

⁷⁵n73 above section 3

⁷⁶n73 above section 39

⁷⁷n73 above section 39

⁷⁸ Department of Labour "The National Child Labour Programme of Action for South Africa" 2008-2012 pg 30 <http://www.labour.gov.za/DOL/downloads/documents/annual-reports/child-labour-programme-of-action-for-south-africa/2012/Child%20Labour%20Programme%20of%20Action.pdf> accessed 20 February 2014

⁷⁹ Minimum Age Convention 1973 article 1

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C138 accessed 21 March 2014

or indirectly have an impact on child labour. This is effective in that it brings in other departments to work together with the DOL in effort to eradicate child labour.⁸⁰

The CLPA was first adopted in 2003, as a measure to complement existing programmes, policies and legislation focused on the reduction of child labour. It was noticed that a major contributing factor to child labour is poverty, therefore creating the need to develop programmes and initiatives to reduce and eliminate poverty, as well as improving on existing policies and initiatives in place to reduce poverty.⁸¹

In order to get a better sense of the issue of child labour within the country the SAYP was conducted. The survey includes activities with economic and non-economic gains so as to capture domestic chores and other types of work which have a detrimental effect on the development of the child as well their access to education.⁸²

The South African government also engaged in a consultation process with other stakeholders such as NGO'S and other relevant institution in order to assist in the development of the CLPA. Most importantly was the involvement of children affected by child labour in the consultation process, so as to better understand the impact of child labour from their own perspective.⁸³ Consultations were also done with the public for a better understanding of the hazardous work done by children, circumstances that force them into this situation and to formulate more appropriate policies and measures to address this issue.⁸⁴

Although the CLPA is not legally binding it lays down action steps to be completed by different government departments and within these actions steps are policies and legal documents protecting the rights of children to which the government is bound to

⁸⁰ Department of Labour , "The National Child Labour Action Programme for South Africa" 2003, pg 2 <http://www.labour.gov.za/DOL/documents/useful-documents/basic-conditions-of-employment/national-child-labour-action-programme-for-south-africa> accessed 20 February 2014

⁸¹n80 above pg 2 <http://www.labour.gov.za/DOL/documents/useful-documents/basic-conditions-of-employment/national-child-labour-action-programme-for-south-africa> accessed 20 February 2014

⁸²n80 above pg 2 <http://www.labour.gov.za/DOL/documents/useful-documents/basic-conditions-of-employment/national-child-labour-action-programme-for-south-africa> accessed 20 February 2014

⁸³n80 above pg 3 <http://www.labour.gov.za/DOL/documents/useful-documents/basic-conditions-of-employment/national-child-labour-action-programme-for-south-africa> accessed 20 February 2014

⁸⁴n80 above pg 8-9 <http://www.labour.gov.za/DOL/documents/useful-documents/basic-conditions-of-employment/national-child-labour-action-programme-for-south-africa> accessed 20 February 2014

carry out and can be used by children to enhance and protect their rights. The CLPA plays an important role in creating awareness of these policies, legislation and programmes to support families and assist children out of child labour and furthermore one could argue that because the CLPA is focused specifically on child labour it creates easy accessibility to information and better understanding about the issue of child labour in South Africa. Moreover, the CLPA creates opportunity for communities, institutions, and organisations to hold government accountable to action steps that are laid down in the document and are to be completed within the set time frame indicated in the CLPA. The CLPA provides a discussion on existing policies and legal documents that have a direct impact on child labour, for the purpose of this research we will look at policies based on child welfare and education.

Chapter 9 of the Children's Act of South Africa, makes provisions for the identification of children who need protection and who are also in need of care. Section 150, subsection 1(f) states that there is a need for the protection of a child who "lives in or is exposed to circumstances that expose the child to exploitation;"⁸⁵ one could argue that this directly relates to the need to protect children from child labour and domestic chores which are harmful to the child's wellbeing and exposes the child to economic exploitation. Section 150, subsections 2(a) refers to the need to protect children from child labour, in that a social worker should be designated to further investigate the intensity of the child labour situation, and to further provide support services to the child to help assist them in such situations.⁸⁶

An aspect of child labour which has been overlooked is the issue of children involved in scavenging, this refers to children going to waste sites to look for recyclable products and sell or receive payment for this from recycling companies. Research has found that children not only work at these sites but also accompany family members who do not have any person to look out after the children or cannot afford to take their children to school, therefore exposing children to harmful and toxic environments of the dumpsites.⁸⁷

⁸⁵ Children's Act 38 of 2005 secs 150 subsection 1(f)

⁸⁶ n85 above secs 150 subsection 2(a) & 3

⁸⁷ Benjamin S 2007 " A rapid assessment on scavenging and waste recycling work by children in South Africa" October 2007

The CLPA makes reference to the responsibility of the DEAT in terms the enforcement of legislation regarding the management of waste, “Currently there are myriad legislation and policy documents that have emerged from the Department of Environmental Affairs and Tourism (DEAT) regarding waste management and the environment. Yet there is no consistency between national legislation and the policy documents (and also among the different policy documents) with regard to scavenging.”⁸⁸ This presents a problem in that departments at provincial levels therefore lack direction in efforts to deal with the issue of scavenging, therefore the CLPA lays down an action step in which the DEAT is tasked with the responsibility of the development of strategies to assist these families and provide these families with alternative forms of income and reference is made to the Children’s act which states that the Department of Social Development (DSD) is tasked with the responsibility of the identification of children who need protection and care and furthermore to assist families, who are in need of financial assistance, in the accessing of social grants and other options of assistance, as many of these families are not aware of these options.⁸⁹

With regards to education, the CLPA, makes mention of the schools act, section 3 of the act stipulates that it is compulsory for all children to attend school between the ages of seven and fifteen years, and it is the duty of the parent, or guardian to ensure that the child attends school.⁹⁰ The section goes on to state that the relevant head of department of education may intervene in cases whereby a learner is not attending school.⁹¹ Section 5 of the act stipulates that no child should be denied education at a public school on the grounds of inability to pay school fees⁹² and

http://www.academia.edu/3546866/A_Rapid_Assessment_of_Scavenging_and_Waste_Recycling_Work_by_Children_in_South_Africa accessed 4 July 2014

⁸⁸ n87above pg8

http://www.academia.edu/3546866/A_Rapid_Assessment_of_Scavenging_and_Waste_Recycling_Work_by_Children_in_South_Africa accessed 4 July 2014

⁸⁹ n78 above pg 29 <http://www.labour.gov.za/DOL/downloads/documents/annual-reports/child-labour-programme-of-action-for-south-africa/2012/Child%20Labour%20Programme%20of%20Action.pdf> accessed 20 February 2014

⁹⁰ n73 above section 3

⁹¹ n73 above section 3

⁹² n73 above section 5

parents may apply to be exempted partially or fully from paying schools fees.⁹³ The CLPA further points out the duty of the Department of Basic Education (DBE) on the creation of awareness on policies about exemptions from paying school fees and importantly awareness about the issue of child labour in school and the school curriculum.⁹⁴

Poverty is a key factor which contributes to the continuous cycle of child labour. The CLPA points out that one of the most common forms of child labour practices and domestic chores in South Africa is the collection of fuel and water, which in small portion is not a problem, however once it interferes with the overall wellbeing of the child and negatively affects the child's attendance and performance in school, then this poses a threat to the positive development of the child.⁹⁵ The CLPA points out projects which contribute to the eradication of poverty such as the issuing of grants, as well as public work projects. Public work projects, more specifically in rural areas, are most advantageous in that it generates income in terms of the job opportunities it creates and it improves development within these areas.⁹⁶

The CLPA further addresses the issue of poverty through three services that should be rendered. Firstly is through the provision of infrastructure and services by the municipal, this refers to the duty of local government to provide essential services and development of needed infrastructure within local communities, one such project is the Integrated Development Plan (IDP). The IDP is basically a plan designed to improve development within a community for the purpose of providing the people within that community, access to the needed services for improved quality of life.⁹⁷ It

⁹³ n80 above pg 20 <http://www.labour.gov.za/DOL/documents/useful-documents/basic-conditions-of-employment/national-child-labour-action-programme-for-south-africa> accessed 20 February 2014

⁹⁴ n78 above pg 30 <http://www.labour.gov.za/DOL/downloads/documents/annual-reports/child-labour-programme-of-action-for-south-africa/2012/Child%20Labour%20Programme%20of%20Action.pdf> accessed 20 February 2014

⁹⁵ n80 above pg 49-50 <http://www.labour.gov.za/DOL/documents/useful-documents/basic-conditions-of-employment/national-child-labour-action-programme-for-south-africa> accessed 20 February 2014

⁹⁶ n80 above pg 29-30 <http://www.labour.gov.za/DOL/documents/useful-documents/basic-conditions-of-employment/national-child-labour-action-programme-for-south-africa> accessed 20 February 2014

⁹⁷ Education and Training Unit for Democracy and Development "Integrated Development Planning for Local Government" pg 1 <http://www.etu.org.za/toolbox/docs/localgov/webidp.html> accessed 28 March 2014

is the duty of the municipality to draw up and coordinate the implementation of the IDP. However the biggest setback is the inability of some municipalities in rural areas to draw up an IDP due to lack of funding.⁹⁸

One way to address this issue was the development of the Municipal Infrastructure Grant (MIG) which is coordinated by the Department of Provincial and Local Government (DPLG) and aims to make the process of provision of grants to municipalities for development programmes more efficient⁹⁹, “Rationalised grants include those for water services, community based public works, sports and recreation facilities and urban facilities.”¹⁰⁰ This would help immensely in terms of supporting the local municipalities in improving development within rural areas more effectively.¹⁰¹

Secondly is the provision of water services. The “*Free Basic Water Programme*”¹⁰² was launched with the aim of providing a minimum of 6000 litres of water to each household per month with a focus on rural areas that do not have access to proper and nearby water facilities.¹⁰³ CPLA however points out the issue of the high tariff

⁹⁸ n80 above pg 50 <http://www.labour.gov.za/DOL/documents/useful-documents/basic-conditions-of-employment/national-child-labour-action-programme-for-south-africa> accessed 20 February 2014

⁹⁹ Department of Provincial and Local Government, “The Municipal Infrastructure Grant Programme” 2004-2007, pg 7 <http://mig.dplg.gov.za/Content/documents/Guidelines/Annex%20B%20-%20MIG%20Introductory%20Guideline.pdf> accessed 23 February 2014

¹⁰⁰ n80 above pg 50 <http://www.labour.gov.za/DOL/documents/useful-documents/basic-conditions-of-employment/national-child-labour-action-programme-for-south-africa> accessed 20 February 2014

¹⁰¹ n80 above pg 50 <http://www.labour.gov.za/DOL/documents/useful-documents/basic-conditions-of-employment/national-child-labour-action-programme-for-south-africa> accessed 20 February 2014

¹⁰² Department of Water Affairs and Forestry, “Free Basic Water: Implementation Strategy 2007:Consolidating and maintaining” 2007, p5 http://webcache.googleusercontent.com/search?q=cache:In3jbvagfqsJ:www.dwaf.gov.za/dir_ws/ws/pd/UserControls/DownloadImportFiles.aspx%3FFileID%3D151+&cd=1&hl=en&ct=clnk&gl=za accessed 28 March 2014

¹⁰³ Department of Water Affairs and Forestry, “Free Basic Water: Implementation Strategy 2007:Consolidating and maintaining” 2007, p5 http://webcache.googleusercontent.com/search?q=cache:In3jbvagfqsJ:www.dwaf.gov.za/dir_ws/ws/pd/UserControls/DownloadImportFiles.aspx%3FFileID%3D151+&cd=1&hl=en&ct=clnk&gl=za accessed 28 March 2014

cost once the 6000 litres is exceeded resulting in children having to go back to travelling long distances to fetch water, which defeats the whole purpose.¹⁰⁴

Thirdly is the issue of access to basic electricity. The Electricity Based Support Service Tariff (EBSST) was implemented in 2003 with the aim of providing poor households with free 50kwh of electricity a month, in effort to reduce the need for children to spend large amounts of time having to collect wood or search for fuel in order to cook and make use of other household appliances which require electricity and energy.¹⁰⁵ The CLPA however points out that the amount of electricity to be provided for free is sufficient for basic necessity such as lighting, but it is not enough for cooking, which is the most important need for survival therefore resorting in children still having to collect alternative sources of energy, such as wood, or paraffin to use for cooking, “The fact that children were found to spend so much time collecting fuel indicates that many families, certainly in ex-homeland areas, use very little paraffin or other purchased sources of energy for cooking”¹⁰⁶

In the African culture, family and the community play a big role in the development of children and it is the duty and responsibility of the individual to exercise their rights in a manner that contributes positively to the development of their community. It is acknowledged that in most African cultural settings, household chores is an important activity in the development of children, most specifically amongst girls, in order to develop into more responsible adults.¹⁰⁷ This, however, becomes a problem when the chores are harmful to the wellbeing of the child and when they interfere with the education of the child. The CLPA thus points out the need for guidelines to

¹⁰⁴n80 above pg 51 <http://www.labour.gov.za/DOL/documents/useful-documents/basic-conditions-of-employment/national-child-labour-action-programme-for-south-africa> accessed 20 February 2014

¹⁰⁵ Department of Minerals and Energy, “ Electricity Basic Services Support Tariff Policy” 2003 pg 8-9 [file:///C:/Documents%20and%20Settings/p04428528/My%20Documents/Downloads/Electricity%20Basic%20Services%20SupportTariff_policy%20\(1\).pdf](file:///C:/Documents%20and%20Settings/p04428528/My%20Documents/Downloads/Electricity%20Basic%20Services%20SupportTariff_policy%20(1).pdf) accessed 28 March 2014

¹⁰⁶n80 above pg 52 <http://www.labour.gov.za/DOL/documents/useful-documents/basic-conditions-of-employment/national-child-labour-action-programme-for-south-africa> accessed 20 February 2014

¹⁰⁷n80 above pg 55 <http://www.labour.gov.za/DOL/documents/useful-documents/basic-conditions-of-employment/national-child-labour-action-programme-for-south-africa> accessed 20 February 2014

be drawn by the appropriate household chores for children and furthermore to ensure that the chores are equally distributed between girls and boys.¹⁰⁸

A large number of children are involved in commercial and subsistence agriculture. Under commercial agriculture, many children are employed mostly in rural and isolated areas some of whom are not paid for the work that is done. Children are either employed by other farmers or work within their own family farms, as these areas are isolated it makes it difficult for regular inspection to be carried out by the DOL. Furthermore, before an inspection is carried out, notice must be given to the farmer which gives the farmer a chance to cover up traces of child labour. Irrespective of their legal right to do so, inspectors refrain from carrying out inspection without notice as they fear for their safety because farmers treat them as intruders.¹⁰⁹ This poses are huge problems as children who are forced to work in such conditions most likely are denied access to proper or full education, thus keeping them within those circumstances in order to survive.¹¹⁰

Subsistence agriculture is regarded as less hazardous as compared to commercial agriculture, however the CLPA points out that similarities exist between the two. Both involve long working hours which affect school attendance, in times of harvesting seasons there is a higher demand for work, which involves heavy loads which are harmful to children, furthermore parents and care takers working in such environments sometimes have to work for longer hours thus resulting in older siblings having to take care of the younger children and sometimes missing school.¹¹¹

On the issue of subsistence agriculture, the Department of Agriculture (DOA) is tasked with the duty to increase the amount of research for the improvement of

¹⁰⁸n 80 above pg 55 <http://www.labour.gov.za/DOL/documents/useful-documents/basic-conditions-of-employment/national-child-labour-action-programme-for-south-africa> accessed 20 February 2014

¹⁰⁹n 80 above pg 55-56 <http://www.labour.gov.za/DOL/documents/useful-documents/basic-conditions-of-employment/national-child-labour-action-programme-for-south-africa> accessed 20 February 2014

¹¹⁰n 80 above pg 55-56 <http://www.labour.gov.za/DOL/documents/useful-documents/basic-conditions-of-employment/national-child-labour-action-programme-for-south-africa> accessed 20 February 2014

¹¹¹n 80 above, pg 58 <http://www.labour.gov.za/DOL/documents/useful-documents/basic-conditions-of-employment/national-child-labour-action-programme-for-south-africa> accessed 20 February 2014

production methods as well as extension services in agriculture in effort to reduce the use of children in this area.¹¹² The DOA published a document on the extension of agriculture services looking at norms and standards to be used to help improve agriculture; however the document makes no mention on efforts to reduce the involvement of children in this sector.¹¹³

Several children living within rural and isolated areas do not have access to nearby schools and therefore have to walk long distances in order to access proper schools, one of the problems with this is that children are exhausted by the time they reach school and therefore cannot perform as well as they should, which affects their performance at school, one of the actions steps in the CLPA stipulates the need for the assistance such the provision of transport to school. DBE and Department of Trade (DT) are tasked with the responsibility of carry out this action step, however an issue arises in terms adequate funding for such projects particularly in rural areas.¹¹⁴

The CLPA addresses the need for schools to get more involved and provide support to children who are involved in child labour. This includes the active involvement of principals in the identification of children who are constantly absent so as to assess the reason behind this and to assist the child to come back to school and complete their education. It is the duty of principals to inform the provincial head from the DSD to assist the family through the provision of social grants as well as applying for exemption from paying school fees. This is essential as many families in this situation may not even be aware of support services out there that can help improve their situation at home.¹¹⁵

Many children are forced to leave home in search of better opportunities to help assist their families financially, unfortunately some of these children end up living on

¹¹²n78 above pg 28 <http://www.labour.gov.za/DOL/downloads/documents/annual-reports/child-labour-programme-of-action-for-south-africa/2012/Child%20Labour%20Programme%20of%20Action.pdf> accessed 20 February 2014

¹¹³n78 above pg 29 <http://www.labour.gov.za/DOL/downloads/documents/annual-reports/child-labour-programme-of-action-for-south-africa/2012/Child%20Labour%20Programme%20of%20Action.pdf> accessed 20 February 2014

¹¹⁴n78 above pg 29 <http://www.labour.gov.za/DOL/downloads/documents/annual-reports/child-labour-programme-of-action-for-south-africa/2012/Child%20Labour%20Programme%20of%20Action.pdf> accessed 20 February 2014

¹¹⁵n78 above pg 31 <http://www.labour.gov.za/DOL/downloads/documents/annual-reports/child-labour-programme-of-action-for-south-africa/2012/Child%20Labour%20Programme%20of%20Action.pdf> accessed 20 February 2014

the streets and have to resort to begging in order to survive. In effort to address this issue the CLPA stipulates an action step to provide access to basic educational programmes to these children, so as to help them develop and bring them back into school, which will open better opportunities for them.¹¹⁶

Due to cultural influences and social factors, there tends to be a blurred definition on the difference between chores that contribute to the positive development of children and those which are detrimental to the development of children. As discussed earlier on, the DOL is tasked with the responsibility of developing guidelines on the kind of work and chores that are regarded as acceptable, this may be a bit tricky in terms of implementation as it is a sensitive issue, however it would create an awareness and understanding of acceptable chores for the positive development of children.¹¹⁷

2.4 Good practices against child labour in South Africa

South Africa has also been affected badly by the HIV/ AIDS pandemic, which has left some children without parents and many adults sick with children having to drop out of school in order to take care of sickly members and get jobs in order to provide. As a result of this a programme was developed to help families faced with this predicament called the “Home and Community-Based Care(HCBC)”¹¹⁸ basically this programme provides medical care and social services within the homes of families infected and affected by HIV/AIDS also by ensuring that these families have access to the essential services which are also near to their homes, “It ensures that those eligible for home and community-based care or support services receive access to integrated services, which also addresses their basic needs for food, shelter, education, health care, family or alternative care and protection from abuse and

¹¹⁶n78 above pg 32<http://www.labour.gov.za/DOL/downloads/documents/annual-reports/child-labour-programme-of-action-for-south-africa/2012/Child%20Labour%20Programme%20of%20Action.pdf> accessed 20 February 2014

¹¹⁷n78 above pg 38<http://www.labour.gov.za/DOL/downloads/documents/annual-reports/child-labour-programme-of-action-for-south-africa/2012/Child%20Labour%20Programme%20of%20Action.pdf> accessed 20 February 2014

¹¹⁸ Friedman I, et al 2010, “A national audit of registered and unregistered home and community-based care(HCBC) organisations in South Africa” pg 14
http://www.dsd.gov.za/Nacca1/index2.php?option=com_docman&task=doc_view&gid=218&Itemid=39 accessed 10 September 2014

malnutrition.”¹¹⁹ The HCBC also importantly looks at ensuring that those affected by HIV/AIDS also receive the support that is needed, most especially the children, so that they do not have to miss school.

The Department of Health (DOH) and the DSD at the national level are mandated with overseeing of the implementation of the HCBC programme.¹²⁰ Various appraisals have been conducted in effort to evaluate implementation of the HCBC programme in the various communities throughout the country. A national audit was conducted to gain information on registered and unregistered HCBC organisation and NPO organisation that are providing the HCBC programmes within communities, to assess the impact it is having on the communities benefiting from these programmes, to establish a database of all HCBC programmes throughout the country, which was lacking in the previous years, and also to establish some form of uniformity in the rendering of the HCBC programmes in all communities in order to better assist these organisation with the provision of these services with more involvement from the DSD and the DOH.¹²¹.

The audit revealed that most organisations providing HCBC services, with the exception of most organisations in the Northern Cape, were already funded, and received further financial assistance from the DSD, however more needed to be done in terms of provision of necessary healthcare resources to assist these organisations from the DOH, moreover more financial assistance was required for care givers, as many were providing services on a voluntary basis due to lack of funding for stipends, however there still exists a strong commitment from care givers

¹¹⁹n118 above pg 14

http://www.dsd.gov.za/Nacca1/index2.php?option=com_docman&task=doc_view&gid=218&Itemid=39 accessed 10 September 2014

¹²⁰n118 above pg 7

http://www.dsd.gov.za/Nacca1/index2.php?option=com_docman&task=doc_view&gid=218&Itemid=39 accessed 10 September 2014

¹²¹n118 above pg 7

http://www.dsd.gov.za/Nacca1/index2.php?option=com_docman&task=doc_view&gid=218&Itemid=39 accessed 10 September 2014

pg 7-8

http://www.dsd.gov.za/Nacca1/index2.php?option=com_docman&task=doc_view&gid=218&Itemid=39 accessed 10 September 2014

to provide services with resources and means available.¹²² The audit has not only been effective in the identification of HCBC services provided throughout the country, but most importantly in identifying the specific needs in order to improve the provision of these services to help the families affected by HIV/AIDS.

SASSA is the main institution in charge of the coordination and issuing of social grants in South Africa. This plays an important role in the reduction of reliance on child labour in poor family households as they receive some funding to help take care of their family, such grants include children grants, old age grants, as well as disability grants.¹²³ In terms of funding, as of October 2014 there has been an increase in the amount that is given for the grants, and more effort has been placed into investing more into social grants with a “rise from R118-billion in 2013/14 to R145-billion by 2016”¹²⁴

2.5 Concluding remarks

The South African government has legislation and policies in place for the protection of children, as well as projects and initiatives in place to fight against child labour, more particularly to reduce poverty which is a major contributing factor to the prevalence of child labour.

The CLPA is an important document in the move towards the elimination of child labour, although it is not a legally binding document, it is an essential document as it deals directly with the issue of child labour and creates awareness and understanding of the issue of child labour in South Africa. It is essential because it lays down action steps which are to be completed by the government departments,

¹²² n118 above pg 7

http://www.dsd.gov.za/Nacca1/index2.php?option=com_docman&task=doc_view&gid=218&Itemid=39 accessed 10 September 2014

pg 9-10

http://www.dsd.gov.za/Nacca1/index2.php?option=com_docman&task=doc_view&gid=218&Itemid=39 accessed 10 September 2014

¹²³ South African Social Security Agency “ Social grants” <http://www.sassa.gov.za/index.php/social-grants/child-support-grant> accessed 21 September 2014

¹²⁴ SAnews.gov.za “ Increase in old age, child support grants”

<http://www.southafrica.info/business/economy/policies/budget2014h.htm#.VDeHWPmSwuc> accessed 10 October 2014

which creates responsibility and accountability on the part of the relevant departments in the carrying out of the action steps in effort to eliminate child labour.

However more needs to be done in terms of the carrying out of actions plans. There needs to be a revision on policies regarding the provision of free water and electricity so that these can cater to the most essential needs of the communities and reduce the reliance of children to collect water, wood and fuel. A major problem is that lack of development in most rural areas which needs to be prioritised as this will help alleviate a great amount of factors that contribute to the prevalence of child labour within in these areas.

CHAPTER 3

CHILD LABOUR IN UGANDA

3.1 Introduction

Poverty is a major contributing factor in the prevalence of child labour in Uganda and approximately two million children are involved in child labour. There exists legislation promoting and protecting the rights of children in Uganda and policies focused specifically on the issue of child labour have been developed. These policies pay particular attention to the issue of poverty and efforts to eradicate this in order to reduce and eliminate child labour. The following section will cover the child labour issue in Uganda with a comprehensive discussion on existing policies, legislation and practices to protect children against child labour with particular focus on the right to education.

3.2 Aspects of child labour practices in Uganda

The Ugandan government recognises that child labour is a huge and important issue that needs to be addressed and eliminated. The government recognises the negative impact that child labour has on the right to education in that it deprives children of access to education, which in turn results in children not acquiring the skills and education needed to pursue better opportunities in life, therefore limiting them to unemployment and low paying jobs, thus continuing the cycle of poverty.¹²⁵

Several factors contribute to the prevalence of child labour such as poverty and a high rate of population growth.¹²⁶ Other factors which contribute to the prevalence of child labour include internal conflict and the HIV/AIDS pandemic, both of which have left several children without parents or guardians. Subsequently, children have dropped out of school and sought after employment at a young age in order to survive and take care of their family.¹²⁷ Finally another contributing factor is the

¹²⁵ Ministry of Gender, Labour and Social Development “National Action Plan on Elimination of the Worst Forms of Child Labour in Uganda” May 2012 pg 1-2

http://www.unicef.org/uganda/NAP_Uganda_June_2012.pdf accessed 22 February 2014

¹²⁶ n125 above pg 2-3 http://www.unicef.org/uganda/NAP_Uganda_June_2012.pdf accessed 22 February 2014

¹²⁷ n125 above pg 3-4 http://www.unicef.org/uganda/NAP_Uganda_June_2012.pdf accessed 22 February 2014

misconception of the hazardous nature of child labour and harmful domestic work, most especially when it interferes with the education of the child. This is due to cultural influences and circumstances in which a parent may not have a choice but to require their children to work, or take on more domestic chores which can be time-consuming and harmful to the positive development of the child.¹²⁸

3.3 Legislation protecting against child labour

Article 34 of the Ugandan constitution protects and promotes the rights of children. All children have a right to a sense of belonging, as stipulated in the constitution that all children should know and be cared for by their parents or guardians and have to access to resources and services for their best interest and development.¹²⁹ A child's access to education is a priority and no child may be deprived of their right to education. Furthermore it is not only the duty of the parents or guardians to ensure that the child receives their basic education but it is also the duty and the responsibility of the state to ensure this as well.¹³⁰ The article 34 states that the follow provisions a relevant to children who younger than sixteen, this falls in line with the minimum age convention, article 2(3), which states that no child under the age of fifteen may be employed.¹³¹

Article 34(4) of the constitution states that "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 or to be harmful to their health or physical, mental, spiritual, moral or social development"¹³² It is important to note that the article makes reference to the protection against any type of work with or without remuneration which is harmful and disruptive to a child's right to education and wellbeing .¹³³

¹²⁸ n125 above pg 4 http://www.unicef.org/uganda/NAP_Uganda_June_2012.pdf accessed 22 February 2014

¹²⁹ Constitution of the Republic of Uganda 1996 secs 34(1)

¹³⁰ n129 above secs 34(2,3)

¹³¹ Minimum Age Convention 1973 article 2(3)

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C138 accessed 21 March 2014

¹³² n129 above secs 34(4)

¹³³ n129 above secs 34(4)

If we take a look at the distribution of power in Uganda, parliament is enacted with the power to create laws for the good governance and development of the country, and no other body, except if stipulated in the constitution, can obtain such powers. The parliament shall make laws by passing bills to the President who will then have a period of thirty days to approve or reject the bill.¹³⁴

Local government structures are established in each district, to which each have lower government and administrative structures, “the system shall be such as to ensure that functions, powers and responsibilities are devolved and transferred from the Government to local government units in a coordinated manner”¹³⁵. It is therefore established that there exist is a system of decentralisation in terms of the distribution of power and functions from high to lower levels of government, however the constitution does make provision for measures to be put in place to assist each district in the establishing and carrying out of polices relevant to each respective districts.¹³⁶

In respect to the right to education, the sixth schedule within the constitution includes education polices as part of the list of services and functions the government is responsible for, however section 189(2) of the constitution makes provisions for local government and district councils to carry out functions and services listed in the sixth schedule if request by local government or delegated by parliament or government by law.¹³⁷

As a state party to the CRC, one of the obligations of the Ugandan government is to develop policies and legislation indicating the minimum age in which an individual can begin work, section 32 of the employment act for Uganda deals directly with the conditions for the employment of children. No child under the age of twelve may be employed, this is considerably a low age as children are still very young and weak to handle the responsibility of having to work and need to be protected from labour at this age. Therefore the employment act stipulates that children under the age of

¹³⁴ n129 above secs 79

¹³⁵ n129 above secs 176

¹³⁶ n129 above secs 176

¹³⁷ n129 above sec 188

fourteen maybe employed in cases whereby the nature of the work is light, does not interfere with the education and development of the child and is under the supervision of an adult who is eighteen years and older¹³⁸ and the child may not be employed within the hours of 7pm to 7am.¹³⁹ This falls in line with the article 7(1) of the minimum age convention, which states that children between the ages of thirteen and fifteen may engage in work which of light nature and not harmful to their development or their education.¹⁴⁰

Section 8 of the Ugandans children act also prohibits any form of work which is harmful to the development of children and interferes with the education of the child.¹⁴¹ Although there are provisions for children to work at an age younger than eighteen, priority is given to the non- interference with the child's education and therefore work is prohibited in cases whereby it interferes with the education of a child who is permitted to work and is younger than eighteen.

The employment act also prohibits any form of forced labour, this provision is extremely important as many children are exploited and forced into labour due to their vulnerable nature as children, and dependency on parents or guardians, therefore children can be exploited by guardians or parents most especially in cases whereby the child may not know better and may understand or accept this part of life because of their circumstances.¹⁴²

Primary education is compulsory for all children who are six years and older, and duty is placed on the government to ensure that children who drop out of school before the completion of their primary education are able to receive their primary education through other alternatives, so as to provide the child with a second opportunity to gain the education needed to progress positively in life to have access to better opportunities for development.¹⁴³

¹³⁸ Employment Equity Act 6 of 2006 secs 32(2)

¹³⁹ n138 above secs 32

¹⁴⁰ n131 above article 7(1)

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C138 accessed 21 March 2014

¹⁴¹ Children Act Chapter 59 of 2006 secs 8

¹⁴² n138 above secs 8

¹⁴³ Uganda Education Act 13 of 2008, secs 10

The neglect of children by parents or guardians can result in children running away from home in hope of finding a better environment to live in, unfortunately in most cases children end up living on the street or seeking employment at a young age. The Penal Code protects against the neglect of children and states that “Any person who, being the parent or guardian or other person having the lawful care or charge of any child of tender years and unable to provide for itself, refuses or neglects, being able to do so, to provide sufficient food, clothes, bedding and other necessaries for such a child, so as thereby to injure the health of the child, commits a misdemeanour”¹⁴⁴. This is an important provision as it provides children with legal protection against neglect by parents or guardians, therefore in a sense ensuring that parents play their role the proper upbringing of children as failure to do so will be a violation of law.¹⁴⁵

There exist a “National Council for Children act”¹⁴⁶, the objectives of the council is “to act as a body through which the needs and problems of children can be communicated to the Government and other decision-making institutions and agencies in Uganda”¹⁴⁷ Therefore the council plays a pivotal role in representing the voices of these children in terms of raising awareness of the issues of child labour faced by children and informing the government of the extent and detrimental effects of this issue on the lives of the affected children to government and relevant institutions. The council further works towards the promotion of programmes in place for the protection of the needs of children particularly programmes to be carried out by government and furthermore the monitoring of the achievements of set goals in those programmes.¹⁴⁸

3.4 Policies against child labour in Uganda

A policy focusing on the protection of orphans and other vulnerable children was developed in 2004, “Such children include orphans, those who live on the streets, those that toil under exploitative conditions of labour as well as those that suffer

¹⁴⁴ Penal Code Act of 19 of 1950, secs 157

¹⁴⁵ n144 above

¹⁴⁶ National Council for Children Act of 1996 secs 3

¹⁴⁷ n146 above

¹⁴⁸ n146 above secs 3

sexual abuse and other forms of discrimination”¹⁴⁹ . The main focus of the policy is to provide vulnerable children and orphans with access to basic social needs and services, some of the principles underlined in the policy include; the need to protect vulnerable children from discrimination and being denied access to needed social services, encouragement of communities to treat orphans and vulnerable children well, the inclusion of the involvement of vulnerable children in the development process of efforts, initiatives and policies to improve their lives, to reduce factors contributing to the prevalence of vulnerable group such as HIV/AIDS preventative measure.¹⁵⁰

The policy emphasises the importance of education and completion of school amongst these children. This also involves the improvement of numeracy and literacy levels of the care givers so that they too can provide some assistance to these children.¹⁵¹ Although the policy is not legally binding, the Ministry of Gender, Labour, and Social Development (MGLSD) is mandated with the responsibility of the protection of children who are vulnerable and orphaned, thus the development of the policy.

The “National Child Labour Policy”¹⁵² was developed in 2006. The policy looks at a number of important contributing factors in addressing the issue of child labour for example the HIV/AIDS pandemic which has left some children without parents or burdened with the responsibility of having to take care of sickly parents and younger siblings thus pulling out of school and seeking employment.¹⁵³

¹⁴⁹ Ministry of Gender, Labour and Social Development “National Orphans and Other Vulnerable Children Policy” pg iii http://www.unicef.org/uganda/National_OVC_Policy.pdf accessed 25 April 2014

¹⁵⁰ n149 above pg 6-7 http://www.unicef.org/uganda/National_OVC_Policy.pdf accessed 25 April 2014

¹⁵¹ n149 above pg 10 http://www.unicef.org/uganda/National_OVC_Policy.pdf accessed 25 April 2014

¹⁵² Ministry of Gender, Labour and Social Development “National Child Labour Policy” November 2006 pg 23 <http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> accessed 22 February 2014

¹⁵³ n152 above pg 25 <http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> accessed 22 February 2014

The policy also points out the importance of the involvement of children in the development of policies, programmes and initiatives aimed at the elimination of child labour, so as to get a better understanding of the effect it has on children and thus determine more effective direction in the elimination of child labour.¹⁵⁴ The policy points out the importance of the involvement of all levels of government in the fight against child labour and most importantly in terms of giving the necessary support to local governments to assist children and families that need essential basic social services most especially in poorer communities.¹⁵⁵

The main objectives of the policy is the elimination of child labour through the development of programmes, legislative frameworks, initiatives and the creation of awareness of the negative effects of child labour and most importantly the involvement of different government departments at all levels in the fight against child labour.¹⁵⁶

The main strategies of the policies are as follows:

- Increasing awareness of the detrimental effects of child labour, particularly within communities in which there is a lack of understanding or knowledge of the harmful effect of child labour.¹⁵⁷
- The identification of initiatives programmes and efforts in place for the reduction and elimination of poverty, and the strengthening of these programmes, which in turn will reduce the reliance on child labour. An example is the Poverty Eradication Plan (PEAP), which focusing mainly on efforts to eliminate poverty, it looks at education in Uganda and states that for improved development and reduction of poverty in the country, education among children is extremely important. The retention of children in school is

¹⁵⁴ n152 above pg 26 <http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> accessed 22 February 2014

¹⁵⁵ n152 above 6 pg 27 <http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> accessed 22 February 2014

¹⁵⁶ n152 above pg 28 <http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> accessed 22 February 2014

¹⁵⁷ n152 above pg 30 <http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> accessed 22 February 2014

very low, this is mainly due, inter alia, to the parents inability to continue paying for the child's education and a lack of access to nearby schools. However government has sort to improve retention in the following ways; through feeding system at school which would cut down on cost for parents, creating incentives for teachers to move and teach in rural areas where there is a lack of nearby schools with quality education and improving school structures.¹⁵⁸

- The policy points out that there is a strong link between child labour and a high rate of school dropouts. Therefore the policy aims to focus on the improvement of primary education and children's access to it. This involves the training of school staff to cater to the needs of children who are faced with the issue of child labour and the integration of the issue of child labour into the school curriculum which would create awareness and a better understanding of the problem of child labour and how to deal with it.¹⁵⁹
- Strengthening and improving existing legislation aimed at reducing and eliminating child labour which involves working together with NGOs, government ministries and other stakeholders to ensure the effective carrying out of the legislation for the protection children against child labour under the coordination of the MGLSD.¹⁶⁰
- The development of centres to take care of victims of child labour. These centres will provide temporary accommodation to these children, improving their literacy and numerical skills, assisting children who have dropped out of school by reintegrating them back into the school system or alternative educational programmes, providing counselling and placing them back into their communities.¹⁶¹

¹⁵⁸ Ministry of Finance, Planning and Economic Development "Poverty Eradication Plan (2004/5-2008/9)" 2004 pg 153-162 http://www.unpei.org/sites/default/files/e_library_documents/UG-PEAP2005-2008.pdf accessed 1 August 2014

¹⁵⁹ n152 above pg 33 <http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> accessed 22 February 2014

¹⁶⁰ n152 above 6 pg 34-36 <http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> accessed 22 February 2014

¹⁶¹ n152 above pg 38 <http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> accessed 22 February 2014

- Improvement of development and the provision of basic services that are needed within rural communities and most importantly the provision of support structures and groups within these communities, so that children do not fall back into the same circumstances.¹⁶²

Two institutional structures focused specifically on the issue of child labour include:

- “National Steering Committee on Child Labour”¹⁶³ , this committee works together with the MGSLD as the main actors in the fight and advocacy against child labour, and the policy stipulates that the main focus of the committee is to monitor and review policies aimed at the elimination of child labour.¹⁶⁴
- “The Child Labour Unit”¹⁶⁵ as developed within the MGSLD, as the main body to deal directly with issue of child labour and as well as the development and overseeing of policies, programmes, initiatives focused on the elimination of child labour, “It will also serve as the Secretariat to the National Steering Committee on Child Labour.”¹⁶⁶

Although the policy is not legally binding it is carried out by the MGLSD, therefore creating a sense of accountability on the part of the MGLSD to work towards the achievements of the objectives laid down in the policy. Moreover, through the involvement of other government ministries and relevant stakeholders this

¹⁶²n152 above pg 38-39 <http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> accessed 22 February 2014

¹⁶³ n152 above pg 44-45 <http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> accessed 22 February 2014

¹⁶⁴n152 above pg 44-45 <http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> accessed 22 February 2014

¹⁶⁵n152 above pg 45 <http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> accessed 22 February 2014

¹⁶⁶ n152 above pg 45 <http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> accessed 22 February 2014

contributes towards a more effective effort towards to achievements of the objectives of the policy.¹⁶⁷

The “National Action Plan on Elimination of the Worst Forms of Child Labour in Uganda”¹⁶⁸ as developed by the MGLSD in 2012. The main strategies of the plans are as follow:

- The improvement of access to education among children who are engaged in child labour which involves the inclusion of the issue of child labour within school curricular and development of support structures within school to assist children in this predicament.¹⁶⁹
- The establishment of alternative forms of income for families faced with the issue of poverty so as to eliminate the reliance on child labour to provide support.¹⁷⁰
- Increased awareness particularly in rural areas on the issue and negative effect that child labour and excessive domestic work has on a child’s development.¹⁷¹
- The reviewing, improvement and strengthening of the capacity of institutions and other stakeholders in the implementation of legislation and mechanisms against child labour.¹⁷²
- The rehabilitation of children who have been taken out of child labour zones and placed in temporary youth centres, this involves the provision of basic social needs and services and reintegrating these children back into school.¹⁷³

¹⁶⁷n152 above pg 45-48 <http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> accessed 22 February 2014

¹⁶⁸n125 above pg 20 http://www.unicef.org/uganda/NAP_Uganda_June_2012.pdf accessed 22 February 2014

¹⁶⁹n125 above pg 20 http://www.unicef.org/uganda/NAP_Uganda_June_2012.pdf accessed 22 February 2014

¹⁷⁰n125 above pg 21 http://www.unicef.org/uganda/NAP_Uganda_June_2012.pdf accessed 22 February 2014

¹⁷¹Ministry of Gender, Labour and Social Development “National Action Plan on Elimination of the Worst Forms of Child Labour in Uganda” May 2012 pg 21 http://www.unicef.org/uganda/NAP_Uganda_June_2012.pdf accessed 22 February 2014

¹⁷²n125 above pg 21 http://www.unicef.org/uganda/NAP_Uganda_June_2012.pdf accessed 22 February 2014

¹⁷³n125 above pg 21-22 http://www.unicef.org/uganda/NAP_Uganda_June_2012.pdf accessed 22 February 2014

The MGLSD is the main institution in charge of the coordination and the carry out and achievement of the objectives for the action plan, however, government ministries and relevant stakeholders are involved particularly in cases whereby their responsibilities, mandates and duties are in line with the objectives laid out in the plan.¹⁷⁴

Education is an important factor in the elimination of child labour and the Ministry of Sports and Education is tasked with the responsibility of ensuring improved access to primary education, assisting school dropouts with access to alternative educational programmes and integrating the issue of child labour into the school curriculum.¹⁷⁵

Local government is tasked with the responsibility of increased awareness about the issue of child labour within local communities and the organising of the involvement of communities, relevant organisations and departments in the elimination of child labour. Relevant civil society organisations and relevant NGOS are tasked with the responsibility of fundraising, awareness raising campaigns, removal of children from unsafe environments and placement of children in temporary shelters. Research institutions are called to assist in the collection of information for the development of effective policies and legislation, and the dissemination of information through the use of media houses.¹⁷⁶

3.5 Practices against child labour in Uganda

Some best practices in place include campaigns aimed at the development of child labour free zones, in 2000 in Uganda partook in the world education forum, one the main pledges made was “Ensuring that by 2015 all children, particularly girls, children in difficult circumstances and those belonging to ethnic minorities, have access to and complete free and compulsory primary education of good quality”¹⁷⁷,

¹⁷⁴n125 above pg viii http://www.unicef.org/uganda/NAP_Uganda_June_2012.pdf accessed 22 February 2014

¹⁷⁵n125 above pg 33 http://www.unicef.org/uganda/NAP_Uganda_June_2012.pdf accessed 22 February 2014

¹⁷⁶n125 above pg 33-36 http://www.unicef.org/uganda/NAP_Uganda_June_2012.pdf accessed 22 February 2014

¹⁷⁷ UNESCO “The Dakar Framework for Action, Education for All” 26-28 April 2000 <http://unesdoc.unesco.org/images/0012/001211/121147e.pdf> accessed 26 August 2014

child labour and poverty are classified as difficult circumstances.¹⁷⁸ With reference to the forum, the CRC, ACRWC, the minimum age convention and other relevant international documents, a declaration focused mainly on the development of child labour free zones in Uganda was established, it looks at the issue of children who have dropped out of school as a result of child labour and focuses on the integration of these children back into school or alternatives programmes to complete their education.¹⁷⁹

In November 2013, a marathon was organised with the theme focused on child labour free zones, different flag points with information about child labour were set up in different communities. At these flag points provided public talks, engagement with the elderly of the community and the involvement of children through educational games all with a focus on creating awareness of the issue of child labour. This took place in the district of Rakai as it is recognised as one of the districts with the highest level of child labour. The event was successful in terms of increasing awareness of the issue of child labour within that district.¹⁸⁰

From 2009 -2012 the ILO-IPEC implemented the SNAP project in three areas districts namely Rakai, Mbale and Wakiso, quite a number of good practices were documented from the implementation of the project at micro, meso and macro levels.¹⁸¹

At a macro level was the development of the “National Action Plan for the Elimination of the Worst Forms of Child Labour (NAP)”¹⁸² with the main aim of the reduction of the worst forms of child labour by the 2017, the NAP uses as multi-sectoral approach

¹⁷⁸n177 above

¹⁷⁹ Stop Child Labour. “Kampala Declaration working towards child labour free zones” 19 April 2013 <http://www.indianet.nl/pdf/FinalDeclarationOnCLFZsUganda19042013.pdf> accessed 25 August 2014

¹⁸⁰ Stop Child Labour “Running for Child Labour Free Zones in Uganda” 28 January 2014 <http://www.stopchildlabour.org/Stop-Childlabour/News-Items/Running-for-Child-Labour-Free-Zones-in-Uganda> accessed 25 August 2014

¹⁸¹n180 above pg xi <http://www.ilo.org/ipecinfo/product/download.do?type=document&id=20675> accessed 27 August 2014

¹⁸²n180 above pg xi <http://www.ilo.org/ipecinfo/product/download.do?type=document&id=20675> accessed 27 August 2014

as the main approach for the elimination of child labour in the worst forms, which involves different government ministries, civil society, communities, and children.¹⁸³

At a meso level, due to the high level of child labour in the three districts, local governments incorporated the issue of child labour into the development plans and budgets of these districts plans and move towards the development of regulations for child protection within these areas, with focus on the prohibiting of the employment of children by members of the community, and the completion of school by the children living in these districts.¹⁸⁴

At a micro level, an awareness campaign focused on the issue of child labour was implemented by the MGLSD, this involved several civil society groups and the engagement with the community in various ways. Some of the forms included the use of films and dramas related to the issue of child labour and art murals which were created by children themselves to help understand and explain to other children about the issue of child labour and the negative effect it has on children.¹⁸⁵ Community meetings were developed for the discussion of the issue of child labour and have contributed to an increased in the reporting of cases of child labour.¹⁸⁶

HIV/AIDS is a huge pandemic which hit the African continent and destroyed many lives and many family structures, leaving many children without parents or having to take care of sick family members. In Uganda, a programme was developed to help assist families with children who have had to resort to child labour due to HIV/AIDS related issues such cases include children who have become orphans, have to take care of their siblings in child head homes or have to engage in child labour because of the inability of their sickly parents, elderly or extended family to take care of them. This programme was conducted under an IPEC project called “Combating and

¹⁸³ n180 above pg xi <http://www.ilo.org/ipecinfo/product/download.do?type=document&id=20675> accessed 27 August 2014

¹⁸⁴ n180 above pg xii <http://www.ilo.org/ipecinfo/product/download.do?type=document&id=20675> accessed 27 August 2014

¹⁸⁵ n180 above pg xii <http://www.ilo.org/ipecinfo/product/download.do?type=document&id=20675> accessed 27 August 2014

¹⁸⁶ n180 above pg xii <http://www.ilo.org/ipecinfo/product/download.do?type=document&id=20675> accessed 27 August 2014

preventing HIV/AIDS induced child labour in Sub-Saharan Africa: Pilot action in Uganda and Zambia¹⁸⁷ between 2005 and 2008.”¹⁸⁸

The project looked at the improvement of the social conditions of such families and victims mainly through “income generating activities (IGA)”¹⁸⁹ This involved firstly research on the targeted communities for better understanding of the social reality of those communities and to gain a better insight to the needs of these communities. Mostly child-headed and woman-headed homes were targeted for the IGA which would involve the selected beneficiaries receiving training and engaging in meetings, such training involved gaining skills on how to open and run a business and mainly entrepreneurship skills. The IGA also identified suitable credit and banking institutions within these communities in which the beneficiaries could make use of as well as suitable stakeholders to help provide assistance. Implementation of the project has been quite successful and assisted in reducing poverty which is one of the main causes of child labour by targeting mainly woman headed-house for this project.¹⁹⁰

In Uganda the “Social Assistance Grants for Empowerment (SAGE)”¹⁹¹ programme was developed to address and work towards the elimination of chronic poverty and assist communities faced with chronic poverty in the accessing of essential services such as healthcare and education. The SAGE is a pilot project which aims to “reach around 600,000 people in about 95,000 households over a period of four years (April

¹⁸⁷ The new 2014 development plan has been released by Zambia

¹⁸⁸ International Labour Organization “Combating child labour through HIV/AIDS programming with a focus on social protection(Uganda)” 2010 pg 1

file:///C:/Users/User/Desktop/chapter%205/uganda/IPEC_GoodPractices_on_HIV-AIDS_2010_Uganda_En.pdf accessed 20 September 2014

¹⁸⁹ n188 above pg 1

file:///C:/Users/User/Desktop/chapter%205/uganda/IPEC_GoodPractices_on_HIV-AIDS_2010_Uganda_En.pdf accessed 20 September 2014

¹⁹⁰n188 above 201 pg 1-3

file:///C:/Users/User/Desktop/chapter%205/uganda/IPEC_GoodPractices_on_HIV-AIDS_2010_Uganda_En.pdf accessed 20 September 2014

¹⁹¹ Oxford Policy Management “ Evaluation of the Uganda Social Assistance Grants for Empowerment(SAGE) programme” 15 August 2013 pg 1

http://www.opml.co.uk/sites/default/files/OPM_Uganda%20Report_web_FINAL.pdf accessed 10 October 2014

2011- Feb 2015), covering approximately 15% of households in 14 targeted districts”

192

Two methodologies will be used to achieve this firstly the “ Vulnerable Family Support Grant(VFSG)”¹⁹³ which will target orphans, and adults with disabilities as well as the elderly, the secondly the “Senior Citizens Grant” which will target people who are over the age of 65¹⁹⁴. An evaluation will be done on the SAGE programme to ensure it is in line with the achievement of its objective and to assess the effectiveness of impact of the programme on the lives of the beneficiaries which will take place in 2014 and 2015.¹⁹⁵

The SAGE programme has provided assistance to beneficiaries through various ways, such as assisting the elderly in accessing financial services such as credit and loan services for example the “Care International’s Village Savings and Loans(VSLA) programme”¹⁹⁶ which prior to implementation of the SAGE programme, would easily rejected the elderly. Early monitoring of the SAGE programme has shown that beneficiaries are engaged in savings and investment opportunities from the income received from the SAGE programme, which is essential in moving towards strengthen income and financial support within families, thus reducing reliance on child labour.¹⁹⁷

¹⁹²n191 above pg I

http://www.opml.co.uk/sites/default/files/OPM_Uganda%20Report_web_FINAL.pdf accessed 10 October 2014

¹⁹³ n191 above pg I

http://www.opml.co.uk/sites/default/files/OPM_Uganda%20Report_web_FINAL.pdf accessed 10 October 2014

¹⁹⁴n191 above pg I

http://www.opml.co.uk/sites/default/files/OPM_Uganda%20Report_web_FINAL.pdf accessed 10 October 2014

¹⁹⁵ n191 above pg I

http://www.opml.co.uk/sites/default/files/OPM_Uganda%20Report_web_FINAL.pdf accessed 10 October 2014

¹⁹⁶ J. Namuddu et al 2014 “Evidence on graduation in Uganda’s Social Assistance Grants for Employment(SAGE) Scheme and the feasibility of promoting sustainable livelihoods for labour constrained households through a linkages approach” pg 8

<https://www.ids.ac.uk/files/dmfile/Graduationconferencepaper-Namudduetal.pdf> accessed 10 October 2014

¹⁹⁷ n186 above pg 8 <https://www.ids.ac.uk/files/dmfile/Graduationconferencepaper-Namudduetal.pdf> accessed 10 October 2014

SAGE programme also looks at providing linkages between beneficiaries and other government and non-government services, however barriers have prevented many beneficiaries from accessing certain beneficial services to improve their livelihoods provided by government for example, in the “Community Driven Development(CDD) programme”¹⁹⁸ requirements are that all children within the household have to be immunised, applicant must have at least one tree planted in their house, all children should be attending school, and other conditions, which cuts of a lot of SAGE beneficiaries from accessing such programmes in order to better their lives. Furthermore is the poor planning in terms of the coordinating of the delivery of services within local governments, in which focus has been more on the report of progress as opposed to the proper planning of delivery of services within communities.¹⁹⁹ However a part from the barriers the programme is seen as a step forward in the improving of the livelihoods of the beneficiaries if implemented properly.²⁰⁰ It is important to note that the SAGE programme not only focusses on the provision of grants to beneficiaries but goes a step further through the assistance of beneficiaries with access financial services and other government programmes to improve their livelihoods.

3.6 Concluding remarks

The Ugandan government has developed legislation and several policies protecting children against child labour, however a large number of children are still engaged in child labour. Poverty is strong driving factor in the prevalence of child labour and as a result of this some children have had to drop out of school in order to work and take care of their family thus denying them of their right to education keeping them within the cycle of poverty. An unfortunate reality is that many families view this as a norm, particularly because of cultural influences of the duty of the child to their family even at the cost of their education.

¹⁹⁸ n196 above pg 12 <https://www.ids.ac.uk/files/dmfile/Graduationconferencepaper-Namudduetal.pdf> accessed 10 October 2014

¹⁹⁹ n196 above pg 8 <https://www.ids.ac.uk/files/dmfile/Graduationconferencepaper-Namudduetal.pdf> accessed 10 October 2014

²⁰⁰ n196 above pg 12-14 <https://www.ids.ac.uk/files/dmfile/Graduationconferencepaper-Namudduetal.pdf> accessed 10 October 2014

Good practices in Rakai, Mbale and Wakiso have demonstrated the importance of increasing awareness about the issue of child labour, as it created opportunities for members within these communities to not only gain a better understanding of the issue of child labour but to also have access to information about policies, legislation and other practices in place to help assist children and families who are experiencing this problem and to seek a better form of solution to deal with this this issue. Furthermore SAGE and IGA's have provided beneficiaries with a platform to not only receive financial assistance but to also improve on financial situations through access to relevant financial institutions.

CHAPTER 4

Regional and global measures in line with International Child Labour Instruments

4.1 Introduction

Child labour is an issue that affects many children throughout the world and as a result international child labour instruments have been developed for the purpose of laying down provisions to be adopted and to guide in the formulation of national legislation, policies and programmes aimed to protect the rights of children and more especially against child labour. The following will provide a discussion on various measures, policies and programmes implemented in Uganda and South Africa which are in line with international child labour instruments in effort to reduce and eliminate child labour.

4.2 Legislation, policies, practices and initiatives in line with international child labour instruments

The main international instrument protecting the rights of children is the CRC, both South Africa and Uganda have ratified this convention. Article 32 of the convention stipulates that all state parties to the convention should prohibit children from engaging in any type of work that exploits children economically, that is harmful to the wellbeing of the children and most importantly interferes with the education of the child. This includes domestic work or chores which are harmful to the child or interfere with the development of the child. Furthermore, the convention stipulates that state parties should establish legislations which set a minimum age for a person to be allowed to work as well as penalties for those who violate laws protecting children against child labour.²⁰¹

Section 28 of the constitution of South Africa focuses specifically on the protection of the rights of children. It stipulates that children are to be protected from any type of work which is harmful to the development and wellbeing of the child, and any work

²⁰¹ Convention on the Rights of the Child article 32
<http://www.ohchr.org/en/professionalinterest/pages/crc.aspx> accessed 20 March 2014

which is exploitative in nature and interferes or is a hindrance to the education of the child.²⁰² Chapter six of the BCEA focuses specifically on the protection of children against child labour. It sets fifteen years as the minimum age in which a child can be employed to work.²⁰³ In addition children aged fifteen years are still protected from any employment which is harmful to their well-being and development.²⁰⁴ As one can see both the constitution and the BCEA are in line with the provision in the CRC stipulating the need to protect children from economic exploitation.

Section 34 of the constitution of Uganda focuses on the protection and promotion of the rights of children. All children have a right to basic education, and to be protected from employment or any other kind of work which is hazardous to the child.²⁰⁵ Section 32 of the employment act sets twelve as the minimum age for children to work however working hours exclude 7pm to 7am and work should not be hazardous to the child.²⁰⁶ According to the act, provisions are made for a children who are under the age of fourteen years to work provided that the work is light in nature, does not interfere with the education of the child and that the child is supervised by a senior who is eighteen years and older.²⁰⁷

The Ugandan Children act includes a section protecting children against work which is hazardous and disruptive to the education of the child and the Education Act stipulates that it is compulsory for all children who are six years and older to obtain their primary education and further tasks the government with the responsibility of ensuring that those who have dropped out of school or who have not received their primary education have access to alternative ways to receive their primary education.²⁰⁸

It is established that education is an important aspect in the eradication of poverty and child labour, article of 28 of the CRC emphasises the importance of the right to education and the duty of state parties to ensure that children have access to

²⁰² Constitution of the Republic of South Africa Act 108 of 1996 secs 28

²⁰³ Basic Conditions of Employment Act of 2002 75 of 1997 secs 43

²⁰⁴ n203 above secs 44

²⁰⁵ Constitution of the Republic of Uganda, 1995 secs 34

²⁰⁶ Employment Equity Act 6 of 2006 secs 32

²⁰⁷ n203 above secs 32

²⁰⁸ Uganda Education Act 13 of 2008, secs 10

education; more specifically that education at the primary level is compulsory and accessible to all.²⁰⁹

South Africa recognises the importance of education, the constitution states that a child should not engage in any work that interferes with the child's access to education²¹⁰, chapter 2 of the schools act states that it is the duty of the parent or guardian to ensure that a child attends school and completes their education from age seven to fifteen or up until the child completes their ninth grade.²¹¹ One of the main reasons that children have to leave school is due to financial constraints, therefore the school act states that no child may be refused admission to school on the basis of the inability to pay school fees.²¹² Parents or guardians who are unable to pay may apply for full or partial exemption from paying school fees and if they qualify according to the criteria can be granted accordingly.²¹³ In the CLPA, the DBE is tasked with the duty, inter alia, to ensure that children, most especially those living in rural area have access to education, we see that one measure in ensuring that children stay in school is the implementation of the attendance policy, in which monitoring is done of the children who are not attending school so as to investigate reasons behind the absenteeism of children.²¹⁴

The Education Act in Uganda also states that no child may be denied their right to education on the grounds of inability to pay their school fees. It is compulsory for children to receive and complete their primary education, furthermore in cases whereby children have had to dropped out of school, it is the duty of the government to provide alternative forms for the these children to receive primary education so as to ensure that these children do not get left behind.²¹⁵

²⁰⁹ n201 above article 28 <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx> accessed 20 March 2014

²¹⁰ n202 above secs 28(f)

²¹¹ South African Schools Act 84 of 1996, secs 3

²¹² n211 above secs 3

²¹³ n211 above secs 39(b)

²¹⁴ Department of Labour , "The National Child Labour Programme of Action for South Africa" 2008-2012 pg 32 <http://www.labour.gov.za/DOL/downloads/documents/annual-reports/child-labour-programme-of-action-for-south-africa/2012/Child%20Labour%20Programme%20of%20Action.pdf> accessed 20 February 2014

²¹⁵ n208 above, secs 9,10

All state parties to the minimum age convention have the responsibility to develop a national policy focused on the eradication of child labour and the enforcement of legislation establishing a minimum age in which a person may start working.²¹⁶ As state parties to the convention South Africa and Uganda have developed policies and worked towards eradicating child labour in line with the convention. The convention was ratified by South Africa in 2000. As poverty is a major contributing factor of child labour, the South African government has developed a number of initiatives, measures and policies to help alleviate poverty. Such a case is the child support grant which is issued to parents or guardians who have to meet a certain criteria, in order to qualify for the grants. This is beneficial in that it provides extra financial assistance to these families therefore reducing the reliance on children to seek out jobs to provide financial assistance to the family.²¹⁷

Secondly is through public work projects, most especially those aimed at improving development within rural areas, and therefore creating new jobs and access to basic services such as electricity and water. A case in point is the “Expanded Public Works Programme (EPWP)”²¹⁸; The EPWP creates work opportunities ranging from temporary work and renewable on-going contracts, designed for people who are unemployed, with the aim of creating opportunities for those who are living in rural areas, who otherwise would not be able to work.²¹⁹ The main goal of the EPWP was to achieve the alleviation of poverty within the time frame of 2004 to 2009 with the aim of providing employment to a minimum of one million unemployed people in South Africa “This goal was to be achieved by generating work opportunities in four

²¹⁶ Minimum Age Convention 1973 article 1

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C138 accessed 21 March 2014

²¹⁷ South Africa Government Services “ Child Support Grant”

http://www.services.gov.za/services/content/Home/ServicesForPeople/Socialbenefits/childsupportgrant/en_ZA accessed 28 May 2014

²¹⁸ McCutcheon R and Parkins F. T “South Africa’s Expanded Public Works Programme: a case study in government sponsored employment creation and poverty alleviation focusing upon the infrastructure component: rhetoric, reality and opportunities foregone ,” 2009 pg 196

<http://www.robert-mccutcheon.com/resources/Newcastle%20CofFEE%2009%20RM%20FTP%20Paper%20as%20Published%20Dec09.pdf> accessed 28 May 2014

²¹⁹ Department of Public Works “ Welcome to EPWP” <http://www.epwp.gov.za/> accessed 29 May 2014

sectors of the economy: infrastructure, environment, social and economic.”²²⁰ And by May 2008, it was announced that this goal was achieved a year ahead of the set deadline.²²¹ In addition was the development of a system which automatically detects and rejects any children who are younger than sixteen from engaging in the EPWP run projects, therefore contributing to the reduction of child labour.²²²

Another important development was a policy which exempts guardians or parents from having to pay school fees in cases whereby they cannot pay school fees.²²³ Furthermore in 2007 a policy was implemented whereby certain schools, particularly in the rural area, would not charge school fees, “In 2010 the no fee policy was extended to 60% of poor learners nationally”²²⁴.

The CLPA is focused on the eradication of child labour and is coordinated by the DOL and looks at the involvement of different government departments and other relevant institutions and groups in the eradication of child labour by laying out actions steps, which already fall in line with the mandates of the different government departments in order to achieve a more effective outcome. It lays down some achievements and policies in place that have contributed to reducing child labour and protecting children from child labour. Such as;

- The extension of the nutrition programme into secondary schools in the rural communities and by 2010, 20 000 schools were introduced to a nutrition programme which provides children with food during school, therefore easing

²²⁰ n218 above pg 197 <http://www.robert-mccutcheon.com/resources/Newcastle%20CofFEE%2009%20RM%20FTP%20Paper%20as%20Published%20Dec09.pdf> accessed 28 May 2014

²²¹ n218 above pg 197 <http://www.robert-mccutcheon.com/resources/Newcastle%20CofFEE%2009%20RM%20FTP%20Paper%20as%20Published%20Dec09.pdf> accessed 28 May 2014

²²² n214 above pg 53 <http://www.labour.gov.za/DOL/downloads/documents/annual-reports/child-labour-programme-of-action-for-south-africa/2012/Child%20Labour%20Programme%20of%20Action.pdf> access 20 February 2014

²²³ n211 above, section 39

²²⁴ n214 above pg 31 <http://www.labour.gov.za/DOL/downloads/documents/annual-reports/child-labour-programme-of-action-for-south-africa/2012/Child%20Labour%20Programme%20of%20Action.pdf> access 20 February 2014

the burden on parents not having to spend more on food for children to take to school.²²⁵

- The provision of 6kl of free water per household in poor communities by municipalities, which cuts down on the need for children to travel long distance and carry heavy loads of water, giving more time to focus on their school work.²²⁶
- This Issue of HIV/AIDS has left a number of children orphaned or having to take care of their sickly family members, this in turn has resulted in children having to skip school to take care of their family and also seek out employment opportunities at a young age in order to provide financial assistance as well. In effort to assist families in this predicament the “home-and-community based care programmes(HCBC)”²²⁷ which is managed by the DSD provides the support and funding that is required in households and facilities, which provides essential services to families and children affected by HIV/AIDS, such as counselling, food, access to essential services, the placement of children in alternative shelters, support given to families faced with issue of aids, assistance in gaining social grants, as well the protection of children who are left orphaned and assisting them in accessing legal documents or assets that may have been left behind, and also assist them in continuing with school or getting back to school.²²⁸
- The extension of the child support grant to include children up to the age of eighteen, from fifteen, therefore ensuring that children do not drop out of school due to financial reason.²²⁹

²²⁵ n214 above pg 31 <http://www.labour.gov.za/DOL/downloads/documents/annual-reports/child-labour-programme-of-action-for-south-africa/2012/Child%20Labour%20Programme%20of%20Action.pdf> access 20 February 2014

²²⁶ n214 above pg 45 <http://www.labour.gov.za/DOL/downloads/documents/annual-reports/child-labour-programme-of-action-for-south-africa/2012/Child%20Labour%20Programme%20of%20Action.pdf> access 20 February 2014

²²⁷ Department of Social Development “Home-based community based care (HBCBC)” http://www.dsd.gov.za/index.php?option=com_content&task=view&id=97 accessed 29 May 2014

²²⁸ n214 above pg 49 <http://www.labour.gov.za/DOL/downloads/documents/annual-reports/child-labour-programme-of-action-for-south-africa/2012/Child%20Labour%20Programme%20of%20Action.pdf> access 20 February 2014

²²⁹ n214 above <http://www.labour.gov.za/DOL/downloads/documents/annual-reports/child-labour-programme-of-action-for-south-africa/2012/Child%20Labour%20Programme%20of%20Action.pdf> access 20 February 2014

Uganda ratified the minimum age convention in 2003 and established the national policy for child labour in 2006.²³⁰ The policy looks at the involvement of different sectors and government ministries in the elimination of child labour and the policy looks at the use of government in the achievement of this through three kinds of strategies; Firstly in a preventative strategy through increased awareness about the issue of child labour in areas whereby child labour is not perceived or recognised as an issue, through projects and policies focused on the eradication of poverty which is the main cause of child labour, increased access to education, particularly for those who have had to drop out of school, improved school environments and the training of teachers on the issue of child labour to assist children in the this predicament and through feeding programmes in school.²³¹

Protective strategies through government strengthening national legislation protecting against child labour issue so as to ensure that it is more clear. Collaborating with other government ministries and relevant stakeholders to ensure the effective implementation of policies, programmes and legislation focused on the proper protection of children from work which is exploitative and harmful.²³²

Rehabilitative strategies by government through the establishment of temporary care centres, counselling and help centres whereby children who are removed from worst cases of child labour can be placed and rehabilitated. This involves the provision of children with the basic literacy for those who are illiterate, placing of children back into the school system who have had to drop out and then the placing children who have been rehabilitated back into the communities in cases whereby it is suitable for

²³⁰ Ministry of Gender, Labour and Social Development, “ National Child Labour Policy” 2006 pg23 <http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> accessed 20 February 2014

²³¹ n230 above pg32-34 <http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> accessed 20 February 2014

²³² n230 above pg 35-37 <http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> accessed 20 February 2014

them and they have access to better alternative programmes or centres to assist them.²³³

Several other projects have been carried out in Uganda in line with international child labour instruments for the elimination of child labour such as “The National Programme on the Elimination of Child labour in Uganda”²³⁴. As a member of the ILO-IPEC²³⁵, in 1999, Uganda developed this programme for the main purpose of the elimination of child labour, this also involved the development of the child labour unit which will coordinate all national initiatives focused on the elimination of child labour. 3, 394 children were removed from child labour as a result of this programme, which involved dealing with children working in on the street, as domestic workers, involved in fishing, and the development of rehabilitation centres for these children.²³⁶

In effort to improve education of children in Uganda, most especially girls access to education, the Ugandan government developed the “Girl Child Education Strategy”²³⁷. This strategy focused specifically on increasing the number of girls enrolled into school, and working together with the UNICEF project focused on the alternatives forms of providing education to girls between the ages of ten to sixteen who have never had the opportunity to attend school.²³⁸

Uganda engaged in the “Prevention, Withdrawal and Rehabilitation of Children Engaged in Hazardous Work in the Commercial Agriculture Sector of Africa”²³⁹ project with main objective of the removal of children from hazardous environments in which they are involved in, such as work in plantations, and also the provision of

²³³n230 above pg 37-39 <http://www.mglsd.go.ug/wp-content/uploads/2013/07/policies/NATIONAL%20CHILD%20LABOUR%20POLICY.pdf> accessed 20 February 2014

²³⁴ Ministry of Gender, Labour and Social Development “National Action Plan on Elimination of the Worst Forms of Child Labour in Uganda” May 2012 pg 7 http://www.unicef.org/uganda/NAP_Uganda_June_2012.pdf accessed 20 February 2014

²³⁵ Bureau of International Labor Affairs “Government Programs and Policies to Eliminate the Worst Forms of Child Labor” 2003 <http://www.refworld.org/docid/48d748ca8.html> accessed 30 May 2014

²³⁶n234 above pg 7 http://www.unicef.org/uganda/NAP_Uganda_June_2012.pdf accessed 20 February 2014

²³⁷ n235 <http://www.refworld.org/docid/48d748ca8.html> accessed 30 May 2014

²³⁸ n235 <http://www.refworld.org/docid/48d748ca8.html> accessed 30 May 2014

²³⁹ U.S Department of Labor, International Labor Affairs Bureau “Technical Cooperation Project Summary” http://www.dol.gov/ilab/projects/summaries/EastAfrica_CommercialAgr_CLOSED.pdf accessed 30 May 2014

the children and their families with suitable alternatives to child labour, 4800 children were removed and protected as a result of this project.²⁴⁰

Uganda is party to several international instruments, protecting the rights of the vulnerable and orphan, children, these include “Declaration of Commitment on HIV/AIDS, UNGASS on HIV/AIDS (2001), a World Fit for Children Declaration (2001), the Millennium Development Goals (2000).”²⁴¹ An important policy in line with these instruments is the “National Orphans and Other Vulnerable Children Policy”²⁴². This policy mainly focuses on the needs and the protection of children who are vulnerable and are orphans and ensures that they have access to their rights without discrimination, most especially in terms of the children and families access to basic services and access to education. In Uganda it is observed that most children who are orphaned are taken in by extended family; however due to the burden that comes with the extra responsibility of taking care of more children, some of these children are either forced to live on the streets, or are exploited sexually or forced to work, thus the importance of this policy.²⁴³

The policy also looks at the assisting of households that house orphans, through the provision of nutritious food as well as training on how to properly store enough food, and provide these children with the best nutritious kind of food. The policy also looks at provision of healthcare and proper support and treatment from communities, households and families that take care of vulnerable children and orphans.²⁴⁴

It is recognised within this policy that education is an important necessity in the development of children, therefore it focuses on the importance of access to education as well as the completion of school, and the provision of numeracy and

²⁴⁰ n234 above pg 7 http://www.unicef.org/uganda/NAP_Uganda_June_2012.pdf accessed 20 February 2014

²⁴¹ Ministry of Gender, Labour and Social Development “National Orphans and Other Vulnerable Children Policy” pg 4 http://www.unicef.org/uganda/National_OVC_Policy.pdf accessed 25 April 2014

²⁴² n241 above pg iii http://www.unicef.org/uganda/National_OVC_Policy.pdf accessed 25 April 2014

²⁴³ n241 above pg 2-3 http://www.unicef.org/uganda/National_OVC_Policy.pdf accessed 25 April 2014

²⁴⁴ n241 above pg 9-10 http://www.unicef.org/uganda/National_OVC_Policy.pdf accessed 25 April 2014

literacy skills to caretakers so that they can assist children to perform well in school.²⁴⁵

And most important as vulnerable children, is the promotion of protection, through instruments and legal protection and interventions, so as to protect the children from exploitation.²⁴⁶

4.3 Concluding remarks

International child labour instruments have played a crucial role in guiding both South Africa and Uganda in the implementation and carrying out of legislation, policies and other initiatives aimed at the reduction and elimination of child labour. Important to note is the guideline for the establishment of a minimum age for employment in order to protect children from forced labour and the establishment of national policies aimed specifically to deal with the issue of child labour, which has led to a coordinated effort from different government departments and other relevant stakeholders in the carrying out of initiatives, projects and programmes which have contributed to the reduction of child labour.

²⁴⁵n241 above pg 10 http://www.unicef.org/uganda/National_OVC_Policy.pdf accessed 25 April 2014

²⁴⁶n 241 above pg 11 http://www.unicef.org/uganda/National_OVC_Policy.pdf accessed 25 April 2014

CHAPTER 5

Conclusions and recommendations

5.1 Summary of findings

Children are the future of our nation, therefore it is important to ensure that they have access to as many opportunities to improve their lives and to grow into responsible adults who in turn will contribute to the development of the nation. However, child labour is ripping this opportunity away from many children, by limiting the opportunities for growth and keeping them in the painful cycle of poverty. Unfortunately, factors such as circumstances, poor living conditions, and lack of knowledge and awareness of the detrimental effect of child labour, are forcing a lot of children into this very reality. Therefore much needs to be done to eliminate factors contributing to the prevalence of child labour, and furthermore promote the importance of the need of education in the lives of children.

Chapter two provides a discussion on legislation, policies and programmes in place in South Africa, firstly protecting the rights of children and most importantly protecting children against child labour and any other form of work which is harmful and interferes with a child's right to education. It provides a discussion on the South African constitution with specific focus on the section protecting the rights of children as well as other legislation and policies focused on the eliminating child labour. The right to education is also discussed with reference to the constitution and the schools act, also looking at efforts made to improve the access to education particularly for children and families faced with the problem of child labour. It is established that the CLPA plays a key role in the efforts to reduce and eliminate child labour, this is coordinated by the DOL and aims to include other government departments and stakeholders to contribute to the elimination of child labour.

Chapter three discusses the issue of child labour in Uganda with a focus on legislation, programmes, policies and initiatives in place protecting children against child labour. High levels of children are involved in child labour and a discussion on factors contributing to the prevalence of child labour is provided. Article 34 of the Ugandan constitution is focused specifically on the rights of children and promotes

the right to education and the protection of children from any form of work that is harmful to the child and interferes with their right to education. The National Child labour policy is a key document focused on the eradication of child labour in Uganda, one the main strategies of the policy points out education as an important factor in the fight against child labour and, inter alia, seeks to improve schools systems and to improve the retention of children in school as there is strong link between school drop outs and child labour. Effective initiatives have also taken place for the purpose of increasing awareness about the issue child labour particularly in rural areas.

Chapter four dealt with measures, initiatives and programmes which are in line with international instruments protecting children against child labour with a focus on aspects of the CRC and the minimum age convention. Uganda and South Africa are parties to these conventions which protect the rights of children and provide provision for acceptable age for various labour practices and work which are suitable for children and some initiatives and policies in line with these conventions and other international instruments protecting against child labour are discussed in this chapter.

5.2 Conclusion

In this research it has been established that great amount has been placed in efforts to reduce and put an end to child labour and furthermore promote the importance of education in both countries. In the case of Uganda efforts have been made to ensure that children not only enrol in school but they stay in school up until completion and in the case of South Africa, efforts have been made to award families with exemption from paying school fees so that children do not have to drop out of school and start working at a young age, due to financial constraints or inability to pay school fees. Both countries have shown their commitment against child labour by becoming state parties to the minimum age convention as well as implementing into their constitutions, provisions protecting children from economic exploitation and any type of work which is harmful to children. Both countries have also developed and implemented national policies focused specifically on efforts to reduce and eliminate child labour, which have served as important instruments in involving other government departments, civil organisations, relevant stakeholders and most importantly communities in the fight against child labour.

5.3 Recommendations

The strength of our nation lies in the protection of our children who are the future of our nation and every child is entitled firstly to simply be a child and secondly have a fighting chance to have access to opportunities to secure a good future, unfortunately when child labour is harmful to a child and when it takes a child away from their education, it strips away the essence of a child and severely limits their opportunities to a better life. It is important to note that this research has established that both Uganda and South Africa recognise the importance of a child and the detrimental effect of child labour which is noticed through various initiatives, programmes, legislations and policies in place to move towards the elimination of child labour and moreover continuous efforts to improve these systems in place and find new ways as well, the following recommendations are made:

- i) In this research it is established that both countries could learn from the each other in order to improve on and implement new systems to eradicate child labour. Uganda could implement the system of exempting parents from poor backgrounds from having to pay school fees, which would relieve parents from a huge financial burden and thus children would not have to drop out of school and work due to inability to pay for school fees.
- ii) Many cases of child labour occur in rural areas due to lack of development within in these communities as well as lack of employment opportunities for the people within these communities. Therefore it is recommended that more needs to be done in terms of improving development within these areas through investment in more income generating projects with a focus on improving development in rural areas, such as infrastructure, roads, schools and water systems, this will in turn create work opportunities for the people within these communities and improve the development within these communities, therefore reducing the amount of time children will spend on having to collect water and the reliance on children to work, subsequently children will have more time for better performance in school and proper development as well.
- iii) It is recommended that more support structures be developed and support services be given to children and families faced with issue of child labour

so as to address the root causes of the problem and to help these children and families access the necessary services to assist them in the right direction. It is recommended that more be invested into the creation of awareness of the issue of child labour so as to provide a greater understanding of the detrimental effect of child labour as well as access to information on alternative best solutions and programmes in place to help families and children in this predicament, for example information about youth and rehabilitation centres that children can turn to as opposed to having to work and live on the streets. It is recommended that support structures be set up within schools as well, to help learners in school who might be faced with the problem of child labour.

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