

TOWARDS A REALISTIC INTERNATIONAL CHILD LABOUR POLICY

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INTRODUCTION

Let me begin my comments by stating that any opinions which I express during this presentation are entirely personal. These have been formed during my work over a number of years on the formulation and implementation of ethical sourcing guidelines (which guidelines deal, inter alia, with the issue of child labour) for a major Canadian retailer as well as through discussions with representatives of various international organisations and non-governmental organisations (NGO's) and my participation on the Canadian delegation to the International Labour Organization (ILO) Conference working on a new child labour convention.

I am therefore not an "expert" on the subject of child labour. For more detailed information on the problem I would recommend consultation with representatives of the ILO's IPEC programme which I will discuss later and those of organizations such as UNICEF, church groups and the Canadian Foster Parents Plan which have carried out excellent work in this area.

The plan of my presentation is as follows: I intend to first provide an overview of the problem of child labour and its causes. This will be followed by a discussion of some of the initiatives taken to address the problem by international and national organizations, industry associations, individual corporations and others. I will conclude with comments on the initiatives which I believe hold the most promise in actually improving the lives of the world's working children.

THE NATURE AND MAGNITUDE OF THE PROBLEM

When I first became involved with child labour, I considered it to be a very simple problem capable of easy solution. Of course I was against child labour and would wholeheartedly support the adoption by corporations of codes of conduct which expressly prohibited the use of child labour in the production of merchandise they imported.

However, when I sat down to draft a corporate policy on this issue, numerous questions began to emerge for which I could find no easy answer:

- What age should be covered by the definition of "child" for the purposes of the policy - 10, 14, 18?
- What is the child labour which should be prohibited - is it full-time work, part-time work, all work, etc?
- How can the compliance of suppliers be effectively and inexpensively monitored, particularly when a corporation is dealing with hundreds and possibly thousands in countries all over the world?
- What will happen to children terminated from employment in factories because of the corporate policy against child labour?

One of the first things I did was to contact the UN and the ILO to inquire into the existence of international or industry standards on the use of child labour, believing that if these were acceptable, they could be incorporated into our code. My thinking was that if such standards existed and were in general use, their implementation and enforcement would be more achievable than standards not in wide use.

It was then that I came to the realization that although this issue has for years preoccupied the international community, it is not about to be resolved - particularly if one's goal is the actual improvement of the lives of working children.

Child labour is an enormous problem - one difficult to comprehend sitting in our comfortable homes in Canada. It has existed, in one form or another in all areas of the world from time immemorial. My ancestors in Quebec no doubt had their children toiling on the land during Canada's European settlement. In fact, in the early years of French Canada, having a large family (and hopefully many sons) was considered a blessing in that there would be more hands to help with the chores.

We in Canada are fortunate to have progressed far beyond those early years. We must, however, remember that in many parts of the world conditions are more akin to those pioneer days and we, with the financial resources and capacity to act proactively to improve the lives of our less fortunate fellow human beings have a moral obligation to do so. However, with respect to child labour we must proceed in a manner which takes into consideration the magnitude of the problem and the fact that it cannot be eradicated overnight. Furthermore, I would argue, our goal should not be the abolition of all child labour but only that which is unacceptable - unacceptable because of its inherent nature (e.g. it is hazardous, involves prostitution, etc.) or because, due to the manner in which it is carried out, is exploitive or interferes with the child's normal mental, physical and psychological development and education.

That certain forms of child labour are unacceptable has been acknowledged by the international community for most of this century. Indeed one of the first conventions adopted by the ILO in 1919, the year this organization was created, was a convention prohibiting the work of children of less than 14 years in industrial enterprises.(1) The fact

that this issue continues to be an item on the agenda of ILO meetings 80 years later underlines the magnitude of the problem and the intractable nature of some of its causes.

I would now like to turn to a quick review of some statistics related to child labour in developing countries.

(a) Statistics on the Incidence of Child Labour

Reliable data on the incidence of child labour is difficult to obtain under current world conditions. Much of the work done by children is illegal under local law and frequently carried out in the informal sector.

However in its 1996 Report Child Labour: Targeting the Intolerable(2), the ILO estimates that in the developing countries alone there are at least 120 million children between the ages of 5 and 14 working full-time. If we include those for whom work is a secondary activity, this number increases to 250 million. Their geographic distribution is as follows: 61 % in Asia, 32 % in Africa (Africa actually has the highest per capita incidence of child labour with 40% of children in this age group at work) and 7% in Latin America.

More accurate data should become available in the near future as the result of a 5-year project known as The Statistical Information and Monitoring Program (SIMPOC) established by the ILO to gather data on child labour in 40 countries. This project will study the scale, distribution, characteristics and causes of child labour as well as the industries in which it is found, providing data to be used as a basis for setting priorities and monitoring programmes. Data will be gathered on the following:

- (i) demographic and socio-economic characteristics of child workers;
- (ii) workplace conditions and wages;
- (iii) the reasons that children work; and
- (iv) socio-economic data about their parents as well as their perceptions of child labour.

In 1997-98, the Canadian Government contributed \$500,000 to SIMPOC.

(b) Myths concerning Child Labour

Although the overwhelming majority of child labour occurs in the developing countries, children routinely work in all countries, including Canada. However factors such as conditions and hours of work, degree of interference with desirable education and training, respect afforded for their rights and the like will determine whether or not the work is harmful.

Contrary to views which are widely held in many developed countries, most child labourers in developing countries are not found in sweat-shops, working on the production of cheap goods for export. In fact, studies show that only about 5% of the world's child workers toil in the export sector.(3) Moreover, the most intolerable forms of

child labour are found in what is generally referred to as the "informal sector" which is unregulated and includes activities such as domestic work, rag-picking, scavenging and the like. There can therefore be no quick fix to the global problem of child labour.

(c) Causes of Child Labour

Although more research is required on the subject, there is no doubt that poverty is the most important reason for which children work. Unfortunately it is a vicious cycle as child labour also perpetuates poverty, depriving children of the education and training which would enable them to obtain better-paying jobs. According to a 1996 study(4), in some developing countries children commonly contribute 20-25% of family income. In some cases this figure is as high as 40%! As poor families spend most of their income on food and survival, income from child labour is a necessity and not a luxury which can be easily dispensed with.

Other factors which contribute to child labour include lack of sustainable alternatives including access to free basic education, heavy family debt which is being repaid by the bonded labour of children, traditions of children following in their parents' footsteps, the existence of unscrupulous adults willing to take advantage of children who are generally more docile and prepared to accept lower wages than adults and the ravages of bitter civil wars which result in legions of disabled parents unable to work and orphans obliged to fend for themselves.

INTERNATIONAL INITIATIVES TO ELIMINATE CHILD LABOUR

There have been many initiatives at the international level whose main objective is the abolition of child labour. Some of these have been the result of efforts of international organizations such as the ILO and the UN. Others have had their genesis in the globalization of trade and the growing public revulsion at some of the most egregious examples of child labour captured by the international media. Unfortunately, these initiatives have not always been accompanied by a careful analysis of their direct impact on the lives and well-being of the vulnerable children sought to be protected nor have they taken into consideration the root causes behind the problem of child labour.

From the perspective of the world's working children, the question which one must always ask before adopting a policy, measure or programme is - WILL IT TRULY IMPROVE THEIR LIVES? Gaining the support of customers, securing foreign investment and loans or enhancing the corporate bottom line is not always synonymous with a positive response to this question.

(a) International Legislation

For most of this century, the international community has sought to solve the problem of child labour through the adoption of international instruments which have generally taken an abolitionist perspective. As noted earlier, one of the first conventions adopted by the ILO related to efforts to prohibit children less than 14 years of age from working in

industrial enterprises.(5) This was followed by the adoption of numerous sectoral conventions on the minimum age to admission to employment in specific sectors(6).

In 1990, the *United Nations Convention on the Rights of the Child* came into force. It has been ratified by all countries other than the United States and Somalia. Pursuant to Article 32 thereof, ratifying countries must adopt legislation setting minimum ages for employment, regulating conditions of work and providing penalties for non-compliance.

The most recent convention adopted at the ILO on the subject of child labour is the *Minimum Age Convention, 1973 (No. 138)*. Convention 138 is a consolidation of principles enunciated in earlier ILO instruments and was intended to apply to all sectors, whether or not the children are employed for wages. The achievement of its stated goal, the total abolition of child labour, would require the implementation of a wide range of social and economic policies. It sets 15 as the minimum age for admission to employment (unless compulsory education extends beyond this age in a particular member state) subject to a number of exceptions, including the following:

- 13 for light work (not defined);
- 18 for hazardous work (defined as "work likely to jeopardise the health, safety or morals of young persons") unless adequate training and protection is afforded to protect the children;
- the 15 and 13 year minimums can be lowered to 14 and 12 respectively in countries with insufficiently developed economies and educational facilities;
- limited categories of employment can be excluded from the applicability of the convention for as long as special problems exist(7); and
- family and small-scale holdings producing for local consumption can be excluded.

Ratifying states commit themselves to pursue a national policy designed to ensure the effective abolition of child labour, progressively raising the minimum age.

Convention 138 and Recommendation No. 146 which accompanied it also set out provisions governing conditions of work intended to protect those children permitted to work. These cover issues such as pay, hours of work, rest and holidays, social security and occupational safety and health.

To date, 72 governments have ratified Convention 138 (Canada has not.). A quick review of data on national minimum age legislation reveals that most countries of the world regardless of whether or not they have ratified this convention have enacted legislation consistent with its provisions and those of the *UN Convention on the Rights of the Child* mentioned above. This includes countries with a high incidence of some of the worst forms of child labour.

From this we can only conclude that legislation alone will not solve the problem of child labour. Until there is the political will to realistically debate the issue (devoid of hidden agendas), address its root causes and make available viable alternatives for working children, the abuses will continue.

Work on a new Convention

Notwithstanding the fact that legislation does not appear to be a panacea for child labour, the international community continues to work on the adoption of international standards on child labour. However the focus has changed with a shift from attempts to abolish all child labour to recognition that it may be more beneficial to the children of the world to initially devote resources to the immediate abolition of the worst forms of child labour.

This approach is clearly more realistic in light of the economic, social and cultural conditions existing in various countries and also acknowledges that some forms of work are acceptable and indeed beneficial to children and need not be abolished.

As a result of this change in focus, the ILO convened a conference in Geneva in June 1998 to work on the drafting of a new convention to be known as the *Immediate Abolition of the Worst Forms of Child Labour Convention, 1999 (the "Convention")*. Following the tripartite discussions which occurred at this 1998 conference (involving representatives of governments, workers and employers of the ILO's 174 state members) the International Labour Office prepared a text which reflected the participants' discussions and conclusions.

The text of this proposed Convention and its accompanying Recommendations will be the subject of further discussions at a conference in Geneva in June 1999.

As noted earlier, I was appointed to represent Canadian employers on the Canadian delegation. The discussions and controversies relating to the proposed texts are therefore very familiar to me.

The challenge which faces the 1999 conference is to arrive at satisfactory definitions of the operative provisions of the Convention, many of which were the subject of heated debates in 1998. They include the following:

- The current draft of the Convention defines the expression "worst forms of child labour" as:
 - "(a) all forms of slavery or practices similar to slavery, such as the sale or trafficking of children, forced or compulsory labour, debt bondage and serfdom;
 - (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
 - (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international

treaties;

(d) work which, by its nature or the circumstances in which it is carried out, is likely to jeopardise the health, safety or morals of children" (Art. 3).

Some delegates believe that this definition should be expanded to include work which interferes with a child's education. Although a laudable goal in itself, my fear is that the inclusion of this criterion will make the definition too broad and jeopardize the Convention's ratification rate.

- Should the above definition include participation in the military - or at least in active combat? This topic was raised last June and deferred for consideration and discussion in June 1999.
- Is the minimum age set out in the draft Convention (i.e., 18) too high (Art. 2)? The broader the definition of the "worst forms of child labour", the greater the pressure from developing countries to reduce this minimum age. This is particularly true with respect to work which would be proscribed under article 3(d) where, for example, it could be argued that a 16-year old should be permitted to do work which would be considered hazardous unless proper training and protective equipment is provided.
- Should the list of factors which governments should consider (in consultation with Workers' and Employers' groups) in determining work "likely to jeopardise health, safety or morals" (and therefor to be immediately eliminated), which is currently found in the Recommendations accompanying the draft Convention (and is therefore not binding) be moved to the body of the Convention as part of the definition of "worst forms of child labour". This could make a broad category of activities unacceptable per se (e.g., work with dangerous machinery and heavy loads, irrespective of proper training and equipment and work without the possibility of returning home each day - which could be argued to apply to work as summer camp counsellor). Again, this could jeopardize the broad ratifiability of the Convention, even among developed nations.
- Should governments have an obligation to set up a register of perpetrators of offences related to prostitution, pornography and drug trafficking?

- Should criminal law provisions enacted to implement the Convention have extra-territorial application?
- Should governments mandate the adoption by corporations of codes of conduct prohibiting the use of child labour and should compliance with these codes be independently monitored? Monitoring is a contentious issue. Employer groups believe that internal monitoring and monitoring by a company's external auditors are acceptable. Workers groups generally support monitoring by Workers' groups and NGO's at the expense of Employers.
- Should corporations found to employ child labour be compelled to provide financial compensation to the children and have their business licences revoked?
- Should child labour experts such as UNICEF have a formal consultative role under the Convention? This was rejected most strongly by the Workers and could be debated further in June.

Notwithstanding the outstanding issues, it is my sincere hope that this effort on the part of the international community will result in the adoption of a clear, concise and focussed instrument which will achieve the immediate abolition of the worst forms of child labour. Surely we can agree on those forms of child labour which should not be tolerated anywhere and which should therefore end immediately. Note however that this does not mean that the children involved will necessarily be removed from child labour. What it should mean is that they will no longer be allowed to work in abusive, exploitive and hazardous conditions.

(b) Codes of Conduct and Boycotts

As noted above, some delegates at the ILO meeting in Geneva would like to see mandatory codes of conduct and independent monitoring enshrined in the new Convention.

There has been considerable activity internationally on the development of corporate and industry codes of conduct, often as a result of consumer boycotts. Generally these codes involve voluntary commitments on the part of corporations to conduct their business according to certain stated standards. Many such codes arise in the context of international trade and involve a company in the developed world setting out employment standards which must be enforced by its developing world suppliers and their subcontractors.

These codes can and have improved the working conditions of employees in factories in developing countries. They are well-suited to deal with issues such as wages, hours of work, non-discrimination, health and safety regulations and the like. However they are not, on their own, an effective vehicle for improving the situation of the world's working children - unless one considers forcing children out of their current jobs and into situations far worse than those which they left a laudable result! Also, they do not reach the large majority of working children found in the informal sector where the worst abuses exist.

It is relatively easy (though expensive if stringent monitoring is carried out) for a Canadian retailer, for example, to adopt and enforce a code of conduct (or ethical sourcing guidelines as they are often called) which prohibits the use of child labour. But what does such a prohibition, unaccompanied by the creation of sustainable alternatives, accomplish for the affected children? If caught, they are typically removed from the factory with no thought given to the impact on their lives. The retailer is satisfied because its code is being enforced and its reputation is intact, its customers are satisfied because they believe they are making ethical purchases by buying from a retailer which has such an acceptable code (possibly as a result of a consumer boycott) and the third world manufacturer is happy because it has managed to retain its customer by terminating the young workers.

A couple of well-documented examples of the negative consequences on the affected children which can result from the imposition of outright bans on the use of child labour by western manufacturers and retailers underline the problem with boycotts and codes of conduct as they relate to child labour.

The first case occurred in the Bangladeshi garment industry in 1993. In 1992, a bill was introduced in the US Congress to prohibit the importation into the US of goods manufactured using the labour of children under 15. Fearing a boycott of their goods, Bangladeshi garment manufacturers (who exported more than 60% of their products to the US) terminated over 50,000 employees under the age of 15 - mostly female. An independent research study found that half of these children found jobs as prostitutes, breaking bricks and collecting garbage - all at less pay than their factory jobs. The others were unemployed and looking for jobs - none went back to school.(8)

The second case occurred in Morocco in 1995. British media claimed to have discovered girls between the ages of 12 and 15 working on the production of garments for Marks & Spencer. As a result of the media coverage and embarrassment to Marks & Spencer, many of the girls were summarily dismissed. The International Working Group on Child Labour (IWGCL) conducted an investigation and found that these girls had been working in what local Moroccan families considered legal, secure and desirable positions. Due to the local economic situation, employment of children was expected and accepted (unemployment in the area was as high as 55%) and these were considered "plum" jobs.

As the IWGCL concluded, "The dismissals led to the girls being harmed rather than helped. All the actors involved were concerned with the fact that the girls were working. None of them were concerned that the girls were dismissed"(9)

Both these examples illustrate the unfortunate consequences of applying bans on the use of child labour found in many corporate codes of conduct without conducting prior impact analyses or providing for suitable alternatives for the displaced children. One should also remember that, as noted earlier in my paper, only 5% of children working in developing countries work in the export sector and that the conditions in these jobs are frequently better than those in the informal sector where the majority of children are found. The question we should therefore ask ourselves is - **SHOULD WE FEEL A SENSE OF PRIDE AND ACCOMPLISHMENT AT HAVING CAUSED THE REMOVAL OF THESE CHILDREN FROM THE FACTORIES?**

A further problem with the implementation of codes of conduct is that with their proliferation, individual manufacturers in developing countries with many western customers are faced with the task of complying with a multitude of inconsistent codes. Indeed in factory audits conducted by one of the Big 5 accounting firms for a large Canadian retailer, codes of conduct of a number of Canadian and American retailers were found posted side by side on the same factory bulletin boards (some not even translated into the local language).

Finally, from a corporate point of view, codes of conduct governing international trade activities can prove to be a public relations nightmare. Despite the best of intentions, unless the monitoring of compliance is continuous, there is always the possibility that members of the media or others (including competitors!) will find an example of non-compliance which will soon be front page news.

The situation is obviously different where the foreign factory is controlled or owned outright by the western manufacturer or retailer (this is true in many factories of companies such as Levi's, Liz Claiborne and Avon). In such situations compliance with codes can be reasonably ensured.

(c) Social Labelling and Certification Programmes

Social labelling schemes involve the placing of a label or logo on a product certifying that it has not been manufactured by children. Certification schemes usually attest to the social responsibility of the manufacturer without guaranteeing that each individual product is made without child labour. Unless they consist of more than a ban on the use of child labour in the production of merchandise for the export market (i.e., involve rehabilitation, education, financial compensation and the like), these schemes suffer from the same shortcomings as boycotts and codes of conduct. Furthermore, they do not address the situation of the majority of children who work in the informal sector.

Rugmark®, established in 1993 in India by a consortium which included UNICEF and carpet manufacturers, is an example of a successful social labelling programme. It takes

into consideration the interests of children by ensuring that alternatives to work are available. Carpet importers pay a 2% levy to support initiatives for the education and rehabilitation of the children in the carpet weaving regions where the program operates. Exporters pay a levy of 0.25% of the price of their annual exports to cover Rugmark's certification and monitoring costs.

Care and Fair is an example of a certification programme. Established in 1995 by the Association of Oriental Carpet Importers in Germany, its members who are carpet importers agree to adhere to a code of conduct regarding the use of child labour. A levy of 1% of the invoiced price of carpets from India, Nepal and Pakistan is used to establish schools, training centres, hospitals, mobile medicine units and child care facilities in these three countries. Because of the difficulty of having fool-proof monitoring of the code's standards, the organization does not guarantee that each product is child-labour free.

A program similar to Care and Fair was established in the Brazilian footwear industry. The Pro-Child Corporate Educational Institute provides preventive programmes to reduce child labour, rehabilitation programmes for former child labourers and assistance to families. Companies which participate in the programme must not hire children under 14. They provide the financial support for the various programmes.

(d) Action by Employer Organizations

In a number of countries with serious child labour problems, employer organizations have initiated action programmes to remove and rehabilitate children working in targeted industries.

One such programme was established in the garment industry in Bangladesh. As noted earlier, over 50,000 children were dismissed from the garment industry in 1993 in fear of trade sanctions being imposed by the United States. Most of the children impacted by this wholesale termination ended up in the informal sector.

In 1995, the Bangladesh Garment Manufacturers and Export Association (BGMEA) signed a Memorandum of Understanding with the ILO and UNICEF aimed at the elimination of children in the garment industry through the provision of acceptable alternatives. UNICEF established schools located near the children's homes and the ILO assumed responsibility for monitoring, verification and compensation of the children and their families for the loss of income. Under this programme, over 10,000 children under the age of 14 were enrolled in special education programmes by 1998.

A similar employer-sponsored programme was instituted in Pakistan in 1997 to gradually eliminate the use of child labour in the production of soccer balls. The Sialkot Social Protection Programme involves the cooperation of all members of the local industry (and their subcontractors) with the ILO, UNICEF, Save the Children UK and two local NGO's. All workers under 14 are to be part of the programme. In addition to providing non-formal education and literacy training to the children, assistance is being provided to

their parents. This includes the establishment of stitching centres near their homes to allow mothers to earn income and the creation of village organizations provided with capital to start new income generation projects. In some respects, this is similar to the work done by the Foster Parents Plan where funds provided by foster parents are used in large part for community projects which ultimately improve the standard of living of the community in which the "adopted" children live.

(e) International Programme on the Elimination of Child Labour (IPEC)

One of the most successful and realistic programmes initiated to deal with the problem of child labour in developing countries is the ILO's International Programme for the Elimination of Child Labour (IPEC). IPEC was established in 1992 following a generous donation by the German government - US\$65 million over 9 years. Developing countries participating in the programme are provided with financial and expert support in the implementation of policies and programmes which aim at the progressive elimination of child labour.

According to IPEC's 1998 Annual Report(10), by October 1998, 33 countries had signed a Memorandum of Understanding with the ILO, committing themselves to work towards the elimination of child labour. Unlike many of the initiatives discussed above which focus on children working in the formal sector, IPEC targets the most vulnerable children - those in the informal sector, bonded child labourers, children working in hazardous conditions, children working as prostitutes, children under 12 and finally, girls (who are often at the greatest risk because many are in hidden work situations such as domestic work).

Because IPEC involves formal participation by governments, sustainability is built into the programme. IPEC has also formed strong alliances with various groups in civil society, including NGO's and employers' and workers' groups. Since the creation of IPEC, trade unions have worked with IPEC to implement 140 action programmes in more than 20 countries. Employers' organizations have undertaken major industry-wide initiatives with IPEC including those in Bangladesh and Pakistan discussed above.(11)

The measures taken by IPEC programmes generally aim at preventing child labour, removing children from hazardous work, creating credible alternatives for working children and their families and improving working conditions as a transitional step. They involve a careful consideration of the well-being of the children and ensure that those children's lives are improved.

CONCLUSION

My goal in making this presentation was to emphasize the complexities of child labour and how solutions must address its causes and take into consideration careful prior analyses of their immediate impact on the lives of working children. Removing children from work in the formal sector without providing them with suitable alternatives is not a solution. This is why I do not endorse consumer boycotts, trade sanctions and outright

prohibitions on the use of all child labour found in many codes of conduct and in the European Commission's Generalized System of Preferences (GSP)(12) or the proposed inclusion of a "Social Clause" in international trade arrangements by the World Trade Organization(13)

We must, for lack of a better expression, put our money where our mouths are. This involves governments, corporations and individuals funding projects which will immediately remove children from the types of labour for which all societies should have zero-tolerance (those the subject of the new ILO Convention). The removal should be accompanied by the provision of alternative sources of income (including work in better conditions) and access to free basic education where possible.

Only by adequately funding and carefully implementing planned programmes will we immediately improve the lives of the world's working children and progressively eliminate their need to work for their own and their families' survival. Most of us would agree that childhood should be a period of life which is devoted to education, physical and mental growth and fun! That this is not the case for millions of the world's children should spur us into action -- action whose consequences will immediately benefit these children. Apathy, hidden agendas, public relations exercises and the like have no place in the world-wide battle against abusive and exploitive child labour.