

Journal of Civil Rights and Economic Development

Volume 14
Issue 3 *Volume 14, Summer 2000, Issue 3*

Article 7

June 2000

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Anthony Freeman

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Recommended Citation

Freeman, Anthony (2000) "Child Labor & Exploitation," *Journal of Civil Rights and Economic Development*.
Vol. 14 : Iss. 3 , Article 7.

Available at: <https://scholarship.law.stjohns.edu/jcred/vol14/iss3/7>

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CHILD LABOR AND EXPLOITATION

ANTHONY FREEMAN*

Thank you very much, Professor Gregory. It is a pleasure to be here and it is a pleasure to see this very large group interested in discussing these issues on Friday afternoon. I have a number of points I want to go through. While some of the points may be obvious, some may not. However, let us just start with the question of why child labor is a problem.

Exploitative child labor is a problem because it deprives the child and it deprives the country of its own potential. By exploitative child labor, I refer to bonded labor, and work at too early an age, for too many hours or in hazardous conditions. Full-time child labor deprives the child from having an education and developing the potential for contributing in a maximum way to his or her own personal development and to the economic development of the country. So full-time, exploitative child labor is an obstacle in the path of economic development.

* Anthony Freeman received a B.A. from Rutgers University (1956) and Master's Degrees in Public Affairs (1960) and in Politics (1961) from Princeton University's Woodrow Wilson School.

Mr. Freeman is the Director of the International Labor Organization's ("ILO") Washington Office. Before being appointed to the ILO in 1994, Mr. Freeman served as Deputy Assistant Secretary of State. He has advised the Secretary of State, his top staff, and the Agency for International Development on international labor policies since 1983. In addition, he has coordinated U.S. relations with the American and international labor movements and supervised the Foreign Service's labor attaché program in U.S. embassies abroad.

Mr. Freeman has also served as a State Department advisor on policy issues involving the ILO and other labor-related intergovernmental organizations, and as U.S. Government delegate to the ILO's International Labor Conference. His State Labor Department assignments have included: deputy to the Inter-American Affairs Bureau; regional labor adviser and assistant labor attaché in Buenos Aires (1962); labor attaché in La Paz (1967-1970) and Buenos Aires (1967-1970); and labor counselor in Rome (1980-83). He was also desk officer for Bolivia (1970-72) and political officer in Valencia (1964-66), Sao Paulo (1973-76) and Buenos Aires.

Anthony Freeman joined the Foreign Service in 1961, after serving two years with the U.S. Army in Germany (1956-58) and as a labor economist with the U.S. Department of Labor. He subsequently worked for Representative Peter Rodino and Senator Charles Percy as a Congressional Fellow (1972-73).

Child labor takes jobs away from adults and it even threatens taking jobs away from those in other countries in terms of this growing global economy that we are living in. Child labor is a form of unfair competition in the global economy. It is a form of bondage for the child laborer and it is a problem of economic development for the country in which the practice takes place.

There has been a problem of denial about the nature and existence of child labor. For many years, many countries have been in denial that the problem even exists. Where it was admitted to exist, it has been denied that it is a problem. For centuries, the prevailing wisdom has been that child labor is a function of poverty, which of course it is. But the conclusion that has been drawn is that since it is a function of poverty, the only way to end child labor is for the country to promote its economic development. After a country achieves some level of economic development and begins to work its way out of poverty, then it will have worked its way out of the child labor problem as well. So, no need to take special action. No need to target child labor in economic development programs specifically. That has been the traditional view of the development economists.

However, the prevailing wisdom has been changing in recent years, and I think that it is fair to say that there has been a shift in terms of attitudes around the world with regard to the problem. Today, most governments recognize that child labor is a problem. Most governments now have national laws that in place to prohibit child labor. Additionally, most governments have signed up to international instruments of one kind or another, committing them to working towards the elimination or abolition of child labor.

I would say that this changed attitude has even penetrated international financial institutions such as the World Bank.¹ The predominate view in the World Bank for a long time has been that child labor is a consequence of poverty. There has been

¹ See generally *The World Bank Group, Mission* (visited on Feb. 23, 2000) <<http://www.worldbank.org/html/extdr/about/mission.htm>>. The World Bank was established in 1944 by the United Nations Monetary and Financial Conference. *Id.* The World Bank's mission is "[t]o help fight poverty with passion and professionalism for lasting results. To help people help themselves and their environment by providing resources, sharing knowledge, building capacity, and forging partnerships in the public and private sectors. To be an excellent institution able to attract, excite, and nurture diverse and committed staff with exceptional skills who know how to listen and learn." *Id.*

a shift in the World Bank on this question, however, and the World Bank will now contemplate loans targeted at combating child labor as a way towards eliminating poverty.

Of course, when governments ratify international treaties and pass national laws legislation, that only addresses half of the problem. They also have to enforce these laws, and they have to bring about a change in public attitudes about the existence of the problem. Professor Gregory alluded to the dimensions of the problem. It is estimated that there are 250 million child laborers in developing countries, of whom 120 million are estimated by the ILO to be working full-time.² These estimates are based on statistical analyses and programs that have been designed in various countries. Five or six target countries where there have been prevailing situations of child labor. It is, however, still only an estimate of the worldwide scope of the problem.

Most child labor is in the agriculture sector, but it also occurs in domestic services and manufacturing, particularly in informal sectors of the economy.³ Child labor often tends to exist in dangerous occupations. In manufacturing it tends to be in the small scale manufacturing sector, oftentimes in shops that are hidden away and not subject to inspection by the governmental authorities of the country. We find children in a large variety of economic activities—from mining, construction and working in stone quarries, to matchmaking, rug making, garments, and textiles. As I say, its use often runs from dangerous industries, to rug-making, carpet-making, garments, and textiles.

Less than five percent of the child laborers work in the export sector.⁴ The export industries are just the tip of the iceberg of the child labor problem.

Now, what is the ILO doing about the problem? I want to talk a bit about that. Professor Gregory said earlier, the ILO was established in 1919. The ILO is an intergovernmental or international organization created to raise labor standards and improve working conditions around the world. Since 1946, it has

² See INTERNATIONAL LABOR ORGANIZATION, CHILD LABOR: TARGETING THE INTOLERABLE, REPORT VI, at 7 (International Labor Conference, 86th Sess., Agenda Item 6, 1996) [hereinafter REPORT VI].

³ See BUREAU OF INT'L LABOR AFFAIRS, U.S. DEPT OF LABOR, VOL. I: BY THE SWEAT AND TOIL OF CHILDREN: THE USE OF CHILD LABOR IN U.S. MANUFACTURED AND MINED IMPORTS 2 (1994).

⁴ See UNICEF, THE STATE OF THE WORLD'S CHILDREN 21 (1997).

been part of the United Nations system of organizations.

The ILO is unique in the sense that it is probably the only international or intergovernmental organization that includes elements of civil society in its decision-making process. The principle actors involved in industrial relations worldwide are very much a part of our decision-making process. That's why we call ourselves a tripartite organization, as the ILO consisting not only of governments, but also of workers who are organized in something called trade unions around the world, and the private sector, who are organized in what we call employer organizations.

The ILO does two basic things that I would like to highlight here. One is the normative or standard-setting function, meaning the adoption of international rules or guidelines, which take the form of either conventions or recommendations. Conventions are international treaty instruments. No government has an obligation to ratify these international instruments. Once they do, however, governments have an obligation under international law—we have some legal people here who will check me if I'm wrong—to live up to the terms of the instruments that they ratify.

Accompanying the standard-setting process is a very unique and highly developed monitoring and reporting system, which has been developed into an art form by the ILO and I would daresay is the best in the UN system. There are several committees within the ILO that makeup what we generally call the "supervisory machinery".

The other major function of the ILO does is technical cooperation, at least since the end of the Second World War. I tend to look on these two functions as having a "good cop" - "bad cop" relationship. If a country signs onto an international instrument and commits itself to a certain course of action, but then doesn't meet its obligations under that commitment, then it will have its performance publicly reviewed and criticized in an international forum through the supervisory mechanisms that I referred to earlier. That is the "bad cop" part.

The "good cop" part is that the ILO will go out there, together with other international agencies and provide assistance if a member state wants assistance in improving its performance. Among the most important institutions in terms of child labor is

UNICEF.⁵ We work together with UNICEF, and other institutions, to help countries remove children from child labor and place them in education and other rehabilitation programs.

Labor standards for children is not a recent issue. It goes back to the very beginnings of the ILO. In 1919, the year of its founding, one of the first conventions adopted by the ILO was on minimum work age, and since then there have been a number of such conventions. The major one is Convention Number 138,⁶ which calls for a minimum age for working to be set by national authorities. Every nation should set the limit at the age which it sets for compulsory education. At no time, however, should the minimum age be less than fifteen, except for an escape clause lowering it to fourteen in developing countries. In addition, there are lower age limits (13-15) set for part-time light work and higher limits (16-18) for work likely to jeopardize the health, safety or morals of young persons.

Convention Number 138 has been ratified by a minority of countries, because the standard it sets has been regarded as being too stiff by many countries. But the ratification rate has lately been increasing. It is currently around forty percent. We have a membership of 174 member states in the ILO and the last time I looked, seventy-three countries had ratified this particular convention.⁷

In terms of technical cooperation, since the early nineties the ILO has administered a major program called the International Program for the Elimination of Child Labor (IPEC).⁸ IPEC is an extra-budgetary program begun with a healthy donation from the Federal Republic of Germany, but which has now received

⁵ See generally *UNICEF, United Nations Children's Fund* (visited Feb. 22, 2000) <<http://www.unicef.org/>>. The United Nations International Children's Emergency Fund (UNICEF) was established on December 11, 1946 by the United Nations to meet the emergency needs of children in post-war Europe and China. *Id.* In 1953, UNICEF became a permanent part of the United Nations system and changed its name to the United Nations Children's Fund, although the organization retained the original acronym. *Id.* UNICEF advocates and works for the protection of children's rights and is the only organization of the United Nations dedicated exclusively to children. *Id.*

⁶ C138 MINIMUM AGE CONVENTION (1973). See <<http://www.ilo.org/public/english/protection/safework/cis/oshworld/ilostd/c138.htm>>.

⁷ *U.S. Endorsed Treaty on Child Labor Abuses*, N.Y. TIMES, June 13, 1998, at A5.

⁸ See generally *International Labor Organization, Brief on the International Program on the Elimination of Child Labor* (last modified April 30, 1997) <<http://www.ilo.org/public/english/90ipec.htm>>. The International Program for the Elimination of Child Labor (IPEC) focuses on strengthening national capacities to address child labor problems by creating a worldwide movement. *Id.*

donations from many other countries, including the United States, which is rapidly becoming the major contributor to this program. This fiscal year, the Clinton administration has committed \$29 million to this program, the largest contribution the ILO has received from any state in any single year. There is also a proposal to Congress on the part of the Clinton administration to continue contributing funds to the program with similar amounts for the coming years.

IPEC is aimed at helping countries combat their child labor problem. We call this a country-owned program. The basic philosophy is to try and get all elements of society committed to this cause. First, we want national authorities to overcome their denial that they have a problem and agree to a survey to determine the dimensions and characteristics of the problem in each respective country. Second, we want all elements of that society involved, at the national, provincial, and local levels. We want not just governments, but civil society, especially the ILO's trade union and private sector business constituents, participating in this process and arriving at a consensus as to what programs are needed to help move that country along towards eventual elimination of child labor.

We get governments to formalize that consensus in the form of a memorandum of understanding with the ILO setting forth what we jointly commit ourselves to achieve. There are approximately thirty-three countries that are signed up right now, and another thirty-three or so that are ready to sign up and are in some stage of preparation for signing such a memorandum of understanding that they will have a program, as well. There are currently about 1,000 projects in operation worldwide. The current United States funded projects are focused especially on the export industry.

There are two aspects to the interest the United States has shown: (1) the moral, humanitarian question and (2) the question of the economic impact of child labor on our own national economic situation, including jobs in the U.S.. The most well known of the projects funded by the United States are those which are designed to get children out of export industries that export products to the United States or other industrialized countries.

Professor Elliot Schrage is one of our panelists today. I am

going to let him talk in greater detail about the ILO the projects that his organization has been involved in. I will just cite two that have been funded by the United States that are considered to be a new model approach to the problem. One project is in Bangladesh⁹ and the other is in Pakistan¹⁰.

The Bangladesh garment industry is an export industry whose market is largely the United States. The goal of the Bangladesh project is to get every single child out of the garment industry and into a rehabilitation or education program. UNICEF is a major partner in this particular project.

Following the initial identification of all the children in the garment factories by ILO inspection teams and the removal; of virtually all these children from the plants and placement in special schools, ILO inspectors visit the plants on a regular, continuing basis to make sure the children are not there, and that they stay out. Depending on which week we're talking about though, there is always a small degree of slippage. Some kids are filtered back into these places. Therefore, we have to keep our inspection system working. The aim is to get children to be able to read and write and learn some of the basics in a special education program that lasts until they reach the age of 15. One of the principal cause of child labor is the lack of adequate education for the entire population of these countries.

The other project involves the Pakistan soccer ball industry. The worldwide sporting goods industry has been involved in a cooperative effort with UNICEF and the ILO to get the Pakistani children who stitch the soccer balls out of this business. Approximately seventy-five percent of the professional soccer

⁹ See generally *International Labor Organization: IPEC in Action: Asia: ILO-IPEC Program in Bangladesh* (visited <<http://www.ilo.org/public/english/standards/ipec/action/31asia/bangla98.htm>>. The Bangladesh project began with the signing of a Memorandum of Understanding between the Bangladesh Garment Manufacturers and Exporters Association, ILO and UNICEF in 1995. *Id.* The Memorandum stated that the parties were declaring their commitment to withdraw all child workers from the garment industry. *Id.* It also marks the first time two UN agencies are working jointly with the government and an employers organization to combat child labor in Bangladesh. *Id.*

¹⁰ See generally *International Labor Organization: IPEC in Action: Asia: ILO-IPEC Program in Pakistan* (visited Feb. 26, 2000) <<http://www.ilo.org/public/english/standards/ipec/action/31asia/pakist98.htm>>. The Pakistan project began with the signing of an agreement between the ILO, UNICEF and the Sialkot Chamber of Commerce and Industry in 1997. *Id.* It marked the beginning of a joint partnership among all the signatories to eliminate child labor in the football stitching industry over the next two years. *Id.*

balls in the world are made in one district in Pakistan.¹¹ The objective of a U.S.-funded IPEC project is to get kids out of this industry and into schools or other forms of rehabilitation.

A major emphasis at this juncture is eliminating what we consider the most harmful forms of child labor. A new ILO convention on the worst forms of child labor is in the drafting stages and will hopefully be adopted in June in Geneva.¹² A worldwide effort is underway to persuade the members-countries of the ILO to approve this convention. Last year, trade unionist, human rights activists and children on four continents organized a Global March on Child Labor which concluded in Geneva on the eve of the International Labor Conference.

The new convention will define what are the worst forms of child labor, beginning with children working in slave-like conditions such as bonded labor. I should have said earlier that in many countries there is a strong element of discrimination involved in child labor. Oftentimes, the child laborers in these countries tend to be of the lowest economic classes and so-called lower castes or minorities. Among these castes, you will find a prevalence of child labor. For centuries, the children of successive generations have been bonded over by their parents as a way of getting out of their own debt. In this way, successive generations of children are effectively bonded into forced labor forever. A cooperative international effort is needed to immediately address the evil called bonded labor, which is a blatant form of slavery.

The definition of the worst forms of child labor also includes children involved in pornographic activities such as child prostitution, children in hazardous conditions, and in other dangerous activities such as narcotics production and trafficking.

¹¹ See *International Labor Organization, ILO Unites With Industry Groups To Combat Child Labor* (updated February 14, 1997) <<http://www.ilo.org/public/english/bureau/inf/pr/97-2.htm>>. The ILO notes that the Sialkot district, in the Punjab Province of Pakistan, produces nearly 75% of the world's hand-stitched soccer balls. *Id.*

¹² See REPORT OF THE COMMITTEE ON CHILD LABOUR, INTERNATIONAL LABOUR CONFERENCE, RECORD OF PROCEEDINGS, 87th Sess. (1999) (reprinted at 38 ILM 1215 (1999) [hereinafter REPORT OF THE COMMITTEE ON CHILD LABOUR]. Convention number 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour was unanimously adopted on June 17, 1999. *Id.* See generally *International Labor Organization, New ILO Convention* (visited Feb. 23, 2000) <http://ilo.org/public/english/comp/child/text/standards/ilo_conv/rec.htm>.

The countries which ratify the new convention will be expected to develop national action programs aimed at eliminating the most egregious forms of child labor, and the ILO expects to marshal the support of the international community through IPEC to help these countries put into effect their national action plans.

One other development worth mentioning is the strengthening of the ILO's normative framework through the adoption of a solemn declaration last year, which makes it a constitutional obligation of every member state of the ILO to promote human rights at the work place. These have been defined as consisting of four principles: freedom of association and collective bargaining right, no forced labor, no discrimination in employment, and elimination of child labor. There is going to be a new monitoring and reporting scheme for countries that have not ratified the ILO's core conventions and a follow-up process for identifying and offering international assistance to countries that need help in improving their human rights performance, including on the abolition of child labor. The United States, incidentally, is one country that has had a problem ratifying international labor conventions and for the first time, the U.S. will also come under ILO is moving on both the normative and technical fronts to strengthen the international response to the challenge of exploitative child labor. But we need to work on the good work begun in the export industry projects and move beyond individual projects. We need to develop a comprehensive operational strategy for removing children from exploitative work in all the economic sectors where child labor is found. This is obviously a problem that has existed for many years, and much work remains to put in place an effective global program that will truly eliminate child labor.

