

2014

## Child Labor and Ratification of Trade and Labor Provisions in Sub-Saharan Africa: Is it a Question of Political Choices?

Caiphas Chekwoti

*Trade Policy Training Centre in Africa*

Follow this and additional works at: <http://lawcommons.luc.edu/lucilr>

 Part of the [Human Rights Law Commons](#), and the [International Law Commons](#)

---

### Recommended Citation

Caiphas Chekwoti *Child Labor and Ratification of Trade and Labor Provisions in Sub-Saharan Africa: Is it a Question of Political Choices?*, 12 Loy. U. Chi. Int'l L. Rev. 59 (2014).

Available at: <http://lawcommons.luc.edu/lucilr/vol12/iss1/4>

This Feature Article is brought to you for free and open access by LAW eCommons. It has been accepted for inclusion in Loyola University Chicago International Law Review by an authorized administrator of LAW eCommons. For more information, please contact [law-library@luc.edu](mailto:law-library@luc.edu).

# CHILD LABOR AND RATIFICATION OF TRADE AND LABOR PROVISIONS IN SUB-SAHARAN AFRICA: IS IT A QUESTION OF POLITICAL CHOICES?

Dr. Caiphas Chekwoti\*

Abstract.....	59
I. Introduction.....	59
II. Background.....	60
III. Does Legislation Matter?.....	65
IV. FTAs and Child Labor.....	69
V. Role of Political Elite and the ‘dilemma’.....	70
VI. Conclusion.....	72

## Abstract

The high ratification levels of International Labour Organization (ILO) core child labor conventions and related provisions among sub-Saharan African countries should be reflected in significantly reduced incidence of child labor in the region. However, observed trends identify this region with the highest incidence of child labor and a slower reduction rate. The key question addressed in this paper is, what explains the puzzling counterintuitive high incidence of child labor despite high ratification rates of core ILO child labor conventions? This paper argues that the incentive spectrum of the key decision makers – the political elite – appears to be a key factor in explaining the observed outcome with respect to the limited enforcement of those conventions.

## I. Introduction

Despite high ratification levels of the key International Labour Organization (ILO) provisions on core child labor standards and the proliferation of bilateral and regional trade agreements within sub-Saharan African countries,<sup>1</sup> an unexpected pattern of a high incidence of child labor in these countries has emerged.<sup>2</sup> Ratification of international conventions is designed to condition countries to observe and implement the provisions enshrined in the convention through domestication in the national laws. This is expected to trigger outcomes that reduce the incidence of child labor and thereby improve the welfare of children. The counter-intuitive observed trends identify the need to investigate the conditions

---

\* Caiphas Chekwoti, PhD, Trade Policy Expert, Trade Policy Training Centre in Africa (trapca), ESAMI, Box 3030 Arusha, Tanzania, [www.trapca.org](http://www.trapca.org).

<sup>1</sup> See Ratifications of C182 - Worst Forms of Child Labour Convention, INT'L LABOUR ORG., [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO:11300:P11300\\_INSTRUMENT\\_ID:312327:NO](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO:11300:P11300_INSTRUMENT_ID:312327:NO) (last visited Nov. 6, 2014).

<sup>2</sup> INT'L LABOUR ORG., MARKING PROGRESS AGAINST CHILD LABOUR: GLOBAL ESTIMATES AND TRENDS 4 (2013) [hereinafter PROGRESS AGAINST CHILD LABOUR].

that characterize the enforcement mechanisms of the regulations associated with these trends. Enforcement of regulations at national and sub-national levels is likely to be driven by the effectiveness of the rule of law and the incentive spectrum of the enforcement decision-making body. The paper seeks to explain the extent to which political interests of the key decision-makers may explain the observed high ratification levels with relatively high incidence of child labor across a sample of sub-Saharan African countries. In an effort to draw insights on potential explanations for this outcome, this paper examines the implications of the regional trade agreements and ratification of the key ILO child labor provisions on the incidence of child labor in sub-Saharan African countries.

## II. Background

“Child labor is a persistent human rights phenomenon in many developing countries”<sup>3</sup> and particularly more pronounced in sub-Saharan Africa despite efforts being made to eliminate it at national and international levels, further detailed in the second section. Partly, political support for child labor restrictions is often weak in countries in which persistence has been observed.<sup>4</sup> This may explain the limited enforcement of the ratified child labor regulations. Interestingly, most of the sub-Saharan African countries do have national regulatory frameworks in place aimed at mitigating child labor.<sup>5</sup>

Child labor is of greater concern when one considers its pernicious impact on the child’s future potential. Children subjected to work which, by its nature or in the conditions under which it is carried out, harms, abuses and exploits the child, or deprives the child of an education.<sup>6</sup> The practice is most prevalent in agriculture, transport, mining and related sectors, fishing, construction, the urban informal sector, domestic service, trafficking, and commercial sexual exploitation of children.<sup>7</sup> Globally, the picture is more promising. Global trends illustrate a clear picture of the outcomes, both in the efforts and impact of mitigation measures. Within slightly more than a decade, a downward trend in the proportions of children in employment has been observed, as reflected by the ILO 2013 report on the incidence of child labor.<sup>8</sup> Figure 1 illustrates the observed trends in incidence of child labor on a global scale over the period from 2000 to 2012.<sup>9</sup> There has been a marked reduction from 23 percent in 2000 down to 16.7 percent

---

<sup>3</sup> Matthias Doepke & Fabrizio Zilibotti, *International Labor Standards and the Political Economy of Child-Labor Regulation*, 7 J. OF THE EUR. ECON. ASS’N 508, 508 (2009).

<sup>4</sup> *Id.*

<sup>5</sup> See U.S. DEP’T OF LABOR, BUREAU OF INT’L LABOR AFFAIRS, 2012 FINDINGS ON THE WORST FORMS OF CHILD LABOR 125, 278, 366, 422, 483, 521, 675, 726, 766 (2013).

<sup>6</sup> Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor (ILO No. 182), open for signature June 17 1999, 2133 U.N.T.S. 161 (entered into force Nov. 19, 2000).

<sup>7</sup> ILO, International Programme on the Elimination of Child Labour (ILO-IPEC), April 2009, available at <http://www.ilo.org/fipecinfo/product/download.do?type=document&id=9970>.

<sup>8</sup> PROGRESS AGAINST CHILD LABOUR, *supra* note 2, at 3.

<sup>9</sup> *Id.*

as of 2012.<sup>10</sup> This translates to a 7 percent reduction in the global proportion of children in employment globally.<sup>11</sup>

**Figure 1: Global Trends in Child Labor**



Source: ILO 2013<sup>12</sup>

Similarly, it can be observed that child labor — in particular, children engaged in hazardous work — experienced a roughly 6 percent reduction over the 2000-2012 period respectively.<sup>13</sup> This implies that the global campaign towards eliminating the worst forms of child labor could be bearing fruit and consequently reinforces the need for a more concerted effort at both global and regional levels to reach this goal.

Broken down by region, the proportion of children in employment, illustrates an interesting trend, shown in Figure 2. Although there has been a general reduction in the proportion of children in economic activity between 2000 and 2012, the incidence of children in economic activity is relatively high in sub-Saharan Africa at 26.2 percent when compared to 10.1 percent and 8.6 percent in Asian and Latin American countries respectively.<sup>14</sup> This makes sub-Saharan Africa stand out on the matter of child labor.

<sup>10</sup> *Id.*

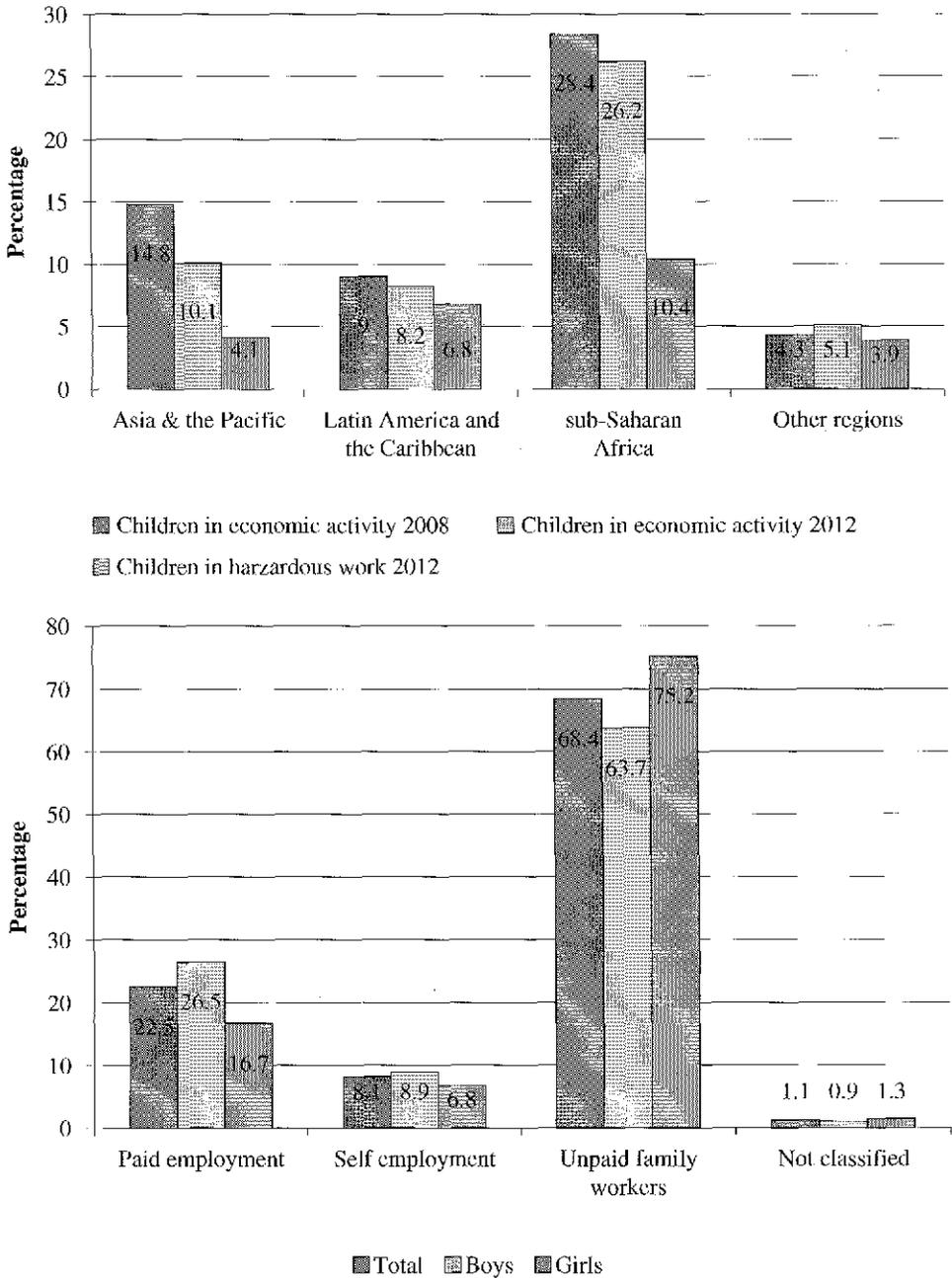
<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Yacouba Diallo et al., *Int'l Programme on the Elimination of Child Labor, Global Child Labour Trends 2008 to 2012*, ILO, 1, 5 (2013).

**Figure 2: Employment Characteristics of Child Labor**



Source: ILO (2013)<sup>15</sup>

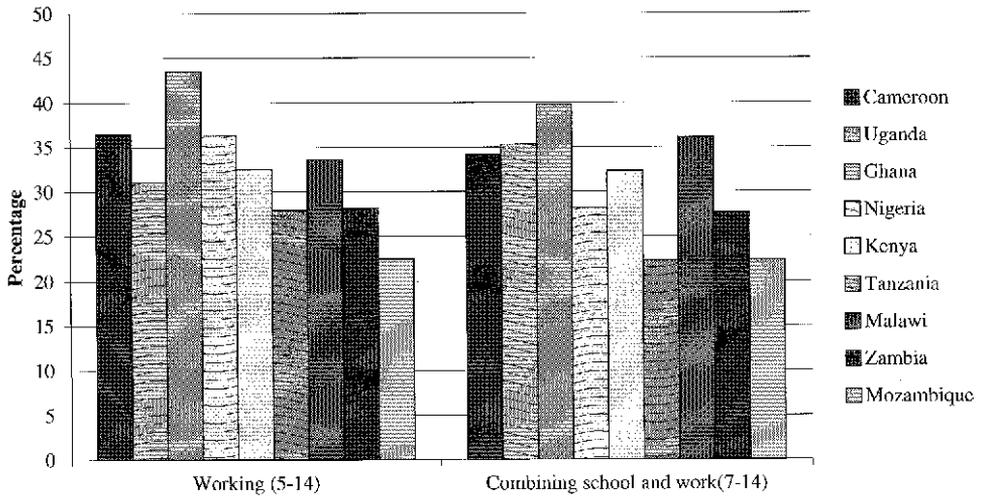
<sup>15</sup> *Id.* at 5, 15.

Child Labor & Ratification of Trade & Labor Provisions in Sub-Saharan Africa

Statistics identify the prevalence of child labor in unpaid family settings.<sup>16</sup> This appears to follow the logic that poorer households constrained by tight budgets see child labor as a natural, feasible alternative to expensive hired labor. This is evident for both boys and girls with a disproportionate 68 percent of employed children working in unpaid family settings compared to 22 percent working in paid employment.<sup>17</sup>

Surveys conducted by the U.S. Department of Labor in 2012 do not show any significant difference in the incidence of child labor across a sample of sub-Saharan countries.<sup>18</sup> This lack of difference is apparent in those working and those who combine work and school.<sup>19</sup>

**Figure 3: Distribution of Child labor Across Selected African Countries in 2012**



Source: US Department of Labor<sup>20</sup>

A question that arises is whether or not a child’s background plays a part in determining whether that child will enter the child labor force. To answer this question some econometric analysis would be relevant. However, a simple graphical presentation highlights poverty as having a significant impact on the incidence of child labor.<sup>21</sup> Poorer households are more likely to have a higher

<sup>16</sup> *Id.* at 15.

<sup>17</sup> *Id.*

<sup>18</sup> See U.S. DEP’T OF LABOR, BUREAU OF INT’L. LABOR AFFAIRS, 2012 FINDINGS ON THE WORST FORMS OF CHILD LABOR 125, 278, 366, 422, 483, 521, 675, 726, 766 (2013).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> Elizabeth D. Gibbons et al., UNITED NATIONS CHILDREN’S FUND, CHILD LABOUR, EDUCATION AND THE PRINCIPLE OF NON-DISCRIMINATION 11 (UNICEF Division of Policy and Planning Working Paper, 2005).

proportion of children providing labor in the family businesses or farms.<sup>22</sup> Poverty ranks as the greatest reason that children enter the child labor pool with about 45 percent contribution to the child labor pool.<sup>23</sup> This is corroborated by the stark 50 percent margin between rural and urban backgrounds.<sup>24</sup> In typical sub-Saharan family setups, the rural households are more likely to be located in poorer peasant communities where child labor is seen as a cheap source of the much needed labor input in the family garden.<sup>25</sup>

Age and gender do not appear to have a major influence on the incidence of child labor.<sup>26</sup> However, the caretaker's level of education is seen as an important factor in determining the likelihood that the child will be utilized as a source of labor.<sup>27</sup> More educated caretakers are more likely to prioritize education for the child, thereby limiting the probability that the child will enter the workforce, ensuring the child is able to attend school and learn.<sup>28</sup>

The correlation between child labor incidence and poverty levels is very high.<sup>29</sup> As observed earlier, poorer households are more likely to be associated with high child labor incidence.<sup>30</sup> This implies that one important policy solution to reducing child labor incidence requires initiatives that improve household income opportunities. This is affirmed by one stark remark by Shumba of FACT Zimbabwe, IRIN (2012) who notes, "But for as long as households have poor and unreliable sources of income, and there are many child-headed families and a dependency on cheap labor, it will be difficult to eliminate the problem."<sup>31</sup>

---

<sup>22</sup> See *id.*

<sup>23</sup> See *id.*

<sup>24</sup> *Id.*

<sup>25</sup> See Keith E. Maskus, *Should Core Labor Standards be Imposed Through International Trade Policy?* (The World Bank Dev. Research Group, Policy Research Working Paper No. 1817, Aug. 1997), available at [http://www.wds.worldbank.org/external/default/WDSContentServer/WDSContentServer/IB/2000/02/24/000009265\\_3971110141359/Rendered/PDF/multi\\_page.pdf](http://www.wds.worldbank.org/external/default/WDSContentServer/WDSContentServer/IB/2000/02/24/000009265_3971110141359/Rendered/PDF/multi_page.pdf).

<sup>26</sup> See Gibbons et al., *supra* note 21.

<sup>27</sup> See *id.*

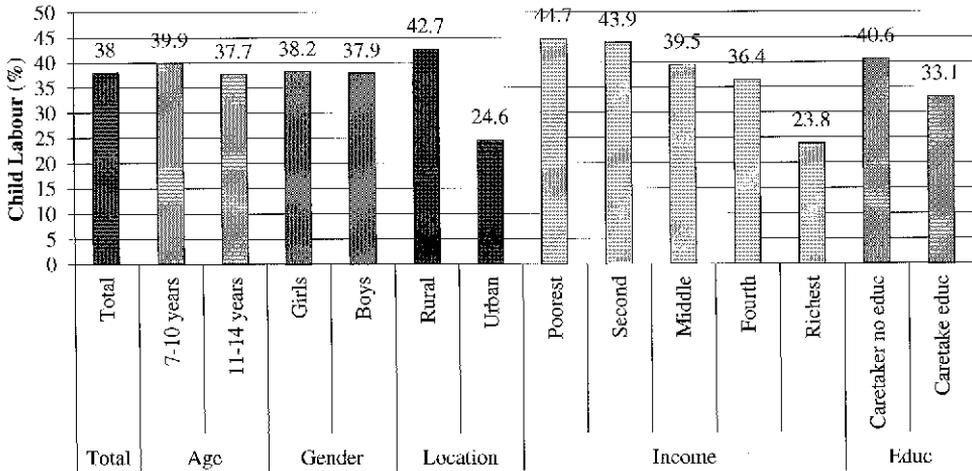
<sup>28</sup> See *id.* at 11-12.

<sup>29</sup> See *id.* at 11.

<sup>30</sup> See *id.*

<sup>31</sup> Zimbabwe: Child Labour on the Rise, IRIN (Feb. 24, 2012), <http://www.irinnews.org/printreport.aspx?reportid=94939>.

**Figure 4: Child Labor Background Characteristics**



Source: Gibbons et al (2005)<sup>32</sup>

We can observe from the different background characteristics of child labor that income and education of the caretaker play a significant role in the incidence of child labor.<sup>33</sup> Initiatives that enhance the availability of affordable education to communities can have a significant positive impact on the reduction of child labor incidence in the future. Educated children are more likely to support the education of their future children as educated parents.<sup>34</sup> Likewise, education can have positive impacts on the income potential of the future parents reinforcing the positive impact on child labor incidence over time.<sup>35</sup>

### III. Does legislation matter?

In an effort to reduce child labor incidences, there has been a concerted move to ensure that ILO member states ratify the key child labor provisions – ILO core conventions No. 138 on minimum age, adopted in 1973, and No. 182 on the worst forms on child labor, adopted in 1999.<sup>36</sup> The motivation is derived from the perception that higher observed incidences could be attributed to the absence or limited use of enforceable regulatory instruments specific to child labor.<sup>37</sup> Interestingly, within a decade most of the sub-Saharan African countries ratified

<sup>32</sup> Gibbons et al., *supra* note 21.

<sup>33</sup> *See id.*

<sup>34</sup> *See id.* at 11-12.

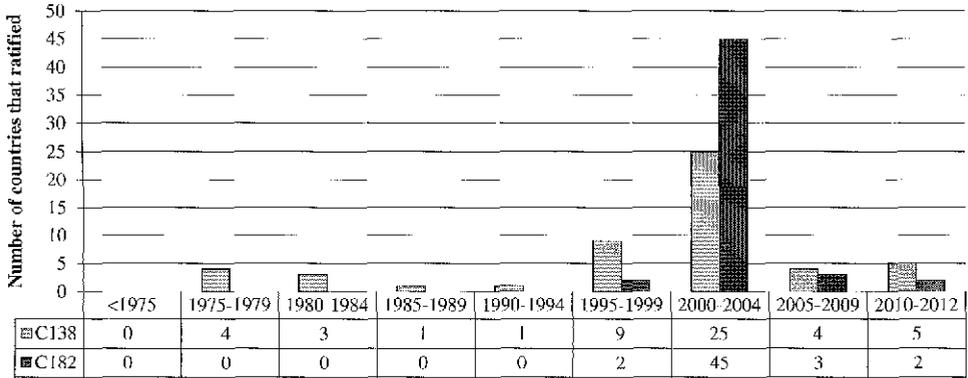
<sup>35</sup> *See id.*

<sup>36</sup> ILO Conventions and Recommendations on Child Labour, INT'L LABOUR ORG., <http://www.ilo.org/ipcc/facts/ILOconventionsonchildlabour/lang-en/index.htm> (last visited Nov. 9, 2014).

<sup>37</sup> Maskus, *supra* note 25.

the key ILO child labor provisions.<sup>38</sup> All sub-Saharan African countries have ratified at least one of either Conventions 138 or 182 as illustrated in Figure 5.<sup>39</sup>

**Figure 5: Ratification of ILO core Conventions on Child Labor**



Source: ILO website.<sup>40</sup>

Except for the nine countries that ratified ILO Convention 138 before 1995, most countries ratified it after 1995, with the majority after 2000.<sup>41</sup> This is contrasted with the highest incidence of child labor in these countries.<sup>42</sup> Immediately after adoption, the number of African countries ratifying Convention 182 was impressive, with forty-five of the fifty-two ratifying by 2004.<sup>43</sup> This is confirmed by Boockmann, who found no correlation between ratification and incidences of child labor.<sup>44</sup>

The U.S. Department of Labor’s Bureau of International Affairs carries out periodic surveys and evaluations on the status of child labor and existing regulations to minimize the incidences.<sup>45</sup> In its 2012 report on the findings on the worst forms of child labor for a selected number of African countries, the Department of Labor observed minimal advances in efforts to eliminate the worst forms of child labor.<sup>46</sup> They observed gaps in legislation and enforcement efforts.<sup>47</sup> Labor

<sup>38</sup> See INT’L LABOUR ORG., *supra* note 1; see also Ratifications of C138 - Minimum Age Contention, INT’L LABOUR ORG., available at [http://www.ilo.org/dyn/normlex/en/?p=1000:11300:0::NO:11300:P11300\\_INSTRUMENT\\_ID:312283](http://www.ilo.org/dyn/normlex/en/?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312283) (last visited Nov. 9, 2014).

<sup>39</sup> See Ratifications of C182, INT’L LABOUR ORG., *supra* note 1; see also Ratifications of C138, INT’L LABOUR ORG., *supra* note 38.

<sup>40</sup> See Ratifications of C182, INT’L LABOUR ORG., *supra* note 1; see also Ratifications of C138, INT’L LABOUR ORG., *supra* note 38.

<sup>41</sup> Ratifications of C138, INT’L LABOUR ORG., *supra* note 38.

<sup>42</sup> Yacouba, *supra* note 14, at 5, 15.

<sup>43</sup> Ratifications of C182, INT’L LABOUR ORG., *supra* note 1.

<sup>44</sup> See generally Bernhard Boockmann, *The Ratification of ILO Conventions: A Failure Time Analysis*, (Centre for European Economic Research (ZEW) Discussion Papers, Vol. 13, No. 3), available at <http://econstor.eu/bitstream/10419/24360/1/dp0014.pdf>.

<sup>45</sup> *Findings on the Worst Forms of Child Labor*, United States Department of Labor, <http://www.dol.gov/ilab/reports/child-labor/findings> (last visited Nov. 10, 2014).

<sup>46</sup> *Id.*

## Child Labor & Ratification of Trade & Labor Provisions in Sub-Saharan Africa

inspections that should be routine seem to leave out the majority of the population, particularly in rural areas where children are subjected to hazardous forms of agriculture and domestic service.<sup>48</sup>

Information gleaned from the country reports confirms the adoption and ratification of international conventions and selected laws on child labor and education, but also highlights evidence of significantly worse forms of child labor and insufficient enforcement of ratified labor laws.<sup>49</sup> Figure 6 provides the ratification status of selected African countries. The summary shows that several countries have existing regulatory framework in place to combat the child labor problem. This is in line with the information regarding the high ratification levels for the ILO core labor conventions discussed earlier. One could conclude that adequate legislation exists to tackle the problem of child labor in the countries exhibiting the highest incidence levels for child labor. In effect, this rules out the lack of legislation as a potential explanation for the high levels of child labor incidences.

---

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

**Figure 6: Ratification Status of the Key Child Labor Provisions**

	Cameroon	Uganda	Ghana	Nigeria	Kenya	Tanzania	Malawi	Zambia	S. Africa	Mozambique	Zimbabwe
C138, Minimum Age	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
C182, Worst Forms of Child Labor	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
CRC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
CRC Optional Protocol on Armed Conflict	Yes	Yes	No	No	Yes	Yes	Yes	No	Yes	Yes	No
CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	No	Yes	No	No	No	Yes	Yes	No	Yes	Yes	Yes
Palermo Protocol on Trafficking in Persons	Yes	Yes	No	No	Yes	Yes	Yes	Yes	Yes	Yes	No
Minimum Age for Work	14	14	15	13	16	14	14	15	15	15	15
Minimum Age for Hazardous Work	18	18	18	18	18	18	18	18	18	18	18
Compulsory Education Age	12	12	15	15	15	15	14	14	15	13	No
Free Public Education	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No

Source: US Department of Labor<sup>50</sup>

In line with the expected outcome, the high level of ratification should be positively correlated with lower incidence of child labor. However, current statistics rank sub-Saharan Africa as a region with the highest child labor incidence.<sup>51</sup> This begs the question as to whether ratification for sub-Saharan African countries presents an effective obligatory instrument or if it is treated as another formality. There is no question that legislation is essential in addressing child labor problems. The intended objective of reducing the prevalence of child labor requires that child labor provisions be coupled with effective policies and programs. It is one thing to have a good regulatory framework but it is another to

<sup>50</sup> Findings on the Worst Forms of Child Labor, *supra* note 45.

<sup>51</sup> Eric V. Edmonds and Nina Pavcnik, *International Trade and Child Labor: Cross-Country Evidence 18-19* (Nat'l Bureau of Econ. Research, Working Paper No. 10317, 204), available at <http://www.nber.org/papers/w10317>.

have an effective regulatory framework. The former is a necessary condition and the latter necessitates that a rigorously enforced monitoring mechanism is implemented. One of the identified challenges associated with ILO conventions is that conventions do not adequately compel change because enforcement relies on moral force.<sup>52</sup>

#### IV. FTAs and Child Labor

Complementing the increasing proliferation of FTAs, at bilateral and regional levels, are trade reforms that are perceived to enhance intra-member trade. There are two potential feasible implications of FTA-induced trade activity on child labor. If the trade reforms trigger an increased demand for child-labor-intensive exportable goods, increased demand for child labor follows.<sup>53</sup> This is reinforced by the fact that increased wages from the exportable goods reduces the return on schooling and as a result increases the likelihood of child labor.<sup>54</sup> The flipside is that the FTAs can be associated with an increased income level for the households involved in the supply chain of an exportable product whose prices has gone up.<sup>55</sup> The FTA consequently reduces child labor and increases child leisure.<sup>56</sup> This theory is supported by the findings of Edmonds & Pavcnik concerning work on Vietnam rice.<sup>57</sup>

Above all, FTAs can be important vehicles for providing a platform for reinforcing a drive towards enforcement of child labor eradication policies for member states.<sup>58</sup> This can be seen in the conditional and promotional provisions provided in the United States' African Growth and Opportunity Act or the European Union's Economic Partnership Agreement negotiations that have been assessed to have better outcomes concerning eradication of child labor. The challenge is that these policies may disadvantage children in tradable sectors. However, the conditions of the children in non-tradable sectors will not change

There are vague references to child labor provisions in the major regional integration agreements with sub-Saharan Africa. The Common Market for Eastern and Southern Africa ("COMESA"), signed in 1994, states in Article 143 that, "The Member States shall promote close co-operation between themselves in the social and cultural field particularly with respect to: (a) employment and working

---

<sup>52</sup> Elizabeth B. Chilcoat, *Pinkie Promises or Blood Oaths? Using Social Clauses in U.S. Free Trade Agreements to Eradicate Child Labor*, 7 WASH. U. GLOBAL STUD. L. REV. 307 (2008), available at [http://openscholarship.wustl.edu/law\\_globalstudies/vol7/iss2/6](http://openscholarship.wustl.edu/law_globalstudies/vol7/iss2/6).

<sup>53</sup> Edmonds and Pavcnik, *supra* note 51, at 5-6.

<sup>54</sup> Ranjan Ray, *Child Labour and Child Schooling in South Asia: A Cross Country Study of their Determinants* (The Australian National University, Australia South Asia Research Centre, Working Paper 2001-09), available at [https://crawford.anu.edu.au/acde/asarc/pdf/papers/2001/WP2001\\_09.pdf](https://crawford.anu.edu.au/acde/asarc/pdf/papers/2001/WP2001_09.pdf).

<sup>55</sup> Edmonds and Pavcnik, *supra* note 51, at 2-3.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.* at 1313.

<sup>58</sup> Matthias Doepke & Fabrizio Zilibotti, *Do International Labor Standards Contribute to the Persistence of the Child-Labor Problem?*, 15 J. ECON. GROWTH 1, 2 (2010).

conditions; (b) labor laws.”<sup>59</sup> There is no clear child labor provision embedded in this provision because the COMESA agreement focuses on employment cooperation.<sup>60</sup> The Economic Community of West African States (“ECOWAS”) makes reference to labor laws without any direct reference to child labor.<sup>61</sup> This thought is captured in Article 61(2)(b) of ECOWAS, which states, “harmonize their labor laws and social security legislations;” however it does not mention anything that concerns child labor laws.<sup>62</sup>

However, there is clear reference to the ILO convention 138 in the Southern African Development Community’s (“SDAC”) Charter of Fundamental Social Rights. Article 7 in the Charter of Fundamental Social Rights in SADC mentions creating an environment consistent with ILO convention 138.<sup>63</sup> Similarly, the East African Community Common Market Protocol, signed in 2009, makes specific reference to the abolition of child labor, particularly referring to the worst forms of child labor in Article 39(3)(e).<sup>64</sup>

## V. Role of Political elite and the ‘dilemma’

High ratification levels and limited enforcement mechanisms coupled with high poverty levels amplify the importance of the crucial support from the political elite.<sup>65</sup> Improved enforcement of existing provisions for child labor requires political will. Likewise, design, prioritization, budget allocation and implementation of poverty-reducing initiatives depend to a great extent on the support of the political elite.<sup>66</sup>

However, there is one big challenge for the political elite that presents a dilemma. The incentives of the political elite to pursue initiatives that enhance the income opportunities of households can be reduced by political uncertainty.<sup>67</sup> The perceived threat of economically independent households not toeing the line of the political elite appears to diminish the incentives of the political elite to pursue income improving initiatives for households.<sup>68</sup> This creates potentially uncertain future private benefits as a result of pursuing income improvement initiatives.<sup>69</sup>

---

<sup>59</sup> Treaty Establishing the Common Market for Eastern and Southern Africa, art. 143, Nov. 5, 1993, 33 ILM 1067, 1104 [hereinafter COMESA Treaty].

<sup>60</sup> *Id.*

<sup>61</sup> Treaty of the Economic Community of West African State, May 28, 1975, 14 ILM 1200 [hereinafter ECOWAS Treaty].

<sup>62</sup> *Id.*

<sup>63</sup> Charter of Fundamental Social Rights in SADC, art. 7, August 1, 2003, available at [http://www.sadc.int/files/6613/5292/8383/Charter\\_of\\_the\\_Fundamental\\_Social\\_Rights\\_in\\_SADC2003.pdf](http://www.sadc.int/files/6613/5292/8383/Charter_of_the_Fundamental_Social_Rights_in_SADC2003.pdf).

<sup>64</sup> Protocol on the Establishment of the East African Community Common Market, art. 39(3), Nov. 20, 2009, available at [http://www.eac.int/index.php?option=com\\_docman&Itemid=226](http://www.eac.int/index.php?option=com_docman&Itemid=226).

<sup>65</sup> François Bourguignon & Thierry Verdier, *The Simple Analytics of Elite Behaviour Under Limited State Capacity*, (UNU-WIDER, Working Paper No. 2010/104, 2010).

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

If a politician is unsure whether households that realize income improvements will be appreciative enough to support the political agenda of the politician, then the politician is bound not to prioritize income-generating initiatives.<sup>70</sup> This is likely to be reinforced by a scenario in which the voting patterns of the households in election cycles are highly correlated with monetary handouts to voters.<sup>71</sup> Naturally, higher income households become more expensive to win through monetary handouts and become more likely to be a difficult group for the politician to deal with.<sup>72</sup> The question is then, why would a politician pursue initiatives that improve the income potential in the future if that approach will work against the expected private interests of the politician? The one obvious case in which this would happen is if the politician is benevolent.

Judging by the observed voting patterns during election cycles in most sub-Saharan African countries that are dominated by monetary handouts to the electorate, it can be inferred that politicians who are not benevolent would not have any incentive to pursue initiatives that improve the income levels of the households.<sup>73</sup> Additionally, high levels of poverty coupled with huge resource potentials and high levels of corruption within the public sectors of sub-Saharan countries reinforce the perception that non-benevolent politicians are more likely to maintain the status quo.<sup>74</sup>

Voters' appeal and support for a particular political group or politician appears to be intricately linked to monetary incentives.<sup>75</sup> This breeds a particular type of behavior among both politicians and the electorate in which the central decision instruments are monetary handouts. This is particularly pronounced during the election cycles. To politicians, winning elections implies securing adequate election cash amounts to use as bait to win the electorate's support and votes.<sup>76</sup> Vulnerability of the electorate then becomes an important factor in winning elections for politicians. Given the high proportions of the electorate who are poor, the political elite may not have any incentive to change the status quo and change the electioneering practice game if it may increase political uncertainty. This reinforces a vicious cycle that perpetuates high levels of poverty among the population and, by implication, a higher incidence of child labor.<sup>77</sup> Given this scenario, the efficacy of the laws on child labor may be very limited since enforcement is

---

<sup>70</sup> Boniface Dulani, *Incumbency and Handouts Don't Guarantee Winning an African Election*, Al Jazeera America, (May 31, 2014) available at <http://america.aljazeera.com/opinions/2014/5/malawi-electionsjoycebandapetermutharikaafrika.html>.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> See *supra* note 70; Eric Jonathan Kramon, *Vote Buying and Accountability in Democratic Africa* (2013)(unpublished Ph.D. dissertation, University of California, Los Angeles)(on file with University of California, Los Angeles), available at <https://escholarship.org/uc/item/1490x02z#page-4>.

<sup>74</sup> See *supra* note 70.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> See Niels-Hugo Blunch & Dorte Verner, *Revisiting The Link Between Poverty and Child Labour: The Ghanaian Experience*, (World Bank, Policy Research Working Paper No. WPS2488, 2000), available at <http://clibrary.worldbank.org/doi/pdf/10.1596/1813-9450-2488>.

likely to be very weak.<sup>78</sup> No political elite would be keen to rock the boat and complicate the election framework already in place.

Another aspect that appears to reinforce the political elite's dilemma is captured in terms of intra-generational interests.<sup>79</sup> It is observed that most members of the elite send their children to elite private schools while the children of poorer families go to public schools.<sup>80</sup> Improvements in public schools through adequate budgetary allocations translate into a higher number of potential future skilled employees.<sup>81</sup> This might increase job competition for the children of the political elite in future. To minimize this potential threat, the elite may not be keen to allocate adequate funding to the public schools.<sup>82</sup> There is no clear empirical finding supporting this claim but the observed patterns seem to give credence to this perception.

## VI. Conclusion

Child labor elimination is a question of political choices. It is important to recall that once a country has ratified an ILO Convention, it has an obligation to report regularly on the measures it has taken to implement it. However, child labor driven by desperate circumstances requires interventions that reduce the desperate circumstances such as improving the living conditions of the poor.

Given that the political elite in sub-Saharan African countries are needed to pursue initiatives that reduce the desperate circumstances of the electorate, a pertinent question remains as to whether it is in the interest of the political elite. This on-going dilemma highlights the role of political elites in shaping the outcomes of the child labor fight at global, regional, and national levels. This paper elicits the need for more empirical research regarding the impact of political choices on enforcement and implementation of existing regulatory framework on child labor.

---

<sup>78</sup> *Id.*

<sup>79</sup> Alessandro Maffei, Nikolai Raabe & Heinrich W. Ursprung, *Political Repression and Child Labour: Theory and Empirical Evidence*, *THE WORLD ECON.*, Vol. 29, No. 2, 2008, 211, 217 (2006).

<sup>80</sup> *Id.* at 231.

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*