

A TAXONOMY OF CHILD LABOUR

(a bibliographical essay is available upon request)

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Introduction

Analysing child labour into new categories at a policy level could eventually disrupt the lived experience of those affected by it. Is there nevertheless something worthwhile in such an analysis? I think there is.

Initially, the terms of reference used by international policy makers to define a problem might bear little resemblance to the lived experience they are about. Bureaucrats, jurists and politicians are often criticised for this ‘disconnect.’ But it should not be the purpose of public institutions to mirror private life. Their purpose should be to help organise or reorganise then coordinate life ‘on the ground’ so that, for lack of a better term, it *embodies* some particular overarching value or values.

With the 20th century evolution of sustainable international organisations, a global incarnation of the distinction between public and private life has emerged. We can see the signs in the ways problems like climate change are being addressed. Climate change has been accepted by the world’s scientists and politicians as a global or public issue requiring a concerted international response. Naturally, the international community’s ability to coordinate its response to climate change is heavily dependent upon its shared scientific understanding of the problem. But, despite the existence of international agreements, problems like child labour continue to be treated as the local or ‘private’

concern of each nation, each state, each province and so on and in very little if any way the business of others.

In this context, the goal of international public policy categories and definitions should not be to accurately mirror private life since to do so would tend to reflect and repeat mistakes not correct them. International public policy categories and definitions should help us perceive positive patterns in, then organise and coordinate our thinking about chaotic and complex international and global phenomena. Like the price of oil, climate change and pandemics, understanding and staying on top of child labour demands internationally standardised analysis and solid evidentiary warrant.

There is no question definitions and categories impose organisational structure on human life. But so do walls, calendars, roads, clocks and 'Blackberries.' Social restructuring through changes in publically used vocabulary can severely disorient the persons affected. So, in order to pass most moral tests, restructuring must be seen by those most negatively affected as nevertheless worthwhile.

In addition to its epistemological value, restructuring through more precise and consistently used categories and definitions at the policy level contributes to social stability. Clear and consistent definitions and categories have a positive practical effect on the problems they help us to analyse by coordinating action at a distance thus making it more effective. Indeed, I would argue that as long as there is no clear policy distinction between child work and child labour or between different types of child labour, children will be put at unacceptable risk by those who do not see or care about the differences.

If a genuine global 'public' has emerged and if child labour is like climate change or the price of oil, then, to understand it, to 'stay on top of it,' we need to impose *some*

internationally standardised structure on it. As a first step, we need a working taxonomy of child labour. In what follows, I assume this taxonomy has no clear application in cases of unparented children or wards of the court.

***The 2003 British Columbia Employment Standards Act:
Skills Development and Labour Law Amendment***

In December of 2003, the government of the province of British Columbia Canada passed an amendment to the *Employment Standards Act* entitled: *Skills Development and Labour Law*. Of interest is the liberalising effect it has had on the conditions of employment for workers under the age of 16.

Up until December 2003, workers under the age of 16 in British Columbia required a Ministry of Labour permit which implied employer compliance with rules about hours of work, etc.. Now, in a much more economically liberal or, in other words, *right wing* child labour environment, workers 12 to 15 may be employed without the involvement of government as long as they can present their employers with written permission to work from one legal guardian. Children *under* the age of 12 may be employed if they have written permission to work from one legal guardian *and* the permission of the Minister issued at his or her discretion. Hours of work, amount of work and conditions of work are now approved by legal guardians leaving 'big brother' out of the inspection picture.

There is no longer any public accountability at all for BC child workers between 12 and 16 and while the BC Ministry of Labour is accountable for child workers under the age of 12, there is no transparency in the approval process. As one commentator

noted "There's nothing that says a 12-year-old child can't sell you a loaf of bread at a convenience store at two in the morning." Because, generally speaking, changes in the law restructure our public and private relations, this liberalisation of labour law in Canada is cause for concern on two fronts.

Firstly, the new law requires that parents take unspecified legal responsibility for the consequences of their child working when they give their informed consent. This completely alters government – parent – employer relations. The law assumes parents will inspect the worksite, investigate the conditions of work and discuss other aspects of their children's employment with employers. If the child is employed, the parent is expected to monitor the workplace taking over what the liberal government of the day insisted was a duty which had been wrongfully placed under the authority of the state.

Decentralising child and youth care in this way tends to be justified by appeal to liberal social and right wing economic values. According to these values, his or her parents are presumptively the best judges of a child's welfare. And, as rational, autonomous beings, parents have a natural right to individual freedom in the marketplace. But, when they permit their children to work, even the ideal parent can lack the knowledge necessary for *informed* consent in today's highly technologised workplace. If something goes wrong and there is liability, the employer's share could be reduced by the parents' share. Also, parents might want to avoid public scrutiny of their childcare decisions when they result in harm to their children. I imagine parents will therefore be less eager under the new regime than they were under the old to shine a critical light on their children's workplaces.

Secondly, the term "Skill Development and Labour" promotes child work as

pedagogy. There is no doubt child work can and even should have some pedagogical value. But those coming from outside BC to do business in BC: film makers and migrant farm workers for example, can not only put children to work more easily than in the US. They can also avoid negative government and media scrutiny around child *labour*. In a competitive market, this ‘bump’ in BC child labour practice has prompted other jurisdictions to liberalise their laws as well, though not to the same extent.

Definitions and Categories: A Taxonomy of Child Labour

I am not an expert empirical researcher nor do I have any authoritative expert knowledge of law, policy or practice. I am a philosopher. My professional expertise is in identifying patterns of concept and belief formation, articulation and usage and in distinguishing effective from ineffective patterns based on principles of deductive and inductive logic and dialectical reasoning.

The BC case referred to above raises philosophical questions, “Is all child work child labour? Is all child labour exploitative? Is all exploitative child labour wrong?” If all child work is child labour and all child labour is wrong, then anything goes. This is because the elimination of all child labour would make all children worse off and so *any* other state of affairs would be preferable.

Like others, I define child work and child labour so that not all child work is child labour. But making this distinction does not affect the second premise of the argument above. Even if it is false that all child work is child labour, it could still be true that all child labour is wrong and should be eliminated. But this view, even granting its various ambiguities, is generally rejected by both policy makers, theorists and those working on

the ground. I hold that not all child labour is wrong. More controversially, I hold that not all exploitation of child labour is wrong. We can avoid the logical and practical consequences of taking the vague yet dogmatic position described above ('too much talk, not enough action') by drawing clear yet familiar moral and legal distinctions between various categories of child labour. This would help coordinate child protection at a distance while revealing transculturally recognisable relations between child workers and their parents, masters, employers, teachers, agents, contractors, etc..

The International Labour Organisation wants to eliminate what it has called 'the *worst forms* of child labour.' These are the forms of child labour we should not tolerate under any circumstances. There is considerable international consensus regarding them: soldiering, sexwork, mining, drug trafficking, heavy industrial etc..

The ILO is correct. No person under the age of 15 should be forced to do any of these things under any circumstances. Perhaps using children this way should be *a crime against humanity*. Needless to say, however, children do not need to be forced into sexwork or mines in order to be seriously harmed by the work they do (willingly or unwillingly). What about refuse picking and sorting? Car washing? Cobbling? Light industrial? Rug, mat and fabric work? Fast food service? If not as the 'worst forms of child labour,' then how should this child labour be treated?

We require some additional definitional structure at the policy level in order to answer this question (e.g. how are we defining 'child labour'?). Yet ethical worries over the local consequences of restructuring social relations remain. We therefore need international terms of reference which will help restructure global public and private relations between child workers and their adult employers by openly balancing

progressive social change and economic freedom (liberal values) with the importance of cultural tradition and the family (conservative values).

The first step in such an approach is to define the logical relations between child work, child labour and child exploitation. I see these relations as syllogistic. The most general term 'child work' should refer to *all economically beneficial instances of production, service or performance by human beings under the age of 15*. The more specific term 'child labour' should refer to *any child work that puts child workers at greater risk the younger they are and than the risk an adult would run at the same job*. It follows from these definitions that all child labour is child work. But is all child work child labour?

Making her bed poses no risks to a girl of 6. But if she has to make 100 beds a day, her intellectual and psycho-social development -- a risk not incurred by an adult -- will probably be impaired. The occupation 'bed making' is not hazardous in itself. But the number of hours spent at it per day or week or the moral environment in which it takes place can be. As such, bed making which is child labour must be managed by government permit specifying restrictions and duties concerning conditions of work and time for school.

Bed making as child work might be child labour, it might not be. I assume most readers believe child work which is not child labour is not exploitative and therefore not wrong. But say we define 'exploitation' as Karl Marx did: the coerced extraction of surplus value from the work of another. I was coerced, as a 10 year old, into washing down our muddy entryway staircase every Saturday morning by my father. It was messy, cold in the winter but easy and took about a half an hour. It was of some economic

benefit to the family. Therefore, contrary to what I assume is a common belief, you can exploit child work even when it is not child labour. Another common belief is that child labour is always exploitative. But since exploitation is a relational concept and a 12 year old with his own shoe shine kit is neither enslaved, employed, apprenticed nor contracted, (even assuming he is parented) his child labour cannot be exploited. Currently, however, there is no doubt most child labour is exploited. Is all exploited child labour wrong?

Apprenticed child labourers can be exploited according to this definition. Their employers or teachers (parents or other relations usually) can coercively extract surplus value from their labour by boarding them but not paying them for their work. Yet, if adequately protected from the physical, intellectual and psycho-social risks associated with child labour, it might not be wrong to exploit child labour within an apprenticeship model.

Forcing a boy of 6 years old to help operate a sewing machine in a local shoe making operation could be child abuse: using child labour of the “worst type.” Not paying the boy anything for his effort would surely be to exploit his labour. But if the boy’s employer is his uncle and the boy is an apprentice cobbler in a family business which is part of a stable community, then the exploitation is not necessarily wrong.

In the cobbling case, the occupation itself, unlike bedmaking, is inherently hazardous; the younger the child worker, the more mentoring and supervision required. The child labourers in this category might also spend most of their daily or weekly time in their occupation under the watchful eyes of their teachers and elders. Since the children are being prepared for their adult role within their local community as well as learning a trade, intellectual and psycho-social education should be an important part of

their apprenticeship. This category of child labour (“worst type” if not locally mentored) should be registered with local authorities as an apprenticeship modelled at least in part on reliable beliefs about child development and traditional community values.

There is one child labour jurisdiction which has taken the welfare and rights of the children it employs very seriously for over 100 years. Persons under the age of 18 employed as performers in the state of California are well protected from both financial and health and safety (including intellectual and psycho-social) risk. One of the conditions of employing child performers is the constant accompaniment of a legal guardian at the worksite. Of all the conditions on child labour imposed by law, this is the most restrictive of ‘trade.’ This type of child labour is governed by the laws of contract; specifically the law governing contracts between underage performers and their employers. Of course, underage performers may not sign contracts and so must be represented at all times by a legal guardian and/or an agent who conducts the negotiations on behalf of the child’s interests.

From this discussion, a working taxonomy of child labour emerges:

**CHILD LABOUR 1:
Prohibited**

Likely to irreversibly damage the psycho-social or physical health of children

**CHILD LABOUR 2:
Permitted**

Likely to interfere with the intellectual and psycho-social development of children without restriction of conditions, type and hours of work by government permit

**CHILD LABOUR 3:
Apprenticed**

Likely to impair or irreversibly damage the psycho-social
or physical health of children without apprenticeship
within family or local community

**CHILD LABOUR 4:
Contractual**

Specifically an artistic, entertainment or athletic performance or preparation
for one that is likely to impair or irreversibly damage the psycho-social
or physical health of children without a contract between the child
represented by its legal guardian and its employer

Note that except for the prohibition of Child Labour 1 which is
exceptionless, there is some flexibility in each other category when it comes to its
restructuring effect on local relations. Recall the purpose of these definitions. It is not to
mirror what is happening ‘on the ground.’ It is not to suddenly solve the child labour
problem. I am not even sure what this would mean. Staying on top of the use of child
labour will take hard and coordinated work not magic. The purpose of *these* definitions is
to help organise and coordinate thinking about the public and private relations which
create child work. This will help us eliminate the ‘worst forms of child labour,’ regulate
and vocationalise others and relegate other forms, such as child performance, to contract
law. But even ‘social constructs’ should have more than merely epistemological appeal.

In order to help coordinate action, the terms used by consultants and policy
makers must be meaningful if not immediately familiar to the general population. The
definitions should be at least recognisable as versions of practical concepts they already
have. Based on a review of the literature, I believe these definitions satisfy that
requirement. This intuition calls for critical evaluation, of course, which I will leave to its
critics.

As Wokutch correctly notes, ‘the use of the terms “abusive,” “detrimental,” or “exploitive child labor” may mask real differences about what constitutes exploitation, abuse, or harm.’ (“Child Labor: A Continuing Ethical Challenge of Globalization” unpublished manuscript, copyright 2000 Richard. E. Wokutch, Dept. of Management Pamplin College of Business Virginia Tech., pp 2-3) But in my judgement, his analysis goes wrong when he concludes, ‘Thus in order not to prejudge *by definition* the morality of the practices we wish to evaluate, a more precise term would be “allegedly exploitive child labor practices.” However, for simplicity sake we will use the more conventional term “child labor”.’ (ibid)

Wokutch chokes on the vocabulary here and that is unfortunate since we should no more hold morality hostage to simplicity than beauty hostage to comfort.

The BC Child Labour Case Revisited

If the Child Labour 1-4 vocabulary has practical value, it should, among other things, help me state the failing of BC child labour law discussed earlier more precisely. Recall the BC law implies that when they provide letters of permission, parents or legal guardians share liability with employers for work related harms to their children. According to the taxonomy, the BC law fails to adequately protect children because it treats all child labour like *Child Labour 3: apprenticed*.

Under one or another formal apprenticeship model, parental, family or community training, constant elder supervision and care is essential. In the absence of an apprenticeship, *Child Labour 3: apprenticed* reverts to *Child Labour 1: prohibited*. In

treating all child labour like *Child Labour 3: apprenticed*, the BC legislation leaves the door open to *Child Labour 1: prohibited* when it had been locked up until 2003.

Both performance *Child Labour 4: contractual* and agricultural *Child Labour 3: apprenticed* will tend to satisfy the requirement for competent informed consent imposed upon parents by the *Skills Development* amendment to the BC Labour Act. But what about *Child Labour 2: permitted*? The service industry and in particular McDonald's, has benefitted immensely from the liberalisation of child labour. Yet, again, in the absence of a government permit system, an instance of *Child Labour 2: permitted* could easily revert to *Child Labour 1: prohibited*.

This is not to say that the existence of a permit system guarantees the prevention of *Child Labour 1*. Nothing can do that. But in order to encourage parents to act as workplace watchdogs while being very careful not to discourage litigation by parents against employers and/or government when their child is hurt scooping fries, a government child labour permit and inspection system is required.

Conclusion

Child labour presents us with a very complex set of global and international factors to consider and analyse. I have argued that due to its immense global and international complexity, precise vocabulary and the rules of sound logic and rigorous verification must be observed in the elucidation of the child labour phenomenon.

The purpose of improving the precision of our child labour vocabulary is to help to coordinate thinking and action on eliminating “the worst forms of child labour,” regulating, vocationalising or apprenticing others and relegating some to contract law

governing contracts with minors. While the terms of reference used by those working at the level of establishing general principles of ethical child labour practice might not initially mirror lived experience, they must be expressed in vocabulary which balances this need for fit with the need for precision.

Not every kind of child work is child labour. Not every kind of child labour is exploitative. And not every kind of exploitative child labour is wrong. Using harmful exploited child labour is child abuse. It should be unequivocally condemned and should be legally prohibited on the same grounds child abuse is prohibited. But once these 'easy' cases are cleared, further refinement of our child labour vocabulary is needed. This is because new categories and definitions enable us to express more concerted and therefore, more effective, responses to the ethical problems presented by other cases of child labour and child labour law.