

A Review of the Available Literature Covering Child Labor in China

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Foreword

One of the aims of the CCR CSR is to give appropriate advice to the corporate sector on how to protect the rights of the child and assume social responsibility regarding child labor in order to adhere to laws and international instruments.

During the initial start-up phase of the Center and before commencing with further comprehensive research we wanted achieve an overview of existing research, studies and other material in Chinese which in various ways have covered the topic of child labor.

Dr. Lu De Ping and his team at the Academy of Youth Development, China Youth University for Public Science assisted us with this compilation of the situation based on available and accessible data. In the report the author highlights the scarcity of both references and data. This limits the extent of possible analysis and conclusions to be drawn from existing material. Hopefully this report can serve as a base for further discussion towards the next step. This should entail a more comprehensive study to enhance our knowledge about children affected by migration in China. This publication is financed by CCRCSSR. The Centre does not assume any responsibility for its content

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Britta Öström, Executive Director, CCRCSSR

Summary

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This paper purports to provide a tentative description of the situation of child labor in China through a review of available literature covering the topic of child labor, including news coverage, academic articles and online analytic essays.

To date, China has made several efforts to combat child labor, including the ratification of numerous significant international conventions. However, enforcing these laws, conventions and established regulations and furthermore translating the concepts advocated in these legal documents into effective actions has been ineffective.

At present there are no available statistics regarding child labor compiled on either national or local levels in China or on an industry level. This fact does not however mean that child labor is a negligible or limited phenomenon in China.

In the past decade, in conjunction with the fast growth of mass media and the equally fast growth of internet access across China, the sensitive topic of child labor has started to gain increasing public attention. Still the subject itself is taboo which dissuades people to publicize, discuss or openly talk about the predicament China's working children are facing. Apart from being taboo and a hidden facet, child labor

is also scattered across the country and not concentrated to for example certain notorious areas.

There is no uncontested definition of child labor in China nor does the definition adhere to the UNICEF standard. Still, a definition of child labor must comprise certain key components, which are age, working hours and nature of the work and China uses these components in their definition. In defining child labor, China has taken a stricter limitation on the minimum age of employment. China has raised the minimum age of 15 to the age of 16.

The scale of child labor in China is difficult to assess without accurate statistics but the author examines migration, idle juveniles and school dropout rates to estimate this. For example the author details a study by The All-China Women Federation which estimates that there are about 58 million children below 18 years of age left behind by their parents in the countryside. The causes behind child labor are studied and poverty, opportunistic employers, the cost of an education, effect of migration patterns and gender are detailed as possible reasons.

The author has also made a chronological list of publicized child labor cases disclosed in mass

media in China from 1999 to 2008 in order to give an outline the overall trend of child labor and how it has developed.

A detailed description of the development of the Chinese legal system to combat child labor is accounted for as well as an overview of different campaigns and actions the Chinese government has taken in recent years.

Finally the author dissects two case studies of child labor in China namely one exposed in the brick kilns of Shanxi and sweatshops of Dong guan. These cases are similar in that they were both the results of complex commercial labor chains which had been in effect for many years, most of the working children were recruited from the same areas (which imply that an underground network exists for child labor) and finally these cases reveal how difficult it is to detect child labor and to take punitive action against those responsible.

The author concludes that further analysis of child labor and its expected trend needs to be undertaken keeping in mind the structural transformation of both the economy and society in China. Also, a choice between the Chinese standard on child labor and the international standard has to be made, as this choice will to a great extent influence statistics on the scope of child labor distribution and the scale of child labor.

1. Introduction

To date, China has made several efforts to combat child labor, including the ratification of numerous significant international conventions (1991: *Convention on the Rights of the Child*, 1999: *Minimum Age Convention*¹ and 2002: *Worst Forms of Child Labor Convention*²), promulgating a comprehensive system of laws and regulations (1997: *Criminal Law (revised)*³, 2006: *Law of Protecting Minors (revised)*⁴ and 2002: *Regulations Banning Child Labor (revised)*) and taking action on both national and local levels.

However, enforcing these laws, ratified conventions and established regulations and furthermore translating the concepts advocated in these legal documents into effective actions has been ineffective⁵.

In the past decade, in conjunction with the fast growth of mass media and the equally fast growth of internet access across China, the sensitive topic of child labor has started to gain increasing public attention. Two vivid examples of this was the online coverage of exposed cases of child labor in Shanxi's brick kilns and Dongguan's sweat shops in 2007 and 2008

respectively. These cases gained massive public attention⁶ due to the large coverage of these cases on the internet.

This review of available literature covering the topic of child labor over the past several years, including news coverage, academic articles and online analytic essays reveal that there are several underlying causes for child labor in China. Moreover, identifying these causes, discovering child labor cases and preventing child labor remains difficult.

In China today there are no available statistics compiled on either national or local levels. There are neither available databases nor means to report child labor cases for statistical purposes. This fact does not however mean that child labor is a negligible or limited phenomenon in China. Conversely, since child labor is a highly sensitive issue in Chinese society, this topic is increasingly becoming taboo, which dissuades people to publicize, discuss or openly talk about the predicament China's working children are facing. The underlying factors responsible for this self imposed silence might be found in the tradition and culture of China rather than in legal disputes

¹ China formally ratified this document (C138) on April 28, 1999 (cf. ILO's web system: <http://www.ilo.org/ilolex/english/newratframeE.htm>)

² China formally ratified this document (C182) on August 8, 2002 (cf. ILO's web system: <http://www.ilo.org/ilolex/english/newratframeE.htm>)

³ Article 262 of Section 4: Trafficking minors under 14 years old in absence of family members and caregivers will be convicted with less than 5 years term of imprisonment or detention.

⁴ Article 68: Illegally employing minors less than 16 years of age or employing minors equal to or more than 16 years of age for the jobs that are excessively heavy, poisonous, hazardous to mental and physical health of minors, or for some hazardous work, will be forced to correct by sectors of labor security, and be punished with financial penalty. For those severe cases, sectors of industry and commerce administration will suspend the employer's business license.

⁵ Cf. Comments made by the Committee of Experts on the Application of Conventions and Recommendations (from 1990): CEACR 2008/79th Session. (<http://webfusion.ilo.org/public/db/standards/normes/appl/appl-displayAllComments.cfm?hdroff=1&ctry=2650&conv=C138&Lang=EN#2008>)

⁶ With a reference year from January 1, 2001 to January 1, 2002, five representative newspapers and internets had issued around 600 pieces of coverage on child labor (People's Net: 205/34%; People's Daily: 27/4.5%; Xinhua Agency: 334/55.7%; China News Agency: 31/5.2%; China Youth Daily: 63/10.5%). Cf. Bo Wei: "Look into Child Labor through Media Coverage", Youth Studies, No. 8, 2002, Beijing.

or human rights protection advocacies. A mainstay in Chinese culture and tradition is the careful treatment of others elders and young in a manner similar to one's own¹. In this regard, child labor is combined with a strong pressure of moral responsibility as the concept of child labor strongly contradicts Chinese culture and tradition. Once discovered, an uninterested attitude is hence immoral.

Neither government officials and employers, nor parents and other stakeholders are free from this moral pressure. Hence, any identified and publicized case of child labor will meet the strongest public criticism. This traditional taboo serves to aggravate the hidden facet of child labor and serves as a barrier for early intervention.

Apart from being a hidden facet, child labor is also scattered across the country and not concentrated to for example certain notorious areas. The All-China Women Federation's in-depth study published 2007, based on the 2005 bi-census, estimates that there are about 58 million children below 18 years of age left behind by their parents in the countryside. This figure accounts for 21 percent of all children

in China and 28 per cent of all rural children. Additionally, more than 40 million of these left-behind children are under 15 years of age and more than 30 million are aged between 6 and 15 years, making them vulnerable to becoming engaged in labor². Among such a large number of left-behind children, those who have migrated to municipal areas to work are likely to have a higher visibility whilst the majority of working children are scattered in smaller, private shops, restaurants and factories in diverse counties and townships. This fact makes them hard to identify and exacerbates the difficulty of compiling statistics of this phenomenon.

This paper purports to provide a tentative description of the situation of child labor in China by studying data available and accessible to the author. However, as detailed above, the scarcity of data will have a limiting effect on our analysis and conclusions.

¹ *The Works of Mencius*: Book 1 (King Hui of Liang), Chapter 7, Section 12: "Treat with the reverence due to age the elders in your own family, so that the elders in the families of others shall be similarly treated; treat with the kindness due to youth the young in your own family, so that the young in the families of others shall be similarly treated"

² There are a lot of variances with estimate on the scale of rural left-behind children in the Chinese academic circle. Since the estimate difference ranges between 10 million and 70 million, in fact no scientific has been established. Cf. Duan Cheng-rong, Zhou Fu-lin: "Studies on the Situation of the Chinese Left-behind Children", *Population Research*, Vol. 29, No. 1, 2005. According to Professor Duan's inferred statistics, the left-behind children under the age of 14 amounted to 22.90 million in the year of 2000. We cannot reach to the conclusion that most of the dropout left-behind children will become working children, but the absolute scale is large if based on the above inferred statistics.

2. Child Labor: A Definition in a Chinese Context

The term “child labor” has several definitions depending on the person who refers to it. Unfortunately, this means that there is no uncontested, solid definition of child labor in China. Still, a definition of child labor must comprise certain key components, which are likely to serve as the standard when separating child labor and non-child labor. Age, working hours and nature of the work are the most common factors when identifying child labor and to assess their impact on the mental and physical growth of children.

In defining child labor, China has taken a stricter limitation on the minimum age of employment. China has raised the minimum age of 15 (as specified in *C138 Minimum Age Convention*¹) to the age of 16. Also, China has specified criminal charges for employing children under the age of 14².

However, this theoretical specification is not easily implemented when suspecting child labor. Fake identification cards can easily be attained by working children throughout the country, the police keep a passive attitude to check against

original files of birth registration and when discovered local officials often remain silent due to above mentioned moral pressure and to promote further investment in their region. A region with a record of child labor has difficulty to attract further investment capital. In theory, age is a demographic feature which is easier to identify compared to other less obvious characteristics when controlling for child labor. Unfortunately, this feature is increasingly becoming an invisible one due to its easy circumvention³.

Although working hours have been defined as a main standard by UNICEF (United Nations Children's Fund) when assessing child labor in their prevention programs⁴, Chinese laws and regulations regarding child labor have not accepted this criterion. In fact, although working hours, in particular overtime work is a significant factor that negatively impacts the mental and physical growth of children, Chinese laws and regulations on child labor are passive in adopting working hours as a unit of measure. The difficulty to collect legal evidence regarding the working hours of child labor may be a significant reason for this passivity. Despite several news

¹ *C138 Minimum Age Convention*, 1973, Article 2: “The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.”

² Cf. *Regulations Banning Child Labor*: Article 2: Administrative sectors, social organizations, industry and enterprise sectors, private sectors, or individual owned business, are forbidden to employ minors under the age of 16. Recommendation of employment for minors under the age of 16 by any organization or individuals is banned. Practicing business independently by minors under the age of 16 is forbidden. Article 11:Employing minors under the age of 14.....will be prosecuted for criminal responsibility in accordance with the specifications of the Criminal Law on trafficking children, forced labor, and others.

³ In the news coverage on child labor of Shanxi's brick kiln and Dongguan's sweat shop, most of the journalists have mentioned the difficulties in identifying the real age of a working child. Cf. news report on child labor of Dongguan, *South City Daily* (April 28, 2008) http://news.ifeng.com/society/5/200804/0428_2579_510929_2.shtml

and news report on child labor in Wanrong county, Shanxi Province, *Nanfang(South) Daily* (June 19, 2007), <http://www.nanfangdaily.com.cn/southnews/zmzg/200706190831.asp>

⁴ *Child Labor, Education and the Principle of Non-Discrimination* (© United Nations Children's Fund, New York, 2005): 1. Child labor (with household chores): Ages 5-11: at least (a) one hour of economic activity or (b) 28 hours of household chores per week. Ages 12-14: at least (a) 14 hours of economic activity or (b) 28 hours of household chores per week. 2. Child labor (without household chores): Ages 5-11: at least one hour of economic activity per week. Ages 12-14: at least 14 hours of economic activity per week.

reports about overtime working conditions with child labor¹, working hours are not likely to be accepted into a formal definition of child labor in the Chinese legal system in the near future.

The nature of work identifies if the work performed is an economic activity as well as the type of work. UNICEF has taken a comprehensive definition that includes both economic activities and uneconomic activities such as household chores². In contrast, only economic activities are categorized as child labor in China. With such a narrow definition a significant distinction is created between paid employment and unpaid apprenticeships.

Paid employment is identified as child labor whereas unpaid help, chores, apprenticeships in factories or shops are not. It is noteworthy to indicate here that the scope of the nature of work defined as child labor in China has undergone fine tuning between the years 1991 to 2002. This is evident when comparing two versions of *Regulations Banning Child Labor. The Regulations (2002 version)* has removed paid domestic work, for instance market-oriented agriculture employment in rural areas and paid baby-sitter or nursemaid work in urban areas, which were both defined as child labor in the 1991 version³.

The new version of Regulations limits the responsibility of preventing child labor to pure economic entities which are registered formally for business and that the government

hence can control. This means that individuals who employ minors are excluded from these regulations as the child labor is not categorized as such since it is not within a business entity. Consequently, because of this categorization, reported incidents of child labor in China have dwindled. This explains why a system for statistically detailing child labor in China is so difficult to implement and prevents scientific accuracy. The incongruence between China's definition of child labor and that of the rest of the international community, as represented by ILO (International Labor Organization) and UNICEF, aggravates the difficulty of collecting child labor data in China. Moreover this fact also gives and inaccurate assessment of the magnitude of this phenomenon.

The third factor that is commonly used when defining child labor are the working conditions for child labor. The hidden dimension of child labor explained previously, prevents transparency in the real conditions of work for a majority of child labor. The *C182 Worst Forms of Child Labor Convention, 1999* has distinguished four types of worst forms of child labor whilst the Chinese *Regulations Banning Child Labor (2002)* focuses on forced or compulsory labor and hazardous work gravely jeopardizes the physical health of working children, such as illness, disability or even death from the worst working environments. These include excessive height, underground work, exposure to radioactivity or poisons, explosive matter and labor intensity

¹ Also see the news reports on child labor of Shanxi's brick kiln and Dongguan's sweat shop.

² Also see note 3 above.

³ *Regulations Banning Child Labor (1991)* Article 4: "Administrative sectors, social organizations, industry and enterprise sectors, individual owned business, farmers, and urban residents are banned to employ child labor."

over the limit of fourth class manual work.
Other worst forms of child labor, like child trafficking, the use, procurement or offering of a child for prostitution for the production of pornography or for pornographic performances¹, the use, procurement or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties², are covered separately in Chinese *Criminal Law*³ and *Law of Minor Protection*⁴.

¹ C182 Worst Forms of Child Labor Convention, 1999: Article 3, paragraph b.

² Op. cit. paragraph c.

³ Cf. Criminal Law: Article 240, 262 on trafficking children crime, Article 347 on crime of procuring and luring minors to participate in illicit business of drugs, Article 301 on crime of luring minors to participate in pornographic activities.

⁴ Cf. Law of Minors Protection: Article 38 on banning child labor, Article 41 on trafficking children, and on forcing minors to engage in begging or unhealthy performance.

3. Child Labor: The Current Situation

There have been several recent media reports exposing child labor in different types of mass media including newspapers, the internet, and TV programs. However, these child labor reports usually only cover the worst forms of child labor, including forced overtime or night labor in hazardous working environments and trafficking and slavery in illicit businesses. With such limited “worst case only” coverage these reports do not reflect the overall extent and different types of child labor prevalent in China.

The Scale of Child Labor in China

It is an urgent task to undertake a comprehensive but in-depth survey on the situation of child labor in China in order to collect the necessary information on the overall scale of child labor and its sector distribution.

As mentioned previously there is so far no authoritative statistical data on child labor in China¹. Still, other indirect data may be helpful to estimate the scale of this phenomenon in China. According to a survey result by the Association of the Chinese Youth and Children Studies in 2003, the number of idle juveniles in China has reached 10 million. Certainly many of these idle youngsters are likely to become engaged in child labor.

The scale of child labor also closely correlates with school dropout rates. Based on the dropout rate of junior high school students, which according to the MOE (Ministry of Education) was 2.62% in

2005, nearly 3 million school dropouts annually are preparing to enter the labor market. In this group of school dropouts, a large percentage of children will hence become child labor.

Child labor conflicts with compulsory education as it is statuated that children under the age of 16 should be enrolled in school. Obviously, a majority of child labor is due to these school dropouts particularly middle and junior high school dropouts. In other words, when regular school education cannot keep youngsters, child labor is likely to become one of the exits for these children who hence are disconnected from the institutional system. However, there is neither any accurate or trusted data on the dropout rate of junior high school students.

It is noteworthy that a big difference can be found between the official statistic data which is officially publicized and data collected within academic circles. The dropout rate for middle or junior high school was merely 2.62% in accordance with the Bulletin of the Year 2005 Education Development issued by the Chinese MOE². On the contrary, an influential project in 2005 titled “A Case Study in Some Key Educational Policies during the Transformation Phase”³ reported an average 40% dropout rate in 17 samples schools in China’s western regions. Some of the schools in the survey even experienced up to 70 % dropout rates. Such a large statistical gap will naturally lead to a distorted reduction of the amount of dropouts, which hence serves as a significant indirect obstacle to assess the scope of child labor.

¹ Un Committee of the Rights of the Child indicated also in its “Concluding Observations” about China that “It is concerned about the absence of specific data on child labor on the mainland, while reports indicate that it is widespread.”

² Cf. <http://www.moe.edu.cn/edoas/website18/64/info20464.htm>

³ Planning Project of the 10th Five Year National Education Research, Principal Investigator: Yuan Zhen-guo

Prior to writing this report, in May 2009, the author asked the county of Jiangxi Province to undertake a primary survey on the whereabouts of children under the age of 16 who had dropped out from school. According to the statistic data compiled, among 6 villages comprising 3 townships, 85 children under the age of 16 had terminated their schooling and 52 children were working in cities and 33 children were working in agriculture. Only 5 children were participating in job training programs with another 5 children working as apprentices. Even from this small survey it is not difficult to predict how many children below the age of 16 that are working in China.

In terms of the types of industry distribution of child labor, there are again no available statistics

that categorize child labor by industry in China. Based on diverse individual cases of child labor, its distribution is dominantly concentrated to labor intensive private sectors. These include small or mid-sized factories or workshops engaged in production of cloth, bricks, fireworks, suitcases, construction, coal and mining, restaurant and entertainment industries and aquiculture.

High School Dropouts in Sample

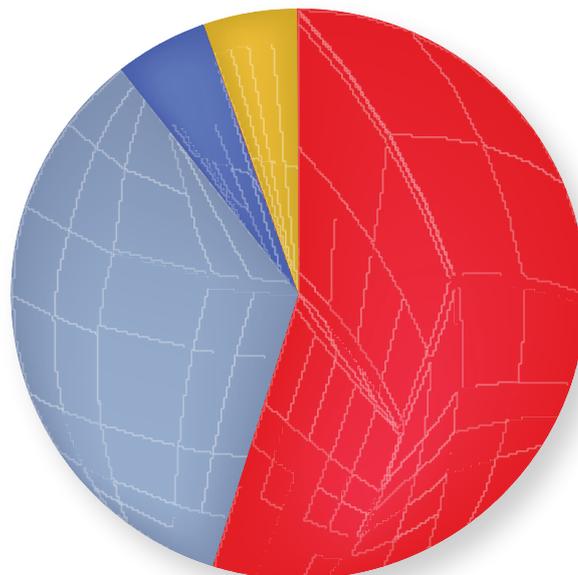


Chart 1: Whereabouts of High School Dropouts, May 2009
Jiangxi Province, 6 villages comprising 3 townships

1) Working Conditions

Most hazardous work conditions have been exposed in media reports covering child labor in the past years. Overtime work, night work, work in a noxious environment, work and living in dirty spaces, work with dangerous machines, work on highly explosive products, etc. have often been described in detail in media. These only cover the worst forms of child labor and hence do not reflect the overall situation.

An issue addressed now is the structural distribution of typical working conditions for diverse types of child labor. An exact description of the structural distribution of child labor's working conditions is needed to assess the vulnerability of working children and the impact of child labor on the development of children. Similar to surveys within the general labor field, research on child labor should outline regular patterns of work and living for child labor on a statistical basis instead of sporadic reported case studies that are limited to the worst forms of child labor.

2) The Causes of Child Labor

Almost any paper on child labor has to discuss the causes of child labor and their impact on children's development. In their seminal study on child labor from an economic perspective, Basu and Van (1998) proposed two theoretical axioms, namely the "substitution axiom" and the "luxury axiom" to explain the causes underlying child labor phenomenon.

The "Substitution axiom" implied that if children and adults are substitutes in production, the prevalence of child labor will depress adult wages, which in turn makes child labor profitable. The "Luxury axiom" basically means that children have to work when parental income is below

subsistence level. In summary, the "substitution axiom" explains one of the factors that pull child labor into the labor market while the "luxury axiom" refers to poverty as one of the push factors of child labor. The "substitution axiom" can be applied to some labor intensive industries in China, where wages or labor intensive costs occupy a large part of the production costs.

Although Basu and Van's child labor theory tries to illustrate the impact of child labor on labor market wages and explains underlying reasons in terms of economic rules, it is more difficult to apply this theory when child labor is on a limited scale and when at the same time the legal costs for employing children are high.

As highlighted in this paper, child labor bears expensive legal responsibility and the forces behind child labor ought to be explained not only in economic terms, but also in terms of other non pure economic factors. These include family structure, value systems of a new generation, an aspiration towards an urban lifestyle, the higher opportunity cost of work relative to education, a better trade-off between work and schooling, lower quality of compulsory education in certain remote undeveloped regions of China and expected frustrations from lower employment rate despite a higher education. Unfortunately, within Chinese academic circles there is so far no valuable outcome of research into these dimensions. Admittedly, some important causes leading to child labor have been mentioned in a few articles, but the subsequent discussion was not of an evidence based nature. The scarcity of statistics, limit the possibility of further scientific analysis by the authors.

The underlying causes of child labor that have been presented in Chinese articles are detailed below:

Poverty

First, poverty is usually explained as the most significant cause of child labor (Cai Meng-meng, 2008; Lu Shi-zhen, 2003; Yin Ming-ming and Lu Yun-geng, 2002, 2004). Still, poverty as cause of child labor in a Chinese context is composed of various dimensions. Poverty can refer to the absolute poverty of the families with working children, namely living under subsistence level, or to regional poverty as a result of disparate economic development, or to rural poverty relative to the standard of living in urban areas.

The first type of poverty explains why only economically disadvantaged families send their children to work. The second type of poverty illustrates why a majority of migrant working children come from the remote, poorer western regions of China. The third type of poverty explains why working children mainly migrating from rural areas to cities in search of jobs. These three types of poverty described the majority of dimensions relevant to the economic causes of child labor.

It is necessary to highlight that the efforts to eliminate poverty of the Chinese government over the past decades has been significant in eliminating child labor in certain regions. Urbanization in many traditional rural areas has also facilitated a reduction in child labor. With the reduction of regional disparities in income, the present inter-regional migration characteristic of child labor from the western undeveloped

regions to the eastern coastal regions is likely to instead evolve into intra-regional migration. This means that more working children will migrate within their provinces or counties¹. In brief, poverty is the factor that pushes children from family or school to the labor market.

Opportunistic Employers

Second, a cost reducing motivation for diverse labor intensive industries is taken as another key cause of child labor (Lu Shi-zhen, 2003; Yin Ming-ming and Lu Yun-geng, 2002, 2004). This cause is often combined with the subject of responsibility of child labor in terms of the Chinese regulations and provisions. Both moral and legal responsibilities are dominantly anchored with the employers, who bear the main responsibility for this cause of child labor. Prior to the financial crisis of last year, business success of labor intensive industries in the eastern coastal provinces to a great extent depended on cheap labor. Child labor was prioritized by many employers due to its low wage, lack of cost for social security, absence in institutional management of labor unions and children's smaller possibilities to complain. Usually, this motivation is fostered by the employer's low awareness and knowledge of children's rights and their need to adhere to legal specifications.

¹ The author has found in a comprehensive survey in Liaoning Province on the migration of adolescents after compulsory education that, more than 90% of working youth are migrating within the province. Cf. report manuscript drafted by the author for Liaoning provincial government in July 2009.

The Costs of an Education

Third, since the ages of junior high school students have the highest overlap children performing child labor the relationship between return to the educational system and prevalence of child labor needs to be taken consideration. Admittedly, a lower rate of return to the educational system is an important cause not only for child labor, but also for school dropout rates during the compulsory education period.

Some scholars analyzed in detail the factors underlying the rates of return to the educational system and found that the rates of return for junior high school was the lowest among several rural families compared with primary school and higher education (Guo Hong-wei, 2006). Despite the lowest rate of return to junior high school, its direct cost to each family is almost three times than the primary schooling (Yin Ming-ming and Lu Yun-geng, 2002). This phenomenon is true to many developing countries.

Junior high schooling has a big economic impact on many families for transportation, daily pocket money, food and costs for school events. Most of these expenditures are not covered by the compulsory education system. On contrast, the relative high opportunity cost for work instead of schooling has impacted the expectation of both children and their parents on the evaluation of long term educational returns. Additionally, the lower quality of compulsory education in many rural areas has directly resulted in a lower enrollment rate at subsequent educational levels. Early predictions of the future trajectory after an education have promoted an early preference of work over schooling. As a result, many families and children prefer work to pursuing an education. However, there is little information about or insights into the process of

making decisions regarding child labor in many families. Within Chinese academic resources there is a scarcity of research into who makes the decision for child labor instead of schooling.

Effect of Work Migration Patterns

Fourth, the “work migration culture” shaped in remote undeveloped regions over the past decades are an important pull factor worth taking into consideration when analyzing the causes of child labor. The witnessed urban lifestyle and perceived amounts of cash obtained by preceding migrant workers serve to push more migration to the cities and also result in child labor.

Gender

Fifth, the different expectations that parents have on boys and girls explain why girls in are more likely to become child labor in certain regions (Lu Shi-zhen, 2003, Gong Wei-min (1997). But on the whole, this explanation is not true. According to statistics of the ILO and other global data, the ratio of child labor is higher for boys than girls. In brief, whether China is an exception lacks systematic evidence to support.

In brief, child labor stems from certain pull factors, which mainly include work migration culture (urban lifestyle, cash income) and labor market needs, and from certain push factors, which include family poverty, the low return on an education and different gender expectations. With regard to the causal relationship between an ineffective compulsory education and child labor, the current situation of the basic education and schooling performance in some western remote regions needs further elaboration here.

A review of over a dozen of articles on the dropout issue publicized in the recent years reveals that most of the dropout reasons are connected to the impetus of child labor. Overall, five dimensions of the causes behind dropout have been unanimously explored well in these articles. These five dimensions include, economic poverty of the dropout families, social atmosphere of knowledge inutility due to unemployment of school graduates, the overlook of and exclusion by teachers to academic failed students due to the pressure of further education rate as a teacher's performance assessment criterion, a dropout's general lower interests in schooling and dysfunctional parental guidance and lack of help with children's academic tasks.

In accordance with the findings of the research project of "Case Study in Some Key Educational Policies during Transformation Phase", an increasing disparity in household based educational expenditure could be found between the eastern coastal and remote western regions. This project disclosed that the average educational expenditure for each person in the eastern areas (Beijing, Tianjin, and Shanghai as representatives) was 3.71 times in 1995, and even 3.88 times in 2005 than of the remote western areas (provinces of Guangxi, Guizhou, Yunnan, Gansu, and Qinghai as representatives). Lower educational expenditure in western regions will undoubtedly thwart promotion of the quality of compulsory education in these under developed areas, and as a result, lead to more school dropouts than in east areas.

An analysis of the Household Based Basic Data of Rural Residents in 2002, completed by a research team of the Chinese Academy of Social Sciences,

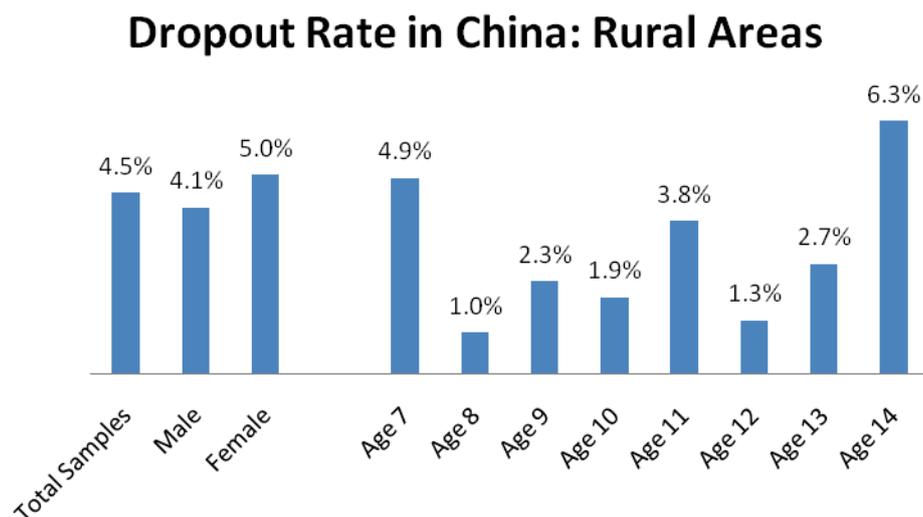
revealed that the dropout rate of school children has a staggering increasing between the ages of 7 to 16. The highest dropout rate was fixed at the period of junior high school, particularly at the second grade and third grade, while school children of primary school were underrepresented (Du Xin, 2008). This data was collected by random sampling in 22 provinces and can hence sufficiently represent the overall situation of China (Cf. Table 1 and Chart 2).

However, the causes behind school dropout are multifaceted and it is difficult to pin them to economic factors. In fact, the central Chinese government stipulated free compulsory education in 2008 with "two exemptions and one subsidy" (i.e. exemption from tuition and textbook fees, and subsidy for boarding fees). In this regard, increasing dropout rates in compulsory education should be linked to other factors rather than poverty.

In the past years, a growing number of researchers have found that voluntary dropout due to academic failure rather than involuntary dropout due to poverty is becoming the most typical reason of school dropout (Lu Kai-yu, et al, 2006; Zhao Yin-huan, et al 2008; Lu De-sheng, Lai Chang-chun, 2009; Zhang Shu-qing, 2005 among others).

	Quantity of School Aged Children	Quantity of Dropouts	School Children	Dropout Rate (%)
Total Samples	6271	282	5989	4.5
Male	3442	142	3300	4.13
Female	2829	140	2689	4.95
(Age) 7	308	15	293	4.87
8	394	4	390	1.02
9	433	1	432	0.23
10	516	1	515	0.19
11	533	2	531	0.38
12	759	10	749	1.32
13	734	20	714	2.72
14	857	54	803	6.3
15	867	82	785	9.46
16	870	93	777	10.69

Comparing the change of dropout causes between 2000 and 2005 as narrated by some village leaders and mothers, Lu Kai-yu et al. find that “academic failure” and “dislike for schooling” as causes of voluntary dropout have risen steeply between the two years of reference, whereas economic factors, such as “poverty”, “chores and domestic work”, and “worthless expenditure” have dropped in percentage (Lu Kai-yu, Wang Hua, and Jing Lian, 2006) (Cf. Table 2).



¹ Cited from Du Xin (2008): “Analysis of the Influential Factors for School Dropout in Chinese Rural Regions”, *Chinese Agricultural Economy*, No. 3, 2008.

Table 1: Causes for Dropout as Narrated by Village Leaders and Mothers (%) ¹				
	Village Leaders		Mother	
	Year 2000	Year 2004	Year 2000	Year 2004
Academic Failure	41	65	15.79	31.65
Dislike Schooling	27	56	31.58	50.46
Economic Poverty	53	49	57.89	41.28
Chores and Domestic Work	23	25	26.32	11.93
Worthless Expenditure	10	16	10.53	7.8
Long Distance from School	17	12	15.79	10.09
Lower Quality of Schooling	6	8	15.79	5.05

As explained above, there is a growing trend of voluntary school dropout as opposed to involuntary dropout due to the outside pressure of poverty. Child labor as one of the exits of dropouts is therefore more linked to children's migration and a desire for independence rather than factors relating to the economic situation of the family. Furthermore, it is evident that dropping out is often the final result of a long process of repeated academic failure which can be traced as far back as junior high school or even primary school.

Correspondingly, the attitude of parents towards their children dropping out is also undergoing transition. In the same context the attitude towards children migrating in search of work is also in a phase of transition. The process behind this transition includes the initial ambition for children's academic pursuit, growing despair due to the child's failure and finally the forced choice between an idle child out of school or a child that migrates in search of work.

Based on available findings, parents initially

encourage their children to pursue academic study and hope to create a better life for their child and prevent generational transmission of poverty. When it turns out their children dislike going to school or do not want to return back to school, they are forced to surrender their initial aspiration and find alternatives including child labor. When parents hear of the success of school dropouts in the outside world, for instance children that send money back home, return to build a house for their parents or children that experience business success the parents use these rare cases to justify their decision of sending their children to work.

Once dropout rates during the later phase of compulsory education grows within a smaller community the strength of the school system in preventing child labor by keeping children in classrooms falls apart. Apparently, parents usually face a stronger opinion to send their children to school in primary school, but less pressure from their neighborhoods once their children have entered later phases of adolescence, which usually overlaps with the second or third grade

¹ Cited from Lu Kai-yu, Wang Hua, and Jing Lian (2006): "Impact of Parental Migration Employment on Offspring's Education in Economic Underdeveloped Regions: from the Perspective of School Dropout", Issue of Agricultural Economy, No.4, 2006

of junior high school (Lu De-sheng, Lai Chang-chun 2009; Zhang Shu-qing, 2005).

An ineffective school environment or low quality of education in certain western regions also contributes to increasing high school dropout rates. In view of the documented academic failure of most school dropouts, many teachers tend to change their teaching focus to students who perform well and who are expected to pass entrance examination to pursue further education in senior high school and in the future in higher educational institutions.

Hence, students who perform poorly and need more help instead receive less attention and are overlooked, leading to a vicious cycle of poor performance, lack of attention and dropping out. These students have more difficulty to study and are less interested in learning.

Apart from this blind eye towards the need of underperforming students experts have also noted that physical punishment by teachers towards undisciplined and academically lagging students can be found in certain remote schools. It is however difficult to collect proof or evidence about these cases of illicit punishment.

In addition, an impractical academic curriculum developed with the needs of urban children thwarts the academic interests of many rural children. A lack of qualified teachers in

subjects that promote socialization and leisure management skills to children has resulted in a monotonous and repetitive teaching style that is fails to stimulating children's academic interest (Wang Wei-shen, Zhang Pei-xia, 2008; Zhao Yin-huan, Ning Huan-xia, and Yang Hui, 2008; Zhang Shu-qing, 2005; Tu Cheng-guang, 2007).

The parents' attitude also explains why children drop out of school. It is common that most parents are not able to help or guide their children with their studies or homework and some of them even do not know the actual performance of their children in school.

A more frustrating problem is that a growing number of parents have migrated to the cities to seek employment themselves and left their children behind. Such long absences from their children do not help to remedy children's academic shortfalls. Without regular supervision by parents, many children are attracted to loiter in Internet bars and meet delinquent peers. Dropout is merely a natural outcome for these children (Lu Kai-yu, Wang Hua, and Jing Lian, 2006; Zhao Yin-huan, Ning Huan-xia, and Yang Hui, 2008).

3) Chronological Reports of Child Labor

A chronological list of publicized child labor cases disclosed in mass media will be helpful to outline the overall trend of child labor and how it has developed:

Year 1999

Wang Ben-ping, a working child less than 16 years of age was amputated by a wool weaving machine in Li Hua Hat Making Company, located in Ding Xing County, Hebei Province. This working child had migrated within his county in search of work

Web Link

http://www.people.com.cn/rmrb/199908/11/newfiles/wzb_19990811001095_11.html

In Xiaojiang township, Pingyang County, Zhejiang Province, a working child committed suicide due to overtime work pressure. Following this tragic event, 26 working children less than 16 years of age were identified in a crack down inspection. Most of these working children migrated from a county of Fujian Province which geographically is a coastal area. These children weaved bags for nearly 19 hours daily and were paid far less than the going rate for an adult worker.

Year 2000

In a township of Linhai city, Zhejiang Province, 38 working children under the age of 16 were found in 100 private business entities and disclosed in CCTV's Program of Focus Interview, dated in 30 May, 2000.

In June 2000, Jiangxi Province undertook a month inspection on child labor, and finally dismissed 525 working children under the age of 16.

Web Link

<http://news.sina.com.cn/society/2000-08-03/113889.html>

On October 24th, 8 working children between the ages of 5 and 11 died from the explosion of a firework factory in Ye County, Henan Province. These working children were cheated by the employer with the payment of a meager five cents for each case of fireworks produced.

Year 2001

A clothing company with Japanese investment in Shanghai was inspected and it was found that they had children working there.

An aquiculture company in Rong cheng City, Shandong Province, was found to have employed nearly 70 working children less than 16 years of aged from the two counties of Henan Province.

Web Link

<http://www.people.com.cn/GB/shehui/47/20010518/467799.html>

Labor inspection officials discovered 200 working children under the age of 16 in a clothing workshop located on Jinan Avenue of Wuhan City, Hubei Province.

It was discovered that five middle school girls between the ages of 12 and 14 from the provinces of Sichuan and Hunan Provinces were forced to offer sexual services to more than 20 men.

Year 2002

During an inspection of 1,863 companies, factories and individually owned businesses in the province of Henan, 28 cases of child labor were identified. During this raid 54 working children were rescued from brick kilns.

Year 2003

2 working children aged less than 16 were found to work in an underground cotton processing factory of Changyang County, Hubei Province.

Year 2004

A 14 years old girl of Shaoyang County, Hunan Province, was found to offer sexual service in a barber shop in another county. When she was rescued, she still preferred prostitution over schooling.

CCTV (China Central TV) disclosed that a primary school in Henan Province terminated its schooling in favor of tea harvesting in the mountains so that the school could profit from child labor.

On November 20th, 68 workers died from a fire in a steel mine and 10 migrant working children under the age of 16 were also included among the casualties. It was discovered that these children worked underground 18 hours daily.

An electronic company in Shenzhen was found to recruit 40 professional school students from Jiangxi Province to make electronic units, who were mostly under the age of 16.

Year 2005

Yu Haocheng, a migrant working child from the rural county of Tianjin worked in a polyester company in Beijing and had his arm amputated by the machine on the first working day. Two years after the event, Yu had still not received any compensation from the company.

Year 2006

A journalist secretly investigated several bead stitching workshops, located in Yongle village of a suburban area of Guangzhou City and discovered that more than 90 percent of the young workers were in fact child labor. These working children had the night shift without adequate nutrition and some were ill in need of medical care.

7 working children aged between 13 and 16 were found in a clothing factory of Shenyang City, Liaoning Province. These children worked over 3 months, but did not get any pay.

More than 80 middle school girls were found to work in a vegetable and fruit factory of Ningbo City, Zhejiang Province. These girls had been recruited in an organizational way by the company.

Web Link

<http://news.sohu.com/20060925/n245510217.shtml>

Year 2007

In Shanxi province over 300 hundred migrant workers were discovered in diverse illicit brick kilns and among them were 15 working children below the age of 16. Most of these working children were trafficked or lured from Henan Province by brokers. The governor of Shanxi Province was dismissed due to the exposure of this case of child labor.

Web Link

<http://news.qq.com/a/20070613/001184.htm>

Year 2008

A TV reporter of Wuhan TV Station found in the area that links the rural and urban areas of Wuhan some working children within clothing, weaving and other similar industries.

Several hundred working children were discovered in Dongguan, Guangdong Province. Most of them were migrants from Liangshan, Sichuan Province. This child labor case became a hot topic in 2008 and even Chinese Premier Wen Jia-bao became involved in solving this issue.

Web Link

<http://www.nddaily.com/sszt/dongguantonggong/>

4. Combating Child Labor: From Laws to Actions

As indicated by the ILO committee of experts in its 2008 observation report, “the present system of laws and regulations on the prohibition of the use of child labor is sound and complete, but that the illegal use of child labor still exists..... although China does possess national legislation banning child labor and its worst forms, there remains a serious gap between legislation and implementation and monitoring¹.” This comment is an accurate description of the current situation of child labor combating in China.

Up to present, China has promulgated a special law on the protection of minors and an administrative regulation on the ban of child labor and some other specifications of laws regarding the worst forms of child labor. A review on the history of this different legislation follows below:

A. Regulations Banning Child Labor (1991 version and 2002 version)

This is an administrative regulation promulgated by the State Council, respectively in 1991 and 2002. As a revised form of the 1991 version, the 2002 version more clearly stipulated the standard penalties for child labor and also removed several types of activities previously categorized as child labor. Several significant changes between these two versions are worth elaborating on here.

First, the 1991 version had given a definition of child labor in Article 2, where, the category of child labor was clearly distinguished from those

which do not belong to the child labor category. Any labor relationship established between an organization or individual and children under the age of 16 with economic remuneration was defined as child labor in the 1991 version. On contrast, the 2002 version, labor relationship between individuals and children under the age of 16 was excluded from the child labor category. Moreover, children working in the agricultural sector in a paid labor relationship and working in urban households as baby-sitters or nursemaids were removed from the child labor category indirectly. But the common points shared between the two versions on the categorization of child labor are that they are activities with remuneration. Even in this point, the 2002 version was more conservative than the 1991 version. Additionally, in the 1991 version, household chores, school internships and some accessory light tasks were definitely eliminated from the child labor category while only school internship was excluded clearly in the 2002 version. Household chores were explicitly excluded as child labor in the 1991 version but only implicitly so in the 2002 version.

Second, a specification on the economic penalty of child labor in the 1991 version included most of the stakeholders in cases of working children even the parents of the child found to be engaged in labor. The 2002 version removed the penalty of parents or custodians. It is worthwhile to emphasize that in the 1991 version the decision regarding the concrete economic penalty was relegated to local authorities whereas in the 2002 version, 5,000 RMB (ca 500 EURO) was stipulated as a nationally universal penalty for child labor.

¹ Report of the Committee of Experts on the Application of Conventions and Recommendations: Worst Forms of Child Labor Convention, 1999 (No.182), Observation, CEACR 2008/79th Session.

Third, regard to the criminal responsibility on child labor, in the 1991 version, an organization or individual that employed children was specified as having legal responsibility with criminal charges for working children's disability or death from labor and other worst forms of child labor. However, in the 2002 version, criminal responsibility¹ was merely limited to the worst forms of child labor. The worst forms of child labor were categorized in the 2002 version of Regulations mainly as "trafficking working children, forced or compulsory work, using children for labor underground, with excessive heights, with exposure to radioactivity, poisons or explosive matter and labor beyond the limit of fourth class manual work²" in reference to a few types of hazardous work defined in R190 Worst Forms of Child Labor Recommendation, 1999.

It is worthwhile to emphasize that almost all four and fifth types of hazardous work of child labor proposed in R190 Worst Forms of Child Labor Recommendation, 1999, were accepted into the Chinese Regulations (2002), except for the fifth hazardous work category: "work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer."³

Fourth, in the 2002 version, child labor below the age of 14 was classified as the worst forms of child labor and distinguished from general child labor below the age of 16. The new version of Regulations stipulated that any employer of

children below the age of 14 must face criminal charges. This point was not specially mentioned in the 1991 version.

When we review these two versions of Regulations, some precedent notices of administration promulgated by several ministries of the state ahead of the Regulations (1991 version) need to be detailed. Undoubtedly, these administrative notices were a preparation for more the more formal Regulations (1991 version). Most of the key points comprised in the Regulations had been systematically declared in these notices. The most influential notice on banning child labor was issued by the Ministry of Labor, the State Education Committee, the Ministry of Agriculture, the State Administration for Industry and Commerce and the All China Federation of Trade Unions in 1988. In this notice, the minimum age of child labor was set at 16 years of age and kept consistently in the formal Regulations as one of the significant standards for defining and identifying child labor. The notice was also the first to stipulate a concrete amount of penalty for child labor (3,000-5,000RMB), which was deleted in the 1991 version of Regulations, but accepted in 2002 version.

While the precedent notice was reviewed, those administrative notices issued after the Regulations as supplements also need to be analyzed in more detail. In April 2003, namely the year following the 2002 version of Regulations, was issued. The Ministry of Labor and Social Security, the Ministry of Public Security, the State

¹ This crime is generally convicted as crime of employing child labor for hazardous work in the Chinese criminal law system.

² Regulations Banning Child Labor (2002): Article 11.

³ R190 Worst Forms of Child Labor Recommendation, 1999: II Hazardous Work, paragraph (e).

Administration of Industry and Commerce, the Ministry of Education, the Ministry of Health, the All China Federation of Trade Unions, the Central Committee of the China Youth League and the All China Women Federation promulgated in unification a Notice about Implementing Regulations Banning Child Labor.

This Notice has in effect translated Regulations into practical actions with detailed stipulations on resource mobilization of governmental sectors for addressing the issue of child labor. The most significant points of this Notice are its illustration on the responsibilities the eight sectors of government ought to take respectively in combating child labor, the tasks on the agenda of these government sectors in dealing with child labor cases and the detailed exposition of the upper and lower limits of Regulations in particular referring to practice.

Moreover building up a coordination mechanism and a periodical inspection system and launching a top-down campaign against child labor were also emphasized in this notice. Undoubtedly, this administrative notice functioned as a catalyst to facilitate realization of the main aims of the Regulations. It is also worthwhile to note that this notice proposed to strengthen a pre-employment preparation system, which requires a universal and systematic vocational training to be offered for the minors who have completed 9 years of compulsory education but are below the age of 16. This pre-employment preparation system was obviously implemented to prevent youngsters from entering the labor market before the age of 16.

As analyzed above, the most important regulation on child labor in China was formed over a period of more than 10 years, initially from an administrative notice to a formal regulation and a revised regulation. This amply reflects the fact that child labor in China is a very complicated issue and different areas people have disparate views or attitudes towards this issue. Here, it is worthwhile to compare the implementation of various local regulations which have accepted the principles of the state Regulations (2002), but given detailed stipulations different from the state Regulations due to the particularities of the localities.

B. Law of the People's Republic of China on the Protection of Minors

This law was initially promulgated in 1991 and revised in 2006. It clearly separated minors under the age of 16 from those over 16 but below 18. Children working under the age of 16 were defined as child labor while those over the age of 16 but below the age of 18 were defined as labor by minors. Labor by minors is not banned by the law with the specification that employment has to be congruent with the regulations of the state in the type of work, working hours, labor intensity and protective measures. Hazardous work is also banned for labor by minors¹.

Some significant changes regarding child labor in the 2006 version compared to the 1991 version are here elaborated. First, the 2006 version had formally defined the rights of minors as survival, development, protection and participation,

¹ Cf. Law of Minor Protection: Article 28 (1991 version), Article 38 (2006 version)

which will help characterize child labor with violations to children's human rights. Within such a framework, children's right for education was emphasized in a separate form and defined with responsibility respectively by the parents, school and society. In concrete terms this means that dropout from compulsory education to enter the labor market is a violation not only of the legal stipulation, but also of the right for a child to an education.

Second, article no. 53 of the 1991 version defined criminal responsibility for some worst forms of child labor with severe punishment¹, whereas the 2006 version had deleted this article. Third, the 2006 version proposed to inform and listen to minors when any decision was made concerning their interests². This means that parents or custodians should give minors advice on the conditions of the labor market instead of forcing them to work when they are over the age of 16. These types of protection of informative and expressive rights for minors will be helpful to prevent many minors under the age of 16 from forced child labor. The advance information may result in the child expressing their refusal to terminate education for labor.

There have been 15 years between the first version of this law and its revised edition. During these 15 years, China has actually achieved several successes in the field of children's rights protection, including combating child labor within the context of human rights protection. Several facets of this achievement are worth elaborating here. First of all, public awareness on children's rights protection has increased and child labor is more and more recognized as a violation to children's rights. Second, a diversity of organizations or sectors at different geographic and administrative levels has been established with the aim of protecting the rights of minors. These public and private organizations and sectors are able to receive complaints from minors regarding violation of their rights and are involved actively to solve them.

Some other administrative regulations concerned with child labor were also promulgated by the Chinese government, which are worth to mention here: *Notice on Definition of Writer and Artists, Athletes, and Apprentices*³ (Ministry of Labor, 1992), *Guiding Views on the Issue of Controlling Dropouts of Primary School and Middle School*⁴ (Ministry of Education, 1989), *Provisions on Financial Penalty on Child Labor*

¹ Law of Minor Protection (1991 version): Article 53, "Encouraging minors to commit crimes, such as drug abuse, or prostitution, will be convicted with severer punishment."

² Law of Minor Protection (2006 version): Article 14: "Parents and other custodians ought to inform minors and listen to them in reference to the age and mental growth of minors when they make any decisions concerning with minor's interests."

³ This notice indicated that "the sectors of culture and arts, sports, and craftsmanship ought to refer to the provisions defined in Regulations Banning Child Labor, and apply for permission from Labor Administrations above county level, when they indeed feel necessary to recruit children under the age of 16. The employing organs should protect mental and physical health of the minors, facilitate their development in moral, intelligence and physicality, and make sure to help them to receive compulsory education."

⁴ This act had analyzed the key factors for bringing about the dropout of school students, and revealed the combinations of school dropout and child labor.

Case (Ministry of Labor, Ministry of Finance, 1992), *Specifications on Law on Chinese-Foreign Cooperative Joint Ventures*¹ (Order of the State Council, No. 301, 2001) , Program of Action for the Chinese Children 2001-2010.

Apart from these national laws and regulations, some Chinese provinces and municipalities have enacted regional regulations and policies to prohibit child labor. These include the Beijing People's Government's regulatory standards for assessing fines for the unlawful employment of child labor, Shandong Province's rules on the enforcement of the regulations prohibiting child labor, Guangdong Province's circular on problems in the implementation of the State Council regulations prohibiting child labor and Yunnan Province's rules on the enforcement of the regulations prohibiting child labor. These administrative regulations complemented the Law of Compulsory Education, Regulations Banning Child Labor and the Law of Protection of Minors which all functioned to control and alleviate child labor.

It is noted that the Chinese government has publicized a "National Program of Action for Human Rights (2009-2010)" toward the international community in 2009. In section 111 of the third part, children's human rights protection was reiterated. It specified the "Prohibition of child labor. Any individual or entity using child labor will face severe punishment²." This national program also highlights that child labor is still an acute issue in Chinese society and its elimination will naturally face several challenges. On the other hand, it also displays that the Chinese

government is stepping up the fight against child labor and raising its significance within human rights protection to meet the needs of the international community.

The Chinese government has also undertaken several campaigns to combat child labor in the past decade. Especially after the Law of Minor Protection and Regulations Banning Child Labor was revised.

To eradicate the trafficking of children which is one form of the worst types of child labor the Chinese government has taken a number of measures, including major activities of cooperation with UNICEF and public education campaigns in relation to typical cases involving trafficking.

During the term 2001-2005, the All-China Women Federation (ACWF) and the Ministry of Public Security cooperated closely UNICEF to launching basic surveys, public awareness campaigns and training programs for young women and girls prevent trafficking and exploitation of female minors. This project was defined as one significant component of the Mekong Sub-regional Project to Combat Trafficking in Children and Women. In undertaking this project, the Chinese government also established a mechanism of sharing information and experiences the other partner countries.

On 14th December 2007, the State Council of China approved China's National Plan of Action against Trafficking in Women and Children (2008-2012). The National Plan acknowledges

¹ Chapter 10: "Joint ventures are forbidden to employ child labor."

² http://news.xinhuanet.com/newscenter/2009-04/13/content_11177077.htm

the need to address all aspects of trafficking (policy, prevention, prosecution and protection) and signals a conceptual shift from combating trafficking to anti-trafficking.

This National Plan set its global target as “consuming anti-trafficking mechanism of coordination and support, well defining responsibility and tasks for the sectors concerned, strengthening collaboration and establishing a long term comprehensive institution comprised of precaution, combat, rescue and rehabilitation.” It is noteworthy that this National Plan proposed to combine anti-trafficking with combating child labor, in particular with combating those worst forms of child labor, such as forced labor and prostitution².

The Ministry of Public Security set up an anti-trafficking office at the beginning of July 2007 in order to promote legislative work and strengthen the combating of all kinds of trafficking. Due to this effort, in the year 2007, 250 migrant girls who either had dropped out of school or were about to do so were helped to continue their education; 10,000 migrant girls and young women who just arrived in target cities had received information on trafficking prevention³.

Even this year, China is still continuing to implement national campaigns towards young women and against the trafficking of girls. According to Chinese official statistics, between

April 2009 and August 2009, due to special actions to combat trafficking of children and young women, 1,092 cases of child trafficking and 1,070 cases of the trafficking of young women were detected. Moreover, 1,352 children and 2,054 young women were rescued⁴.

On the same note thee, 2009 Action for Children’s Safe Growth was also promulgated by seven ministries as a unified action against children trafficking and other forms of harm to children. This campaign was undertaken with two main missions: advocacy and community action. Regarding advocacy, in late May 2009, 15 provinces or cities were undertaking large scale advocacy campaigns against trafficking of children. This effort aims to increase the public’s awareness of child trafficking.

Between late May and August, in diverse traffic stations, such as train stations or bus stops and in TV screens in subways and buses, slogans and special programs were announced on a wide scale. In the peak of summer tourism, volunteers were recruited to participate in advocacy campaigns in train boxes. Mass media were invited to report the progress of the campaigns. In the domain of community action, one hundred seminars on anti-trafficking were implemented in communities with a referential view on “safe family building”. Diverse bulletins or blackboard forums were introduced to communities and many volunteers were recruited to undertake

¹ http://www.china.com.cn/policy/txt/2007-12/25/content_9428225.htm

² Cf. China’s National Plan of Action against Trafficking in Women and Children (2008-2012): Part 4, Section 3.

³ Cf. Report of the Committee of Experts on the Application of Conventions and Recommendations: Worst Forms of Child Labor Convention, 1999 (No.182), Observation, CEACR 2008/79th Session.

⁴ Cf. news of Xinhua Net on “National Training Conference for Combating Trafficking”, held in Hefei, Anhui Province on August 11, 2009. http://news.xinhuanet.com/legal/2009-08/11/content_11864365.htm

training and advocacy toward school students. At the same time, in some communities with a high concentration of migrants support centers offering service to migrant families were established. This national action is highly significant not merely to prevent child trafficking but also to ban child labor, particularly those worst forms of child labor.

Minor's forced begging is another worst form of child labor in China. This worst form of child labor is often combined with child trafficking. The Chinese government had undertaken several national campaigns and set up many rescue stations across the country for these migrant minor beggars. On July 16, 2009, five ministries, including the Ministry of Civic Affairs, the Ministry of Public Security, the Ministry of Finance, the Ministry of Housing and Urban-Rural Development, and the Ministry of Health promulgated the Notice of further Strengthening Rescue and Management of Street Beggars and Vagrant Children. This Notice specified the methods and means for rescuing child beggars and offering them appropriate placement and rehabilitation. Punishment of trafficking and luring of children for begging was also emphasized in this Notice.

In 2001, nine ministries, including the Ministry of Labor and Social Security, the Law and Regulation Office of the State Council, the State Committee of Economy and Trade, the Ministry of Public Security, the State Administration of Industry and Commerce, the Ministry of Education, the All China Federation of Trade Unions, the Central Committee of Youth Leagues and the All China Federation of Women decided to undertake a one month (between September 20 and October 20, 2001) in-focus inspection on the implementation of Regulations Banning Child Labor.

In 2002, the Ministry of Labor and Social Security issued a notice to undertake an in-focus inspection on the protection of the rights of rural migrant workers including child labor, which lasted from April 8 to May 7 of this year.

In 2005, between July 20 and August 20, the Ministry of Labor and Social Security undertook a national special action for inspecting the result of implementing Regulations Banning Child Labor. In this national campaign, employment systems of diverse enterprises, including employee registering archives and labor contracts and identification check procedures for employment agencies were inspected. The industry sectors inspected were mainly within clothing, shoemaking, the catering industry, mining and other labor intensive industries. The main focus was private businesses and individual owned workshops in areas which link urban and rural areas.

These types of inspections have become institutionalized over the past several years. However, feedbacks from local inspections reflect that the strategies adopted are not very effective. The difficulties faced during the process of inspection include the unavailability of identification cards for suspected working children, the sudden transference of working children to hidden sites and inaccurate information from the working children and their suspected employers regarding on birth dates and the nature of the economic relationship between the child and the employer etc.

Several cases of child labor were first exposed by mass media with subsequent inspection by government officials. Undoubtedly, the higher awareness of the risk of possible inspection and slower action of the government sectors has aggravated the difficulties of inspection and

investigation into suspected child labor cases.

China's efforts to eradicate child labor are also reflected in the establishment of a supervisory network to oversee child labor.¹ This supervisory network functions at national, provincial, municipal (regional) and county (district) levels. By the end of 2001, there were 3,174 labor and social security agencies throughout the country employing over 40,000 staff, of which 16,000 were full-time inspectors and 24,000 part-time. As described in a report China submitted to the UN (United Nations) committee, "labor and social security supervisory agencies oversee and monitor employers' conduct, rigorously checking the name lists and contracts of workers hired.

Approaches including extensive unscheduled inspections, regular visits, the follow up of tip-offs and yearly checks of labor guarantees can swiftly and effectively prevent or uncover illegal child labor practices. If violations of the law are discovered, the situation is rectified in accordance with the law and the culprits are severely punished." Despite this achievement, the supervisory system is of an ex-post character, which does not seem to be effective in controlling the source of child labor. In fact, the labor security sectors at various administrative levels cannot afford to implement source supervision of child labor within their reach of legal power. At the same time, most of the Chinese laws and administrative regulations related to the child labor issue mainly focus on punishing those child labor employers after a case has been exposed. An urgent task is to develop a precautionary system to eliminate causes of child labor ex-ante.

The main problem is the lack of alternative exits

for school dropouts except migrate to search for work. In recent years, some local governments have tried to fine the parents or guarantors of school dropouts or even prosecute them for failure to sending their children back to school. This in order to reduce school dropout rates. Despite these strict measures, the growing dropout rate of middle school in many rural areas is not really controlled. The central government is strongly pushing indicator based assessment of the compulsory education in connection with the overall evaluation of administrative performance of the local governments. Many local educational officials have hence accepted the practice of artificially reducing dropout rates due to the pressure of this indicator based assessment.

Controlling child labor from the source necessitates offering alternative to exits for middle school dropouts. Forced return to school contradicts the lower academic aspiration for most voluntary dropouts. Vocational school is an alternative form of academic pursuit although the curriculum of these two types of education is radically different. Obviously, vocational education cannot be utilized simply to substitute compulsory education for a majority of dropouts. The effect of this alternative exit is very limited in controlling dropout and child labor. Other alternatives, such as occupational training are difficult to meet the income-generating needs of many dropouts and their families. A feasible choice is "... to develop, in cooperation with working children, effective measures to prevent and eliminate all forms of child labor¹." Conversely, input of the working children themselves in the government's campaigns of combating child labor is to a great extent overlooked. Many of

¹ UN Committee on the Rights of the Child: Consideration of Reports Submitted by States Parties under Article 44 of the Convention (Concluding observations: China (including Hong Kong and Macau Special Administrative Regions), CRC/C/CHN/CO/2, 24 November 2005

the measures the governments have taken to prevent child labor focus too much on the reflection of the governmental volition, but less on what the aspirations of working children or school dropouts.

Special types of actions for children in labor that aims to combat child labor including “work and study” that many vocational schools exercise and “labor re-education” used by several “labor and education schools” for delinquent youth are not as recognized nor further investigated in China. Several international organizations including NGOs (Non Governmental Organizations) often criticize the Chinese government for this as they define these actions as child labor¹.

One of the reasons why “work and study” child labor has to be attributed to the loopholes of Regulations on Child Labor Prohibition, is that the programs of “work and study” as one component of the curriculum of vocational schools, were excluded from the category of child labor. The nature of the problem is in accurately defining “work and study” programs and in differing them from child labor with a practical criterion of working intensity, duration and payment. Some cases of child labor identified in the name of “work and study” programs were found to have overstepped the boundary of the program in working environment, working length, and working intensity. In fact, there are a lot of controversies around the distinction between “work and study” program and clear cut cases of child labor.

Another sensitive topic is the re-education of child labor found in certain detention facilities and prisons. Many human rights organizations and ILO frequently urge the Chinese government to pay more attention to this problem. In reference to the justice system of China, we think that some international observations on this form of child labor were not fully congruous with facts. Generally, minor delinquents under age of 16 were seldom sent to detention house or prison in China. Young people in detention houses or prisons were actually juvenile workers aged between 16 and 18. In China, a distinction of age between child labor and juvenile workers was clearly stipulated in the laws and regulations concerned with the issue of child labor.

¹ Human Rights Watch (03/12/2007): “Under ‘Work and Study’ programs regulated by the Ministry of Education, schools in impoverished areas are encouraged to set up income-generating activities to make up for budgetary shortfalls. According to official statistical material from the Ministry of Education seen by Human Rights Watch, more than 400,000 middle and junior high schools, which are for children ages 12 to 16, nationwide are running agricultural and manufacturing schemes.”

5. Two Case Studies of Child Labor: Shanxi's Brick Kiln and Dongguan's Sweat Shops

Child labor in Shanxi's illicit brick kiln and Dongguan's sweat shops respectively disclosed by mass media in 2007 and 2008 can be taken as the gravest events in violation of children's rights. In 2007, hundreds of migrant workers were rescued from diverse illicit brick kilns of Shanxi and 15 working children under the age of 16 were identified among them. Actually, the working children who were secretly transferred to other sites during the inspection campaign are far more than this reported number. Most of these working children came from Henan Province.

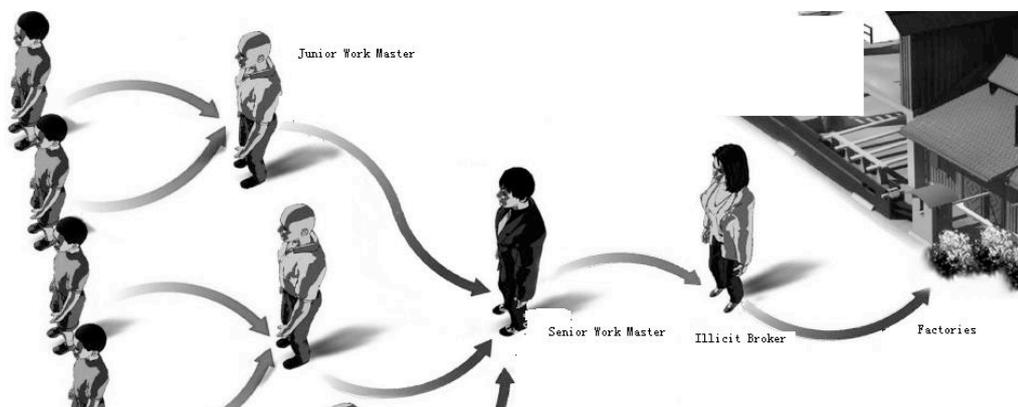
In 2008, 167 working children less than 16 years of age were identified in various sweat shops in Dongguan, and most of them migrated from Liangshan an ethnic aggregated county in

Sichuan Province. These two child labor events are worth further analysis since they not only had a large impact on Chinese society but also due to their similar character of the type of child labor.

First, these two child labor cases were the result of commercial labor chains. The key roles for each part of this commercial chain were played respectively by a broker, a work master, a factory employer and even some local government officials. The object traded was child labor and the profits each stakeholder made in this commercial chain were the wages of working children and the pre-payment they received from the children's parents. These two cases of child labor were a complex web of child trafficking, slavery, hazardous work and labor exploitation.

¹ Cf. http://news.ifeng.com/society/5/200804/0428_2579_510928.shtml

Diagram 1: The Commercial Interest chain for Dongguan's child labor



Junior work master

- The first and most important node of the commercial chain.
- Income: 100,000 RMB for several rounds.
- Function: in charge of recruiting child labor, bargaining with the parents, and transporting the children recruited to Dongguan.

Senior work master

- Income: Pocketing 200 RMB from the salary of each working child.
- Function: introducing employers, dealing with diverse identification cards, arranging personnel and keeping the order among the children.

Illicit Broker

- Income: Pocketing 0.2 RMB of each hour from every working child.
- Function: Collaborating with senior work master to provide them necessary information.

Factories Employing Child Labor

- Higher profits were made from child labor. Compared to adult workers the wage cost reduction due to employing child labor is transformed to profits of thousands of RMB monthly.

Second, most of these working children were recruited from the same areas: Shanxi's brick kiln child labor was recruited exclusively from Henan and Dongguan's sweat shop child labor was recruited almost exclusively from Liangshan of Sichuan. This fact implied that certain underground routes of child labor commerce have been established between source sites and target sites. Building such a commercial route takes time and this route will obviously further serve as a channel for recruiting and transporting child labor.

Regarding the child labor case of Shanxi's brick kiln, the inspection team found after that the child labor in brick kilns had lasted over more than ten years. Some of the local officials including the police, labor inspectors and primary governmental cadres served to safeguard this child labor commercial route for own profits. This implies that elimination of child labor in China is a complex process. Simply dismissing working children from the working sites is ineffective as it does not get to the root of the problem.

Third, these two child labor cases revealed that child labor is of a highly concealed character and effective precaution against it is extremely difficult. This character of concealment stems from diverse factors, such as fake identification cards, lower freedom of working children in the outside world, loose control of the business entities that have employed child labor, a passive attitude of local officials toward dismissing working children, negation of the fact at the

source sites by village cadres and families, lower capability of expression of the working children and apprehension of the community members for retaliation from brokers and employers etc.

The concealed character is an obstacle for timely intervention and the rescue and rehabilitation of working children is retarded. On the other hand, the fact that these child labor cases were only identified after several years highlight that that precaution of child labor is ineffective in China. Moreover, the presently adopted strategy of anchoring at target sites will weaken the effect of combating child labor. An ineffective strategy plus the concealment character of child labor will bring about much more difficulties for eradicating the phenomenon of child labor in the country.

Fourth, surveillance of media and the public opinion is an effective power for identifying and eliminating child labor, but the creation of institutions is more significant. These institutions should be comprised of a surveillance mechanism linking source sites with target sites, a child rights maximized toolkit for assessing the impact of labor on children affected and an individualized rehabilitation and placement plan for each rescued working child.

6. Discussions

We have tentatively explored the situation of child labor and the challenge it has posed to China. Actually, it is almost impossible to draw any final conclusion about the issue of child labor in China at the present phase of research. Based on the limited data, we tried to outline the vulnerability of working children and to answer some of the questions relevant to elimination of child labor in the country. We think that several urgent tasks have to be implemented in the coming years in order to reach a scientific result. Before undertaking this task, several problems which are included as findings in this report need to be further elaborated here.

1) Structural Transformations

The analysis of child labor and its expected trend needs to be undertaken in combination with the structural transformation of both the economy and society in China. With rising costs of land and labor in the eastern coastal areas, a majority of manufacturing industries will gradually migrate towards China's inner regions and will change the route of child labor migration from inter-provinces or inter-cities to intra-provinces or intra-counties. At the same time, the supply chain of production will extend further to those areas often traditionally overlooked for child labor issues. In this vein, the execution of CSR (Corporate Social Responsibility) in particular in the field of labor protection and elimination of child labor will face new challenges.

2) Two Different Standards

Empirical research on child labor in China, will unavoidably adopt a standard of distinguishing child labor from common "light work" exclusive to the category of child labor. As analyzed in this paper, the Chinese government is using a higher standard for the minimum age of child labor, but a lower standard for the scope of work and have thus excluded diverse types of agricultural domestic work, apprenticeships in small workshops or factories which may be operated by children's relatives, or somebody close to the broker of child labor and baby-sitters or nursemaids working in urban households. With regard to further surveys, a choice between this Chinese standard on child labor and the international standard one has to be made by the researchers. This choice will to a great extent influence statistics on the scope of child labor distribution and the scale of child labor.

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