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**WORK OR EXPLOITATION:  
AN ANALYSIS OF THE PLIGHT OF THE GIRL CHILD WHO IS EMPLOYED AS  
A DOMESTIC WORKER IN THE BUDIRO SUBURB OF HARARE, ZIMBABWE**

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**By**

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## ABSTRACT

In the wake of Zimbabwe's economic crisis, school drop-out rates for girls is rapidly increasing and this study critically analyses how to protect the growing invisible and highly vulnerable workforce of poorly-educated girls between the ages of 12 and 15, many of whose parents force them to work illegally as domestic workers within and outside their extended families in order to supplement their families' income.

Relying on a sample of 10 such girl respondents working in Budiro, a high density suburb of Harare, Zimbabwe's capital, the researcher adopted a qualitative approach to the research using the grounded women's law approach in conjunction with other approaches, especially, the human rights approach. This methodology takes the girls and their position within the law and society as the starting point of the research journey. It also makes them the continual reference point throughout the research process whose aim is to reveal a true picture of the legal reality in which the girls live and work by identifying and explaining the legal implications for that reality as a result of the influence of the other wider co-existing realities (e.g., their lived economic, social, education and cultural realities) in the midst of which it operates. Apart from conducting desk research and analysing relevant local and international child and labour laws (e.g., the Constitution of Zimbabwe, the UN Convention on the Rights of the Child and ILO Conventions) and literature, the researcher gathered her research data from interviews with the respondents, their parents, employers, officers within the Department of Social Welfare, Labour Relations, the police and several child NGOs. The researcher found it very difficult to identify victims within this silent widespread underground workforce whose existence, while acknowledged, is completely neglected by public and private organisations alike. Since it is a criminal offence to employ such children, their economically impoverished parents put them out to work for them by conniving with employers to hire them without written contracts. In addition, and by virtue of the nature of domestic work, the children work within the privacy of their employers' homes and are, therefore, kept hidden from public view and scrutiny. If probed, employers often falsely pass them off as members of their own family. This secret environment exposes the children to many forms of physical, emotional and mental abuse including, denial of education, low wages, hazardous and heavy workloads, long hours, lack of privacy, benefits and job security. In recognition of the reality of the vital importance of the income these children earn for their families, the researcher does not advocate an outright ban of this form of child labour. Instead, she suggests putting in place a number of measures to reduce its growth (by making junior and senior education free and compulsory) and to monitor its conditions by conducting public and educational awareness and advocacy campaigns, enforcing the compulsory registration of child domestic workers, improving social services and making the necessary amendments to legislation.

**Declaration**

I, NYEVERO DESIRE MUNHARIRA, certify that this dissertation is my original work; it is an honest and true effort of my personal research. I certify that the work has not been presented anywhere else before for any other thesis.

Signed.....

Date.....

This dissertation was submitted for examination with my approval as the University Supervisor

Signed.....

Date.....

Professor J E Stewart

Director of the Southern and Eastern African Regional Centre for Women’s Law, University of Zimbabwe

Date.....Signed.....

## ***Dedication***

*This work is dedicated to my children Nyasha, Ngaakudzwe and Shingirayi Chimbetete. Shingie, thanks for telling the girls not to disturb mummy when she is reading and the nice songs you sang to me to relieve the pressure of studying.*

*And to my mother, Charity Munharira, for always encouraging me to work hard and to believe in myself.*

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## **List of statutes**

Constitution of Zimbabwe

The Education Act of Zimbabwe Chapter

The Children's Act Chapter 5:06

The Labour Relations Act Chapter 28:01

The Labour Relations (Domestic Workers Regulations of Zimbabwe) SI 377/1992

The Labour Relations Employment of Young Persons Regulations

## **List of international human rights instruments**

Convention on the Rights of the Child

The African Charter on the Rights and Welfare of the Child

ILO Convention C138 of 1973 Minimum wage Convention

ILO Convention C171 of 1990, Convention on Night Work of Young Persons (non-industrial occupations)

ILO Convention C60 of 1937 Minimum Wage Convention Revised

Convention on the Elimination of All forms of Discrimination against Women

## **Executive summary**

The issue of the employment of the girl child between the age of twelve and fifteen as domestic workers is rampant worldwide and Zimbabwe as a country has not been spared this problem. This dissertation looks at the employment of the girl child between the ages of twelve and fifteen as domestic workers in the Budiriro suburb of Harare. The main objectives for conducting this research were: to investigate whether the girl child between the ages of twelve and fifteen who work as domestic workers are being exploited by their employers and their parents; to further investigate whether the said girl child benefits from this employment and how a balance can be struck between the needs of the said child, the parent and/or the guardian and the employer and to analyze the legal measures and frameworks and also non-legal strategies that are in place to protect the girl child who is employed as a domestic worker.

This research was started with the clear legal and conscious position that the employment of the girl child between the ages of twelve and fifteen as domestic workers is illegal and should be banned. This is the position of the law on paper and it clearly states that the employment of the girl children is illegal and there is a criminal sanction that the state imposes on those who breach this very clear legal position. This provision also applies to the girl child domestic worker.

The methodologies used and relevant to this study were the women's law approach, the grounded theory approach and the human rights based approach and also the actors and structures approach. I used a qualitative approach in carrying out the research. The women's law approach was important in embracing the actual lived realities of the girl child who is employed as a domestic worker. This approach was the central focus of the research as it looks at the actual experiences of the girl child who is employed as a domestic worker and it assisted in the investigation and enquiry so as to come up with conclusive research based on the actual experiences of the girl child between twelve and fifteen who is employed as a domestic worker and the provisions of the law. The question to ask was, 'Is the law (on paper) in tandem with what is (i.e., in reality/practice) on the ground?' The grounded theory approach helped me to interrogate what is happening on the ground as opposed to desk research. The human rights approach was used to interrogate the rights of the girl child that

were being violated by her employment as a domestic worker at such an early age. Chief amongst these rights is the right to education which is constitutionally guaranteed to every child, yet the child domestic worker is denied this right. The international human rights instruments were also analyzed in as far as they give protection to the children who are in vulnerable positions in society. The international human rights framework was very relevant in this research as it assisted me in measuring Zimbabwe's compliance with the international law in as far as the protection of the children who are employed as domestic workers are concerned. The international law is the standard benchmark against which all countries are measured to see whether they comply with the laws of the protection of the child who is employed as a domestic worker. The actors and structures approach helped me to interrogate the various actors and structures that are involved in the employment and regulation of the girl child as a domestic worker. The various structures and actors that were interviewed include employers, the Social Welfare Department, the Labour Officers, the police, the employment agencies and children's rights organisations. The roles of these various actors and structures were looked at and analyzed in as far as they relate to the employment of the girl child between the ages of twelve and fifteen as domestic workers.

The research findings were mainly that the girl child between the ages of twelve and fifteen is employed as a domestic worker and the employer-employee relationship is exploitative. The girl child who is employed as a domestic worker is exploited by her employer. She is made to work for long hours for very little money. Most of the girl children who are employed as domestic workers are school dropouts and the reasons for dropping out of school are varied, chief among them being their parents' lack of resources. One of the main findings is that it is very difficult to detect child labour because of the nature of the job and also the fact that the job is carried out in the private sphere and thus very difficult to regulate. The work of the girl child who is employed as a domestic worker is also undervalued.

The laws of Zimbabwe prohibit the employment of the child between the ages of twelve and fifteen in any job. However, the banning of the employment of the girl child as a domestic worker might have long term harmful consequences for some families because they depend on their wages for survival. An armchair approach might do more harm than good. What might need to be looked at is the improvement of the working conditions of these children who are employed as domestic workers and also the need for the state to put more resources



towards the education sector so that no child drops out of school for the simple reason that parents cannot afford to pay school fees for them.

The running of awareness campaigns may be conducted in order to help improve the conditions of the girl child who is employed as a domestic worker. Information may be gathered about the conditions of work of the child domestic worker and this information may then be disseminated to the members of the public. Advocacy could also be used to improve the conditions of work of the girl child domestic worker and also target the employers to improve the conditions of work of the girl child domestic worker and stop the exploitation for the betterment of the life of the girl child.

The state should provide free and compulsory education for all children up to the highest level of education. This will greatly reduce the cases of the employment of the girl child as a domestic worker. Penal provisions should be put in place for those who do not send their children to school. This will go a long way to reducing cases of employment of the girl child as a domestic worker.

Domestic workers should work towards the creation of a National Employment Council for Domestic Workers as currently there is no such organisation. This will make it possible for them to negotiate for better wages and also better working conditions.

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## **CHAPTER ONE**

### **1.0 INTRODUCTION AND BACKGROUND OF THE RESEARCH**

#### **1.1 Introduction**

‘Domestic workers make the bulk of the workers globally. They are in the category of the most vulnerable and most abused group of workers. We need to recognize that they are important. They are workers and they need protection.’ This is a quote of Dr Cleopatra Dambisa, Head of the International Labour Standards, given in July 2007 in Harare, Zimbabwe.

I will start by describing the term domestic worker as this will help me in the analysis of my data. Section 3 of the Labour Relations (Domestic Workers) Employment (Amendment) Regulations 16 (Statutory Instrument 99 of 2006) defines a domestic worker as a person employed in a private home to render services as a yard worker, cook/housekeeper and also child minder. The regulations also go further to specify the duties of a house keeper which include cooking, housekeeping, food preparation, dish washing, laundry and ironing. It is worth noting at this stage that the duties of a house keeper do not include child minding. Child minding involves looking after a child and this is part of the work of a person who is employed as a domestic worker. The focus of my research was to look at the girl child between the ages of twelve and fifteen who is employed as a domestic worker. It was therefore necessary to examine the working conditions of these girl children, to look at the law and how it protects the said girl child and also whether the employment of these girl children as domestic workers is pure exploitation or whether there is a benefit that is derived by the family and even the children.

For the purposes of this study a child is defined as a person under the age of sixteen and also includes an infant. This definition is in the definition section of the Children’s Act Chapter 5:06. Section 81 of the Constitution of Zimbabwe defines a child as every boy and girl under the age of eighteen years. However for the purposes of this research I will adopt the former definition of a child. The reason I have narrowed my research to the girl child between the ages of twelve and fifteen is that in terms of the Labour Relations (Employment of Children and Young Persons) and the Children’s Act the employment of children between this ages ranges is prohibited. My target group for the research was the girl child between the ages of

twelve and fifteen who is employed as a domestic worker in the Budiriro suburb of Harare so wherever the child is referred to in this write up I will be referring to a girl child who is employed as a domestic worker between the ages of twelve and fifteen years.

The reasons why girl children are employed as domestic workers in the home to do work that can easily be done by adults vary. Dube (1998: 96) stated that most people prefer to employ girl domestic workers mainly because: firstly, they take orders easily, they are cheap, hard working, easy to control, teachable, more docile than the older females and their boy counterparts and they are compliant. One writer in Uganda, Ssemanda, also stated that girl children are indeed easy to control, easy to give orders to and are even more compliant and hence most employers prefer to employ them.

## **1.2 Background of the research**

The reason I choose to carry out this research is that ever since I remember I have always wondered why girl children as young as twelve years who are supposed to be at school are being employed as domestic workers which job was in my own opinion a preserve of adults. The conditions of work of these girl children are appalling and most of the time I have noted that they do the same work that is done by their adult counterparts and also work for the same hours that adults work. Indeed there is a legal framework that seeks to protect the exploitation of these girl children between the ages of twelve and fifteen but the effectiveness of these legal frameworks leaves a lot to be desired.

The need to have a deeper understanding of the working conditions of these girl children and how the law protects them increased my anxiety to look deeper into this topic and the research helped me to understand better the predicament of these girl children between the ages of twelve and fifteen. I therefore embarked on this research to interrogate the lived realities of these girl children who are employed as domestic workers. The reason I undertook the research in the suburb of Budiriro is that I have lived and grown up in this area and have come face to face with the situations under which these girl children work and also I have an understanding of the area and thus it was not difficult for me to move about and carry out my research.

### **1.3 Statement of the problem**

In the year 2007, according to the United Nations Children's Fund Report (UNICEF), 13 per cent of Zimbabwean children are engaged in child labour and the exploitation of these children takes place despite the fact that there are a number of legal frameworks to safeguard them against the said exploitation. The actual figures of the children who are employed as domestic workers are difficult to state in this paper and prior research has said this is because of the location of the workplace which is the private home and most of the children live with and work for their relatives and thus they are regarded as part of the family and not domestic workers, yet the truth is most likely that these children are domestic workers in the strictest sense of the word.

In 1996 the International Labour Organization estimated that there were 250 million workers in the developing world, the proportion represented by child domestic workers was not known but estimated to be very high. The same report also estimated that domestic work is the largest employment of girls less than sixteen years in the world.

In Zimbabwean society and indeed in many other societies the children in a family are expected to help in the day to day chores of the family and in some instances to help to support themselves and the families by working for an income. In recent years due to poverty and the scourge of the HIV/AIDS pandemic, many children have become full time workers and children can no longer depend on adults for their livelihood. In some instances children are taken to live with their relatives or even distant relatives. According to Ssemanda (above) these children are supposed to do domestic work in return for food and shelter and also sometimes for education. The overriding issue therefore is that a child is seen as a commodity whereby their services are exchanged for money although the relationship is characterized by exploitative tendencies in most cases.

The girl child between the ages of twelve and fifteen who is employed as a domestic worker is usually invisible and thus suffers in the private domain in which she is employed. This research will look at issues that although the girl child is exploited left, right and centre when there are employed as domestic workers, there are many benefits that accrue to the family and the said girl child in the form of income, food, shelter and other benefits that accrue by virtue of the child being employed as a domestic worker. Child domestic workers in Zimbabwe

work in a job that is dominated by adults and the conditions of work that they are exposed to are almost similar to those of the adult domestic workers and there are no legislative provisions that protect the girl child who is employed as a domestic worker. The existing legal framework is not adequate and does not properly protect the domestic work in general and this together with the invisibility of the girl child domestic worker makes her vulnerable to abuse and exploitation by her employer.

#### **1.4 Objectives of the research**

The objectives of this research are as follows:

- To investigate whether the girl child between the ages of twelve and fifteen who works as a domestic worker is being exploited by her employers and parents.
- To further investigate whether the girl child benefits from this employment and how a balance can be struck between the needs of the said child, the parent and/or the guardian and the employer.
- To analyze the legal measures and frameworks and also non-legal strategies that are in place to protect the girl child who is employed as a domestic worker.

#### **1.5 Research assumptions**

- Girl children between the ages of twelve and fifteen are employed as domestic workers in the Budiro suburb of Harare.
- The girl children who are employed as domestic workers are exploited by their parents and employers.
- Harsh economic conditions have forced parents and guardians to find employment for the said girl children between the ages of twelve and fifteen to work as domestic workers.
- The girl child between the ages of twelve and fifteen who are employed as domestic workers are underpaid or not paid at all and their salaries are used by their parents for their sustenance.
- Girl children who are employed as domestic workers are school dropouts.



- Children's rights organisations do not focus on issues of girl children between the ages of twelve and fifteen who are employed as domestic workers.
- The girl child between the ages of twelve and fifteen who are employed as domestic workers work for long hours and in situations that are harmful to their well being.
- Employment of the child girl between the ages of twelve and fifteen as domestic workers is illegal.
- Parents and guardians are the ones who look for employment for the said girl children to work as domestic workers.

## **1.6 Research questions**

- Girl children between the ages of twelve and fifteen are employed as domestic workers in the Budiro suburb of Harare.
- The girl children who are employed as domestic workers are exploited by their parents and employers.
- Harsh economic conditions have forced parents and guardians to find employment for the said girl children between the ages of twelve and fifteen to work as domestic workers.
- The girl child between the ages of twelve and fifteen who are employed as domestic workers are underpaid or not paid at all and their salaries are used by their parents for their sustenance.
- Girl children who are employed as domestic workers are school dropouts.
- Children's rights organisations do not focus on issues of girl children between the ages of twelve and fifteen who are employed as domestic workers.
- The girl child between the ages of twelve and fifteen who are employed as domestic workers work for long hours and in situations that are harmful to their well being.
- Employment of the child girl between the ages of twelve and fifteen as domestic workers is illegal.
- Parents and guardians are the ones who look for employment for the said girl children to work as domestic workers.

## **1.7 Demarcation of the study**

I carried out my research in Budiriro Suburb of Harare which is a high density area situated north-east of Harare. The suburb is mostly occupied by low to middle class earners and most of the people who live in the suburb live in rented accommodation with an average house having a minimum of three to four households. Most of the people in this suburb are in formal and informal employment and thus the need for a helper or a domestic worker to do the domestic chores while the employer goes to work. In almost every household that has a domestic worker I observed that the main duties of the domestic worker were to look after children and also to do household chores.

Most of the respondents indicated that the need for someone to look after infants and young children is the pull factor that causes people to have domestic workers otherwise people will prefer to do the domestic work by themselves as this has the effect of cutting costs. Most of the girl child domestic workers are live-in domestic workers meaning that they live with their employer in one house and share the same accommodation. I chose to carry out the research in this area mainly because I grew up in the area and thus it was easy for me to locate the respondents and also get leads from the people in the area whom I know. Locating a girl child in domestic work in any other area was going to be difficult for me thus I choose a location with which I am familiar. I managed to interview the girl children who are employed as domestic workers, the employers, the headmasters in the area and the general members of the public that had knowledge or were familiar with the topic. I also carried out my research in the Harare's Central Business District where most of the respondents were official respondents.

The first chapter has outlined the background of the research, objectives of the study, scope, assumptions and research questions that informed this study. The second chapter will deal with reviewing the law and other literature that has been written with regard to the issue of employment of the girl child as a domestic worker. Chapter three will deal with the methods and the methodologies that were applied in the field and during the course of the research. The chapter that follows thereafter deals with the findings and analysis there of the data that emerged from the field. Chapter five is the conclusion chapter and also contains some recommendations based on the findings.

## **CHAPTER TWO**

### **2.0 LITERATURE REVIEW - ANALYSIS OF LEGISLATIVE, POLICY AND CONSTITUTIONAL FRAMEWORKS - COMPLIANCE WITH INTERNATIONAL HUMAN RIGHTS FRAMEWORKS**

#### **2.1 Introduction**

There has been a lot that has been written about the issue of the employment of the girl child as a domestic worker. There is much local and international legislation that has been put in place to try and protect the rights of these children and the focus of this chapter will be to look at the Zimbabwean law and see whether it adequately protects the right of the girl child and whether it conforms to the international legal benchmarks. In Zimbabwe the girl child has often been employed in the informal market where they work in the domestic arena to clean and care for the children usually at very low wages which are below the minimum rates. The girl child has been looked down upon in our African culture and has always been looked at as a second class citizen. The female species has been considered as ‘the other’ and the man as the superior being. This has contributed to the fact that worldwide more girls and women are employed in the non-productive sectors of society which are not paying than their male counterparts.

According to Reynolds (1991:16), domestic work is essentially the work of females and the work of males within the home area is more defined and is accomplished within limited times. This essentially means that domestic work has remained a career more for female as opposed to male employees. This might also be the reason why no male children employed as domestic workers were seen during the course of the research although the various individuals interviewed indicated that this was probably because there was no space for them to work in. The officials from the Allied Domestic Workers Union confirmed that it is not very common in Zimbabwe to see a boy child being employed as a domestic worker.

According to Busia (1991), domestic employment has been in existence in Africa since the Colonial period. Empirical evidence at hand shows that as early as the 1930s white settlers would employ native and unmarried girl children from their rural home and poor homes to

work as domestic workers in their homes (Dube, 2000:26).The same author at page 96 indicated that the gendered implications of their choice of females as opposed to male workers comes in the context of the reasoning behind this action. The said white settlers claimed that as domestic workers, the girls are cheaper and easy to work with and that they are more easy to control than boys.

## **2.2 National legislation and international instruments**

There are many international and national legal instruments that protect and govern the rights of a girl child who is employed as a domestic worker. The girl child who is employed as a domestic worker is a disadvantaged member of the society and her rights as expounded in the national and international human rights instruments are not respected. There are no clear legal enforcement measures to ensure that her rights are respected and/or adhered to in the local Zimbabwean context. A girl child who is employed as a domestic worker is denied many rights.

## **2.3 The basic norm guiding the legal position of the child in both international and Zimbabwean law**

The Convention on the Rights of the Child is the document regulating the legal position of children in international law. The Convention sets out the standards for the treatment of children in all aspects of his life and I will look at the Convention in as far as it relates to the girl child aged between twelve and fifteen who is employed as a domestic worker. Article 3 of the said Convention clearly states that:

‘in all actions concerning the child, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be the primary consideration.’

This article is the normative basis concerning children in international law. The African Charter on the Rights and Welfare of the Child also reiterates that in cases involving the minor child the best interests of the said child is of paramount importance. The Constitution of Zimbabwe provides for rights that accrue to every child in Zimbabwe and also enunciate that the best interests of the child are of paramount importance. This proviso on the best interests of the child needs to be captured in the Children’s Act. At this stage it is important to bring the major objective of the study into perspective and that is the issue of the

employment of children between the ages of twelve and fifteen as domestic workers. Is it in the best interests of the girl child to be employed as a domestic worker? And, what are the rights of the child that are being violated by the employment of the girl child as a domestic worker?

## **2.4 The right to education**

In Zimbabwe the right to education is a constitutionally guaranteed right. A child's right to education is also set out in the Convention on the Rights of the Child (called 'the CRC') which clearly states that state parties shall recognize the right of the child to education and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

- 'a) Make primary school compulsory and available free to all;
- b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and make appropriate measures such as the introduction of free education and offering financial assistance in the case of need;
- c) .....
- d) .....
- e) Take measures to encourage regular attendance at school and reduce the dropout rates.'

The African Charter on the Rights and the Welfare of the Child also clearly states that every child shall have the right to education and it also puts a duty on state parties to provide free and compulsory basic education and article 11(3)(e) of the Charter states that the State should take special measures in respect of female and gifted and disadvantaged children, to ensure that they have equal access to education for all sections of the community. The ACRWC actually recognizes that the girl child actually starts off in life as a disadvantaged child. Article 10 of the Convention on the Elimination of all Forms of Discrimination against Women clearly provides that the state shall take appropriate measures to eliminate against women in order to ensure them equal rights with men in the field of education. This clearly puts an obligation on the state to ensure that women and men have equal access to education. The state should not leave this obligation to access to education to the parents, especially

when it comes to the provision of the requisite resources to attain the required educational levels.

The Education Act of Zimbabwe does not guarantee that every child should attain a certain educational level and the state has no obligation whatsoever to provide resources so that the girl child is educated. The Education Act of Zimbabwe is not in compliance with the ACRWC. The obligation to educate children in Zimbabwe falls on parents and not on the state. This is probably the reason why there are so many girl children dropping out of school. The state does not have in place measures to ensure that the girl child who is disadvantaged has access to resources and especially the financial resources to go to school.

Section 27 of the Constitution contains its founding principles and values including a provision for the basic education of all children and section 27(2) places an obligation on the state to promote free and basic education for children. This is in compliance with the international human rights obligations put upon the state by the two human rights instruments discussed above. Boys and girls are also to attain the same educational qualifications and no person should be given preference over another.

This is a very important provision of the Constitution as it promotes equality between the boy child and the girl child in a country whose culture is that the boy child is given the preference in education over the girl child whenever resources are scarce. If this provision is put into practice it will ensure that the girl child and the boy child are given equal opportunity to learn. The state is called upon to provide sufficient resources to ensure that every child has access to education. The state should not only put resources in place but also policies that ensure that every child has access to education.

Lack of resources and poverty are the main causes of the girl child dropping out of school to get employment as a domestic worker. This is a situation that can easily be avoided by the government supplying requisite resources. However, this is still a mammoth task in Zimbabwe considering the melt down of the economy and the issue of the country's resources being invested in areas that are more to do with the security of the state than in social and developmental areas like education. The government's failure to provide adequate resources for education means that parents are left with this responsibility which they are also

failing to fulfil and thus at the end of the day the girl child suffers and ends up doing domestic work in situations which are sometimes harmful to their well being.

Section 75 of the Constitution of Zimbabwe states:

‘Every citizen of Zimbabwe and permanent resident of Zimbabwe has the right to-

- a) A basic state funded education, including adult basic education; and
- b) Further education, which the state, through reasonable legislative and other measures must make progressively available and accessible.’

This right to education is guaranteed to every citizen of Zimbabwe and also a permanent resident of Zimbabwe. This constitutionally guaranteed right might remain a pipe dream to the people of Zimbabwe if the Government does not put in place enough resources to make it a reality. For a child to be admitted into school they need school uniforms and other ancillary requirements for school and the duty to provide these basic needs also falls on parents. The parents might fail to provide these necessary educational needs and this will keep a child out of school. In terms of the Constitution, the state has an obligation only to provide basic state funded education and the obligation for further education is put on a third party who is usually the parent and or the guardian.

Article 27(4) further states:

‘The state must take reasonable legislative and other measures, within the limits of the resources available to it, to achieve the progressive realization of the right set out in subsection.’

The State as per this provision should move in to provide sufficient resources so that this right is realized. The political will of the state is the overriding factor as far as the provision of further education for the girl child is concerned. This section should have used the word ‘shall’ which is not discretionary as the current wording means that government can renege on the provision of education using the simple reason (or excuse) that there are no or sufficient resources available for education. Education should be mandatory for every child. The right to education is a universally guaranteed right which every child is entitled to

receive and the girl child employed as a domestic worker cannot be excluded from this. The Constitution of Zimbabwe guarantees education to every child. What can be asked is whether the Government has been able to meet its obligations under its international obligations and also its own statutes. The answer is a clear 'no' as there is clear evidence to the contrary. Girls from poor backgrounds and families are continually being employed as domestic workers and are out of school in breach of the clear provisions of the international and domestic legislation. Although there is an obligation placed on the parents to ensure that they send their children to school this obligation remains a mammoth task for some parents as the economy continues to decline and some parents choose to have their children sent their children to get employment as domestic workers mainly as a means of survival for the family and the girl child.

The important aspect in the two international human rights instruments mentioned is the need to send children even for vocational training so that they get the requisite skills for life empowerment. This is an important area of empowering the children and especially the girl child. The girl domestic worker is also counted among disadvantaged members of society and thus there is need for the state to ensure that they get an opportunity to receive education. If a girl child is denied the opportunity to get education there is a risk that they might be trapped in poverty for their entire lives.

If a girl child is not educated but confined to doing domestic work as a domestic worker then it means there she suffers a reduction in her personal development and will also lack knowledge and skills. Because of her lack of education and full time commitment to doing household chores, a girl domestic worker becomes exclusively prepared for marriage, childbearing and rearing (Bourdillon, 2006). According to the same author, without the knowledge, broader horizons and experience of social interchange imparted by school-going, her sense of identity remains imprisoned in her servant persona. This might not be the case for every domestic worker. Education enlightens a person and this makes for a better future, unlike the situation of a girl child who simply graduates from an underage domestic worker to an adult domestic worker. The duty is upon the state to make a reality the provision of universal education for all. The Government of Zimbabwe has tried to provide free education for all the disadvantaged children in society through the Basic Education Assistance Module Plan. However, this programme has inadequate resources and might be inaccessible to the girl child who is employed in a private home as a domestic worker. The law should make it



compulsory for every girl child to attain secondary education and there should be practical measures to attaining this goal. Although a girl child might be employed as a domestic worker they should be given the opportunity to go to school possibly in the form of night school.

One possible solution to make it possible for a girl child who is employed as a domestic worker to attain education is for her to perform domestic work in return for education. These are social arrangements that are common in our African culture and are advantageous in that they allow a child to attain education. This might ensure that a girl child who might not have the opportunity to go to school does not miss on her right to education. In one of her articles, Ssemanda had this to say about social arrangements where a child does domestic chores in return for education:

‘the reciprocal arrangements where a child benefits from education while engaged in the performance of domestic duty offers a middle position which allows unperceived the value of performing domestic work while at the same time recognizing the right of the child not to be subjected to harmful practices and or harmful activity. Surely where a child is able to access formal educational institutions while helping out with domestic chores, the rights of the child to education, health, shelter and clothing are being realized. In fact the best interests of the minor child standard is being met.’

However, the question to ask here is whether all these arrangements work in the best interests of the child. This position does not apply to all situations and thus there is a need to look at each situation in its own unique context. While these social arrangements may indeed help the child domestic worker to attain the rights to education which they might otherwise have missed out on because of the poverty of their parents, if not checked or monitored these social arrangements may cause the exploitation of the vulnerable girl child.

## **2.5 Prohibition against child labour and exploitation**

Article 32 of the Convention on the Rights of the Child lays down the principle against the practice of child labour. The article states:

‘State parties shall recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral and social development.’

The said article then places an obligation on the state parties to put in place legislative, administrative, social and educational measures to implement the article. The state parties are urged to set minimum wages for employment and appropriate regulations for the hours and conditions of employment and to impose appropriate penalties to ensure the enforcement of the present article.

Section 11 of Zimbabwe's Labour Relations Act Chapter 28:01 clearly stipulates that a person under the age of fifteen years but not younger than thirteen years may perform work other than that referred to in section 11(4). Work that is referred to in subsection 4 is work that is likely to jeopardize that person's health, safety or moral well-being, which work shall include but not be limited to work such as maybe prescribed. Anyone who breaches the provision of this section is likely to be prosecuted.

The Labour Relations (Employment of Children and Young Persons) Regulations of 1997 ban the employment of children under twelve years whilst children between the ages of twelve and seventeen can only be hired for a maximum of six hours a day for 'light work' and only during school holidays. The same Act states that the employment of anyone under the age of eighteen years during the school term shall be with the express authority of the Labour Minister. The regulations do not define what is meant by 'light work' and this means that each individual define what is meant by 'light work' differently and this may also expose a girl child who is employed as a domestic worker to abuse.

The child domestic worker who is between the ages of twelve and fifteen is prohibited by law from working as a full time worker and if the child is employed as a full time domestic worker then the express authority of the Minister has to be sought. Due to the invisibility of the work of the domestic worker it is very difficult to enforce this legislation. This piece of legislation is confined to paper and lacks any mechanism to enforce it. The situation prevailing on the ground is different from the proviso of the international human rights instruments and the local Zimbabwe legislation. Children are working for long hours, some as much as 12-15 hours a day, yet the Labour Relations Act states that the maximum number of hours that any person is to work a day is eight hours. In terms of the Labour Relations (Domestic Worker's Employment) (Amendment) Regulations, Statutory Instrument 99 of 2009 the minimum wage for domestic workers as gazetted by the government is between

US\$85 and US\$100. There has been no revision of these wages since then despite the fact that the Domestic Workers Regulations states that the minimum wages for viewed yearly. The said minimum wages for domestic workers were last reviewed in 2009, four years ago. Despite the setting of the minimum wages for domestic workers the trend amongst, if not, all employers of girl child domestic workers is that they pay them amounts that are below those set and gazetted by the government. These are all pointers to child labour and economic exploitation of the girl child.

However, what has to be looked at is whether the employment of the girl child as a domestic worker is child labour. Lowenson (1991) states that child labour is not the brief involvement of children in work to support a structured school programme. It is not children helping their own family with domestic work for a relatively brief period in the day. It is the premature involvement of children in adult forms of labour, working for long hours usually under harsh conditions. Children are often deprived of meaningful educational and training opportunities. Some authors have indicated that the employment of the girl child as a domestic worker constitutes the outright exploitation of the girl child and should be banned. The said people who advocate the banning of child labour do not look at other factors like the benefit that the girl child has from being employed as domestic workers.

Firstly, some benefit from the education that they could never had in cases where the girl child works in return for education, other families are being sustained by their girl children who are in domestic work otherwise they could die of poverty and other girl children have benefited from even nutritious food that they get from the food they have at the homes in which they work. And some of the employers are not evil and actually take good care of their girl child domestic workers and therefore it cannot be referred to as child labour and exploitation of the girl child unless and until there is proof of such exploitation. There are obvious benefits that accrue to the child and to the family of the girl child whom is employed as a domestic worker. What is needed is power to access each case on its own and the legislature should put in place tight measures for the protection of the said girl child. According to Bourdillon (2006), the outright banning of the employment of the girl child as a domestic worker might have negative repercussions for the child and/or her family. He indicated that the outright banning should be accompanied by a programme designed in consultation with the affected children and their families to ensure that better options are available.

## **2.6 The international labour conventions**

The Convention on Night Work of Young Persons (non-industrial occupations), ILO Convention C80 of 1946 and C171 of 1990 require that member states adopt appropriate legislative and administrative measures to prohibit and restrict night work of children and young persons. These conventions also cover children who are engaged in domestic work and the girl child domestic worker is also covered. This will go a long way in addressing the plight of the girl child domestic worker as most of the girl children who are employed as domestic workers are live in and usually they are on call for duty twenty four hours a day and this includes during the night. At its inception the 1973 ILO Convention on the Minimum Wage and Recommendations No 146 excluded domestic workers from its application. It was only upon revision in 1973 that domestic workers were included in its application. This Convention clearly states that the minimum age for admission to employment or work shall be not less than the age of compulsory schooling and normally this age is sixteen years. Zimbabwe is a signatory to this Convention but a number of socio-economic factors have hampered the application of the provisions of this convention and although the girl child domestic worker is protected by the proviso of this convention it exists only on paper and it is yet to become a practical reality.

## **2.7 Conclusion**

In conclusion, I would say that to a large extent the legal framework for the protection of girl child who is employed as a domestic worker is available internationally and in our national legislation. However, what has to be looked at is the practicability of the legal framework in light of the empirical evidence that was gathered on the ground.

## **CHAPTER THREE**

### **3.0 METHODOLOGY AND METHODS**

#### **3.1 Introduction**

This chapter will seek to give an outline and also analyze the research methods and methodological frameworks that I employed in the research. When I started the research I was well aware that one methodological approach would not be sufficient to bring out the required information. In order for me to come out with a clear picture of the plight of the children who are employed as domestic workers and whether the legal framework in the country adequately protects the child who is employed as a domestic worker I employed the following methodologies: the women's law approach, gender and sex perspective, grounded theory approach and actors and structures approach.

This chapter will mainly look at the experiences of the girl child who is employed as a domestic worker in the suburb of Budiriro. The methodologies used wherever possible will be explained and expounded as well as how the methodologies relate to the findings and their significance.

The research methods that I used in this research include in-depth interviews, key informant interviews, one focus group discussion and desk research from the library. As I go through this chapter I will endeavour to explain the research methods and methodologies in theory and further explain how I used the methods and methodologies to shape and augur my research approaches. This chapter will also contain the delineation and overview of the research area and the research sample.

The bulk of the field work in this research took place in the Budiriro area of Harare. The research was specific and focused on a single area. However, further interviews were conducted with key informants in the Central Business District and other areas of Harare. The approaches and methodologies employed were influenced by a number of factors. Firstly, domestic workers work in the home arena which is a private place and thus very difficult to access. I had to use other people who would be known to these child domestic workers so as to be able to access them and the employment agent proved to be an important asset as he

provided me with the references and contact details of vital and important respondents. Another difficulty that I encountered was the location of the minor child who is employed as a domestic worker. There are many clandestine relationships that exist between the girl domestic worker and the employer. For example, in some instances the employer would claim that the girl child was their relative yet the truth was that the said child was their domestic worker.

According to Leedy (1981), a methodology is an operational framework within which the facts are placed so that their meaning maybe seen more clearly. Research methods refer to how the information was collected.

### **3.2 Research design**

The research design was mainly based on my active field research. The field research was done in the Budiro suburb of Harare. The ultimate goal in the research was to find out the working conditions of the girl child domestic workers. It was imperative for me to hear the voices of the girl child who is employed as a domestic worker as this helped me to understand as far as I possibly could the girl child's lived experiences. It was also important to get information from the various players for example the Social Welfare Department, the labour officers and the police and get their views on the issues affecting the child domestic worker as they are also very important players. I also had to interview various members of society to hear their views on the topic. All in all this assisted me to get the requisite information of the plight of the girl child who is employed as a domestic worker.

### **3.3 Methodologies**

#### ***3.3.1 The women's law approach***

This research was about the girl child who is employed as a domestic worker and thus it was necessary and imperative for me to use the women's law approach. The women's law approach is concerned with the women's lived realities being the point of departure in the study of women and the law. This approach involves the gathering of empirical data of the women's lived realities from their own perspective and its relationship with the law. The women's law approach allowed me to examine the socio-economic realities in the employment of the girl child as a domestic worker.

Firstly, I had to interview the girl child domestic worker to see and establish whether they are exploited in their employment and their working conditions in the home. After obtaining this data I had to look at what the law provides and measure it against the lived realities of these girl children who are employed as domestic workers. Firstly, I realized that the law prohibits the employment of the girl child as a domestic worker. The lived reality was that many girl children are employed as domestic workers despite the law prohibiting such a practice and that there are many factors that contribute to the employment of these girl children as domestic workers which are beyond the confines of the law. I then had to look at the various factors that cause the employment of the girl child as a domestic work from the point of view of and from the lived realities of the girl child and see how the law fails to take all this into account.

The law just puts up a red flag and bans the employment of the girl child as a domestic worker without taking into account the reasons for the practice. It also fails to provide the girl child who is the domestic worker with remedies and/or it fails to look at improving her conditions of employment as a domestic worker. This helped me to determine whether the laws adequately address the issue of the employment of the minor child and whether there are loopholes in the law because of the very fact that it fails to take into account the lived realities of the women.

### ***3.3.2 The grounded theory approach***

In order for me to establish whether the girl child domestic worker is indeed exploited during the course of her employment as a domestic worker I had to triangulate her experiences with the official data that I got from the official respondents. The grounded theory approach interrogates what is taking place on the ground as opposed to desk research. The grounded theory approach is described as an iterative process which facilitates continuous dialogue between the legal concepts, assumptions and the ever growing data base of empirical knowledge obtained from the men and women's lived realities on gender relations, local practices and norms (Bentzon, 1998).

I started to interview the domestic workers themselves and then went on to the key informants with the data that I had gotten from them to try and triangulate the data. From the field research I got information that the girl child is indeed employed as a domestic worker and that the relationship between the employer and the girl child employed as a domestic

worker is potentially exploitative and that the law is ineffective in protecting her against such exploitation. This was the position on the ground. I then had to go and check this information against that received from the key informants.

The position as far as this is concerned is that the law is very clear on paper on the issue of the employment of a child in any form of employment, whether as a child domestic worker or in any other job. This clearly showed that the position of the law and what is on the ground is different. The law clearly stipulates that it is the labour officers who are the people who resolve any disputes that may arise in an employee and employer relationship.

### ***3.3.3 The human rights approach***

The human rights approach was used as an approach aimed at establishing the international and the national legislation standards, obligations, protection as well as responsibilities. The human rights framework was used to assess whether the nation was using the international as well as its own legislation to protect the rights of the girl child who is employed as a domestic worker. While the girl child who is employed as a domestic worker has many rights which are enshrined in the various human rights instruments, the question is whether they have access to the remedies provided by these same instruments. The various rights that protect the girl child who is employed as a domestic worker exist only on paper and are not being implemented on the ground. The various human rights instruments were used to see how the position of the girl child who is employed as a domestic worker can be enhanced. This prompted me to visit the various government departments which deal with the issues of the employment of the girl child as a domestic worker and my main aim was to hear what they have to say and measure that against the relevant provisions of the international human rights instruments in order to gauge the extent of Zimbabwe's compliance. The unfortunate thing is that these structures do not look at the lived realities of the women but seek to apply the law as it is without taking various factors into consideration. Apparently there are no policies to take into consideration the issue of these children.

### ***3.3.4 The structures and actors approach***

Thereafter I applied the structures and the actors approach. The main actors influence the decisions made by the girl children. The main actors that I interviewed include their parents (because in most cases, they are the ones who send their children out to look for work as domestic workers and are the legal guardians of these girl children), employers and the police



who are the law enforcement agents and according to my research findings they are also the ones who most commonly resolve disputes between the employers and their girl child domestic workers. Every decision that is made by a girl child and on her behalf has a bearing on the parent. The employers are also very important actors as they are the ones who employ the minor girl children and determine the work relationship that they have with them. The structures that I looked at include the labour officers who deal with any labour disputes and the Labour Court, although the Registrar of that court indicated that they rarely or if at all deal with cases and/or appeals concerning any disputes between domestic workers and their employers.

### **3.4 Research methods**

Both qualitative and quantitative data collection methods were used. The main aim of the research was not only to get statistical data but also to capture the various experiences of the girl child who is employed as a domestic worker and her lived realities.

#### ***3.4.1 In-depth individual interviews***

In-depth individual interviews (one-on-one interviews) were carried out with the key informants who were the child domestic workers. The questions that I asked them were directed at getting the requisite information about their conditions of work and how they felt about being employed as domestic workers. The main reasons that I conducted the one-on-one interviews were that I needed to get firsthand information from these girl child domestic workers as they were the subject of the research and thus their contribution was very important. In some cases I would actually visit them at their workplace in order to see their workplace and interact with them there. The girl child domestic workers actually gave me further contacts with their other colleagues who are also employed as domestic workers. They helped me with the requisite information as far as their work was concerned and the data they gave and supplied me was very insightful and this led me to the next group of respondents who are the official respondents and the government officials that gave me the official information as far as the official position with regard to the employment of girl child domestic workers were concerned. The official respondents were able to give their recommendations and views although some of them believed in the straight-jacket application of the law without exception. I did not in any way use structured questionnaires in

my research. I would simply guide the interviewees towards the critical areas pertinent and critical to my research.

There were many difficulties in carrying out the interviews mostly with the girl child who is employed as a domestic worker. Firstly the employers were sceptical about the interviews as they did not trust the motive behind the questions and were afraid that I might influence their domestic workers. The other is that due to the nature of the place where the work is carried out it is difficult to know whether or not a child is a domestic worker as some people hide behind the fact that they are related to the child, when in actual fact the child is working as a domestic worker.

#### ***3.4.2 Focused group discussions***

The focused group discussion was held with a group of women at a local church in Budiriro. The focus group discussion added value to my research as I heard from a variety of people as to what they thought about my research. The respondents gave their personal experience on the issue of the employment of the girl child as a domestic worker and this provided me with information from a large pool of people.

#### ***3.4.3 Library and internet research***

This method helped me to obtain important and valuable information on the various human rights instruments, the domestic laws and the literature written on this topic by various other authors. Valuable and important information was obtained from the work that had been done by other scholars on the same topic.

### **3.5 Conclusion**

This chapter has given the theoretical perspective of the study and also the methods used in the study. I was able to get all the information I required using the above methods.

## **CHAPTER FOUR**

### **4.0 RESEARCH FINDINGS, DISCUSSIONS AND ANALYSIS**

#### **4.1 Introduction**

This chapter will focus on the findings from the field and link these findings with the problems that the girl child who works as a domestic worker encounters during the course of her employment.

#### **4.2 The girl child who is employed as a domestic worker**

The definition of a child as expounded above is that of a person between the ages of seven and sixteen and also includes an infant. For the purposes of this research the girl child domestic worker between the age of twelve and sixteen was considered. The research unearthed that girls between the ages of twelve and fifteen are indeed being employed as domestic workers in the Budiro Suburb of Harare. It is estimated about 90% of the world's child domestic workers are girls.<sup>1</sup> In terms of the research that I carried out in Budiro I interviewed ten girl children who are employed as domestic workers and their ages varied from fourteen to fifteen years. I did not interview any girl children below this age. However, children aged between twelve and thirteen years are rarely employed as domestic workers as they are considered too young to be able to effectively carry out the household chores and also look after the children in the home. The duties of a domestic worker normally include looking after young children who are usually young and not of school going age. So a child of twelve years is usually considered not to be able to do that. An employment agency whom I interviewed had this to say:

‘Most employers who employ girl children prefer to employ those who are from the ages of fourteen going upwards because those who are younger are not able to carry out their chores to the expectation of the employer and in most cases these are considered too young to be able to look after young children as this a one of the core duties of domestic workers.’

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<sup>1</sup> Survey carried out in 1997 by ILO.

From my own experience as a resident of Budiriro suburb only girl children are employed as domestic workers. This fact was confirmed during the research process although various reasons were given.

I had to use the gender and sex approach and I found this methodology useful and appropriate to analyze issues that arise from the fact that girl children are employed more often as domestic workers than their male counterparts. From the interviews I realized that most interviewees referred to the fact that most work done by domestic workers (be it performed by girl children or women) is work that is culturally ascribed to the female by our socialization and also our African and Zimbabwean culture. So it would not be possible to employ a male child as a domestic work as the duties that are carried out by domestic workers are more feminine and are social ascribed to females. This approach was important because it focuses on the cultural processes as regards the relationship between men and women and the work that they do in the household.

The numbers of the girl child that I interviewed during the research is by no means conclusive as I encountered difficulties during the course of the research because of the nature of the job. Firstly the nature of the job is such that it takes place in the seclusion of the private home and thus it becomes very difficult to detect and also most people who employ live-in girl domestic workers absorb them into their family and consequently their presence becomes difficult to detect. During the course of the interviews I came across a respondent who indicated that the girl child she was staying with was her niece and thus her relative but it later emerged during the course of the research that the two were not related in any way and that their relationship was purely that of employer and employee. This clearly shows that it is very difficult to detect girl child domestic workers because they are absorbed into the family of their employer.

The official respondents also gave a clue as to the prevalence of high numbers of girl children who are employed as domestic workers in Zimbabwe:

‘The employment of underage children as domestic workers is prevalent in this country and it would be a lie to say the contrary. The only difficulty that we have is coming out with an accurate statistics because of the invisibility of the said domestic worker. Employment of the girl child as a domestic worker is a problem that is encountered the world over and there is no solution at hand

and the figures that are given in the international and even local surveys of the prevalence of the employment of underage domestic workers is just but estimates.<sup>2</sup>

### **4.3 Exploitation of girl child domestic workers**

Due to her economic and social invisibility the girl child who is employed as a domestic worker is exploited. Among the many problems that the domestic worker faces are the long hours of work, heavy workloads, lack of privacy, very low salaries, inadequate accommodation and food, job insecurity and the lack of benefits that are granted to other employees and also the exposure to violence and abuse.

### **4.4 Hours of work and hazardous situations**

In terms of the Labour Relations Act (Chapter 28:01)<sup>3</sup> the time that any employee should be in employment is eight hours per day. Any time that a person works beyond the stipulated time shall be considered as overtime work. The Labour Relations (Employment of Children and Young Persons) Act<sup>4</sup> domestic workers regulations provide that a child shall be employed for a period of six hours a day in situation that is not harmful to their well being during school holidays and also that a child shall not be employed during the school term except with the written authority of the Minister of Social Welfare. In terms of the Labour Relations Act and the Domestic Workers Regulations there is a clear stipulation as to the number of hours that a person/child is permitted to work a week and in a day.

The average time of work that child domestic workers in Budiro work is between twelve and fifteen hours. A normal day for a domestic worker starts at five o'clock in the morning and ends at nine o'clock in the evening. This is the typical experience of the child domestic workers between the ages of twelve and fifteen in Budiro. There is rarely any time for leisure as the maid is supposed to be on call all the daylong and even at night. All of the girl child workers that I interviewed live in domestic workers meaning that they live with their employer in the same house. What this entails is that the child works and lives in their workplace throughout the entire duration of a twenty four hour day. One respondent had this to say:

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<sup>2</sup> Mr Gwena.

<sup>3</sup> 1997 ILO Survey on domestic workers.

‘When visitors came to visit during the night I am woken up to cook for them even if I am already sleeping no matter what time of the night it would be. My employer also always insists that I do the dishes even if I cook in the middle of the night. She does not take into consideration that I have to rest as well so that I wake up in time for the next day’s errands. She does not even allow me to wake up a little bit later should I sleep late. No compensation in terms of money or extra time is given for me rest to cover up for the extra hours of work. For me every hour is work time but I am used to this.’

The same respondent who is aged fifteen also had this to say:

‘Here in Budiro there are water problems. Water is only available during the night so what this means is that I has to wake up in the middle of the night to fetch water from the outside tap and fill the buckets in the house for the next day’s use. If I fail to fetch water during the night I would have to fetch it from the borehole which is very far and this entails me going more than ten times for the whole family to have sufficient water for the day and no one helps me with this errand the whole family.’

Upon further enquiry this respondent indicated that it usually takes her two hours to fill all the buckets for the household and that the water problem is a perennial crisis and thus this was actually a routine. So on top of the fifteen hours that this girl domestic worker works there are an additional two hours she spends when she wakes up to fetch water in the evening and thus this a total working day of seventeen hours. Although this sounds far-fetched it is exactly what is happening on the ground and these are the lived realities of the girl child who is employed as a domestic worker. With all these hours of work one would wonders when such a child takes a rest. I asked one of the respondents this very pertinent question and their response was:

‘I usually rest in between meals and work. I have devised strategies such that during the course of the day when the boss is away and the child is sleeping I also get time to sleep but when the madam is around and has not gone to work there is no rest as she has made it very clear that she wants value for her money and thus I have to be on my feet every second.’

When I asked one of the respondents whether she was comfortable with the long hours of work she indicated that she had no choice as this was work and her only means of survival. The above is the typical experience of most domestic workers and it is even worse for girls between the ages of twelve to fifteen. Domestic work involves doing chores and work around the house and for the family. This means that there are no defined hours of work. One only

rests after the work is done and usually to the satisfaction of the employer if it's in employment and to the satisfaction of the adults if it's in the family set-up.

The work of a child domestic worker is sometimes hazardous to their well being. For example all the child domestic workers that I interviewed had to cook for a big family and this involves the cooking in very big pots and on stoves that might tower over them. Anything can happen to the child which may include receiving electrical shocks, being burnt by spillage from the big pots with which they have to cook and in almost all cases the child maids did not receive proper instruction on how to use the electrical implements or other household tools. They just learn on the job and are usually shouted at when they make a mistake. These are duties that are too heavy for the young children's body. In the home the child is left to tend to other children in the absence of adults .This is another hazard that the girl child is being exposed to.

The long hours of work that the girl child work means that she is deprived of any time for leisure and recreation and also the time to interact with peers of the same age .This is important for the normal growth and developments of any child and the absence of this will mean that the child will miss a part of her development stage. The fact that the child has little or no time to rest may also contribute towards the alienation of the child from her parents and kin. In terms of Article 9 of the CRC to which Zimbabwe is a signatory a child is supposed to be in contact with her parents should she be separated from them. However with such a tight schedule of work with no time for leisure or even rest the child is not unlikely to see her parents. Two of the girl child interviewed indicated that she is only able to visit her parents in the rural areas during the Christmas holidays and she indicated that for the two years that she has been working she has been able to see her parents once and thanks to technology she is able to talk to her mother on the cell phone which she bought for them and she also occasionally calls because she does not have the resources.

One of the respondents had this to say:

'I am only given off days on Sundays but the employer forces me to attend the same church with her and she has assimilated me into her own religion which I is alien to me. I was born and bred in a white garment church but my employer forces me to attend her Pentecostal church. After church I will revert back to my daily errands so I cannot say I am being given any time off the work and

on top of that I am not allowed to go out of the house lest someone influences me with bad ideas. The other reason that my employer goes with me to her church is so that I can attend to the children whilst we are at church.’

This clearly shows that the girl child who works as a domestic worker works round the clock and has no time to rest and for leisure. The employers even go on to force young children into their own religion which may be alien to the said children. Every person has a right to religion which is a constitutionally guaranteed right. So the forcing of a child to go to the employers’ religious gathering is not only morally but also legally wrong.

The girl child who is employed as a domestic worker is also burdened with a heavy work load which is too great for her to cope with at her age. In terms of section 11(3) of the Labour Relations Act (Chapter 28:01):

‘A person under the age of fifteen but not younger than thirteen years may perform work other than work referred to in subsection 4’

Subsection 4 the said Act states that:

‘No employer shall cause any person under the age of eighteen years to perform any work which is likely to jeopardize that person’s health, safety, or morals which shall include but not be limited to work involving such activities as maybe prescribed.’

What this Act essentially states is that children should not be involved in work that is hazardous to their wellbeing. The girl child in the domestic work is made to do work that is hazardous to their well being. The girl child is made to do work that is beyond what they are capable of performing or reasonably expected to perform. However, in order to ascertain whether the girl child in domestic employment is being abused there is a need to determine the kind of work that is done by a normal child in a normal household and decide when that work crosses the line and becomes too much of a workload for the child. I think the standard to assess whether a child is doing more work than they ought is properly set out by Loewenson (above). As pointed out earlier, child labour is the premature involvement of a child in adult forms of work and this involves working for long hours usually under harsh conditions in the course of which children are denied the right to meaningful educational and training opportunities.



Any child in a normal household has to do some work in the family such as washing dishes, sweeping, laundry and any other housework. No family would accept an idle and lazy child who does not want to help with the household chores. However, what has to be established now is when work becomes too much for a child. During the research I discovered that all of the ten girls I interviewed who are employed as domestic workers were being made to do too much work. Typical examples will be of a girl aged thirteen who does work that is too much for her age. The work that she does includes doing laundry for adults, cooking and cleaning a seven roomed house. This workload is too much considering that it has to be done by a girl child who goes to school. She has to strike a balance between pursuing her education and doing her domestic chores.

According to an International Labour Organization journal (2003), employers consider that the level of skill and specialization required by domestic workers to complete the workers' tasks is low and so they have a tendency to systematically increase the number of chores to be performed. What this means is that there is no limit to the work that a domestic worker can do. Whenever they complete a certain task they are given another task to complete. This mentality of the employer tempts them give an ever heavier workload to their child domestic workers.

What increases the workload of these girl domestic workers is also the fact that in almost all of the cases the domestic worker has to look after infants and toddlers. In addition to the domestic chores the child worker has to do additional work. In terms of section 4 of the Labour Relations (Domestic Workers) Employment Regulations, 1992 (SI 72/1997) there has to be a separation between a child minder and a domestic worker who does household chores. During the course of the research I realized that the girl domestic worker does the household chores as well as look after the young children. A girl child who is employed as a domestic worker should know their job descriptions, meaning whether they are employed as domestic workers or childminders. This will enable them to bargain for their salaries and if they act as both child minders and also do household chores their salaries should be increased. In essence the work of most of the child domestic workers is double their normal loads and this also increases the time within which the domestic worker has to work.

#### 4.5 Low wages

The minimum wage that has been gazetted by the government for domestic workers in Zimbabwe is between US\$85-US\$100 per month. A minimum wage is the base rate against which a salary is determined to be low or well paid. The amount increases with the type of work that is done. A domestic worker who is a child minder earns a salary of US\$98 per month and there are other amounts of money that are paid for other expenses that are stipulated by the law such as transport allowance for domestic workers who are not live in with the employer and also housing allowance for domestic workers who do not live with the employer. Worldwide the field of domestic work is known to be lowly paid and most domestic workers earn below the minimum wage. The statistics that I got showed that all the girls employed as domestic workers are paid salaries that are below the gazetted minimum wage. The girl child employees earn an average of sixty dollars a month which amount is far below the stipulated amount. Most of the salaries are negotiated by the parents of those whose parents look for employment for them. One respondent had this to say:

‘My parents negotiated the salary that I was to get from the employer. I was not involved in the negotiations and the salary that was negotiated was too low such that when I got to my workplace in Harare my employer increased my salary for fear that I would be influenced by the others to run away from work when I realize I was getting peanuts. The amount of money that was negotiated between my parents and my employer was US\$40.’

There are many reasons that are proffered as to why the domestic workers are paid low wages. The first reason given is that the work they do does not require any expertise and thus there is no need to pay them decent salaries. This came through from a focus group discussion that I had with women from a church group. However, most of the work that women do in the home requires a lot of skill and attention. It should also be noted that girl child domestic workers play an important role in many families. They look after their employers’ young children while they go to work and this is especially the case for middle income earners who cannot afford to send their children to nursery school and they also lessen the work that has to be done by their employers, especially when their employers work during the day.

Another reason that was given as to why domestic workers earn very little money is because the employers themselves are paid low wages and thus cannot afford to pay their domestic

worker money above the minimum wage. Most of the employers of the girl child are middle class earners and some of them are informally employed and thus do not earn much.

‘My employer is a generous person and I think should she get more money she will increase my salary. She is a cross border trader and thus her earnings are minimal and she has explained this position to me. She indicated that once her financial status improves she will increase my salary.’<sup>5</sup>

This case shows a sad story of a girl child who is sympathizing with the employer without looking at her rights which are being trampled upon. The employers should just pay a person the commensurate salary with the work that has been done as not to do so is tantamount to abusing a child and also an employee’s rights. The parent who usually negotiates the money for their girl children are usually the beneficiaries of some of the salaries of the young girls and at the end of the day the child does not fully enjoy the benefits of their labour. According to Scylla and Charyd (2007), the work of the child as a domestic worker has helped to sustain poor families and thus the employment of these children as domestic workers has helped to sustain families. Some families have survived due to the income of the girl child who is employed as a domestic worker and thus those who advocate for the abolition and/or outright banning of employment of the girl child should not make a blanket argument about the abolition. This armchair approach might not be useful as it fails to take into account the benefits that the employment of these young children bring to their own families. Also each case has to be looked at on its own merits.

One typical case will be of a girl child aged fifteen years who is employed as a domestic worker. Although her job description is that of a domestic worker, she works in her employer’s tuck shop as a tuck shop attendant. Her salary is that of a domestic worker and she is regarded by her employer as a domestic worker. In terms of the law, however, her salary should be that of a shop keeper which is currently gazetted at US\$181 per month and she should also receive commensurate allowances. This is a case of exploitation of the girl child.

#### **4.6 Lack of privacy**

A domestic worker generally lacks privacy in the course of their employment. Usually for live-in domestic workers there is no privacy as most of the domestic workers share the

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<sup>5</sup> One respondent aged fourteen.

accommodation with the employer and thus there is surveillance of the domestic worker twenty four hours of the day. During the research I realized that most of the girl domestic workers share sleeping space with the children of the employer and in some cases the child domestic worker is made to sleep in the kitchen and or/on the floor while the children of the employer sleep on beds they share with the maid. This deprives the maid of her right to privacy.

This denial of visitors may prevent the scrutiny of the working conditions of the girl children's working conditions as visitors may pick up anomalies in the workplace and the working conditions of the child. The denial of the visitors for the girl child at her place of work is a problem as this is also the girl child's place of residence and thus any abuses that may take place there are protected from private scrutiny and also it is difficult to control what takes place in private homes. A survey carried out in Hong Kong by Heyzenet showed that 70.4 per cent of the domestic workers did not have their own room and were forced to share a room with the employer's children or to sleep in the corridor, the living room, dining room, storeroom, kitchen, laundry, ironing area or any other available space. This means there is no separation between the girl child and the employer and her day to day activities are monitored, thus depriving her of her much deserved privacy. This is also the case with girls employed as domestic workers in Budiriro.

#### **4.7 Job insecurity**

The domestic worker has no job security. This work has no security at all as it is mainly done the large number of unemployed people who have no qualifications for a large market of employers eager to employ them. This has mainly been caused by the shrinkage of the formal job market in Zimbabwe due to the economic meltdown. One of the respondents aged fifteen had this to say:

‘I cannot complain about the poor pay that I am getting because I fear that I might be fired from work and I desperately need the money that I am getting.’

This clearly shows that even if the domestic worker is abused they will not complain as they fear that they might lose their job and it is their only source of livelihood. In other words they suffer in silence. Of course there are legal remedies that are available should a person be arbitrarily dismissed from work. However does the girl child even know about such remedies

that are available to them and are they able to pay for the cost of enforcing them through litigation. This all contributes to the vulnerability of the girl child who is employed as a domestic worker as she is not able to raise her concerns as she fears the possibility of being victimized.

The issue of insecurity of the job is made even worse because usually (and in all the cases that I encountered) no contract of employment is signed between the employer and domestic worker. There are oral contracts that are entered into and in most cases the employer has the upper hand. It is difficult for the girl child to ask questions about what rights she might have if her employer breaches the contract or her general terms and conditions of employment. It is also very difficult for a child to negotiate good terms of employment lest they lose their jobs or they will not get the job at all. In some cases the contracts of employment for the girl child are entered into between the employer and the parents of the girl child.

#### **4.8 Exposure to abuse**

Abuse of the girl child who is employed as a domestic worker comes in various forms. These can be in the form of physical abuse, emotional abuse, sexual and any form of abuse. During the research however I did not come across any case of sexual abuse although the police officer I interviewed indicated that they sometimes have to deal with cases of sexual abuse of domestic workers although he did not give indications as to the age group that the sexual abuse was taking place. The most prominent cases that I came across were that of emotional abuse. One respondent who is aged fourteen indicated that the most emotional abuse that she experiences is from the children of her employer who treat her with cruelty. The employer herself is a motherly figure to the child. She indicated that two of the children are older than her and the other two are almost her age. The children make her do all the work on her own despite instructions from their mother for them to assist her with the household chores. The child felt the children were taking advantage of her because she is poor and vulnerable and this affects her emotionally. The children of the employer make her feel like an outcast and they make it very clear to her that she is only a maid and not a relative and thus she feels like an outcast. She is given orders by the child of the employer who is younger than her and this increases her sense of inferiority and makes her feel that she does not belong anywhere. The said child indicated that this makes her want to work hard and have a good life of her own.

Other cases of abuse that were unearthed during the course of the research include the girl child only eating her food after everyone else had finished eating and when she had put the child she was minding to bed. In one case the maid was the last to eat and her share of food was small. This might hurt the ego of a child who is still young and in the process of developing. This treatment of the girl child is a breach of her basic human rights as every human being has to be treated with the dignity that she deserves. And to add to that a girl child can be emotionally affected by issues like denial of education, leisure and contact with her family. These are issues the family has to take into account before they send their children out to work as domestic workers. Most families are not aware that their children are living in such appalling situations. These were the words of some social workers during the course of an interview:

‘The girl child especially those who live in with their employers are susceptible to most of these physical and emotional abuses.’

Stegmann (2003) stated that the constant denigration and neglect over long periods of time wears down children’s defence mechanisms and self-respect. One of the respondents indicated that the husband of her employer would assault her for any silly mistake and this only stopped after the intervention of the employer’s own grown-up children. One child also indicated she was always making mistakes in her work not because she was not able to do it but because of her fear of making mistakes and the fact that her employer always punished her for them. In addition, she always had to pay for the cost of any damages she caused (by deductions her employer made to her wages), e.g., whenever she broke a cup or plate or did anything that the employer deemed to have reduced the economic value of her property. These actions have the effect of damaging the self esteem and dignity of a child and this can seriously affect the development of a child. Here we have a child who is scared of making a mistake and in the process makes the mistake. This is one reason why a child should be not be employed as a domestic worker as the abuse suffered by the child far outweighs any benefits accrued in the course of such employment. These might cause permanent and long-term harm to the well being and confidence of the child.

#### **4.9 Exploitation by parents**

In Zimbabwe a child between the ages of twelve and fifteen should be attending school between the classes of Grade Seven and Form Four. Such children are by law supposed to be

under the care and guardianship of their parents or other appropriate care and the national law and international law places obligations on parents and guardians to provide and care for the children. In terms of article 20 of the Children's Act, parents and guardians have an obligation to look after their children. Is this article being complied with where girl children as young as twelve years are working as domestic workers? Can we say that the employment of girl children as domestic workers is exploitative? Or should we strike a balance between the gain derived and the exploitation suffered by children who are employed as domestic workers? In the International Labour Organization Journal (above) the author cautions people against taking an armchair approach towards the situation of children being employed as domestic workers. Such warnings are intended to stave off inflexible and moral judgments. The authors argue that the situation of each child has to be looked at separately so that a determination may be made as to whether that child is being exploited or not.

Firstly, girl children are exploited by their parents who make them work instead of sending them to school which is where they are supposed to be. In the situation of X,<sup>6</sup> the child was forced to work by her parents because they could not afford to pay her school fees and thus she had to drop out of school. Although she indicated that she was not very clever in school, her parents still had an obligation to send her to school or to a vocational college where she could be taught some skill and become empowered rather than sending her out to work as a domestic worker in conditions that are harmful to her well being. The child was not consulted about the job or about anything concerning her new job. Her parents made the decision on their own for their own benefit as they expected this child to send them money for the upkeep of the family.

This is a case of a girl child whose labour is being exploited and who is forced to work for long hours for a salary that is below the minimum wage. This child earns a salary of US\$70 a month against the gazetted salary of US\$98 per month. The parents are also benefitting from her employment as they also get some money from the child. It might be that the child's parents are indeed poor and that they have no source of livelihood but should their child be sacrificed for the betterment of the family? The parents are not concerned about the welfare and the working conditions of the child but about the eventual benefit that they get from the labour of their young daughter.

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<sup>6</sup> Respondent aged 15.

#### **4.10 Reasons for employment as domestic workers**

There are many reasons that cause the girl child to look for domestic work employment outside the home of their parents. The major reason of the girl child being employed as a domestic worker is that of poverty in the family. Most of the girls I interviewed came from poor backgrounds and some of them came from the rural areas where life is difficult and thus the only easy means of survival that is considered by the family is to find work as a domestic worker for the girl child. This type of employment is preferred because it does not require any form of experience and any one can learn on the job plus the work that is done in the home is an extension of the work that any child does in their household and only needs a bit of panel beating to suit the individual employer.

The other reason that causes a girl child to seek work as a domestic worker is that of being orphaned. One example is that of a young girl aged thirteen who had to leave her rural home to work as a domestic worker in return for education and shelter. This child was staying with her maternal grandmother who was old and unemployed and also not in a situation to send her to school. This was a good arrangement in as far as her future was concerned as she would get good education but in this particular case the child was not happy and would have preferred to live with her grandmother in the rural areas and find some other way of getting an education. This shows a case in which the parents and or guardians of child do not consider the feelings of their children before they send them to live in the homes of other people who are not their parents or guardian. The best interests of the minor child should always be the paramount consideration in everything. It is very difficult to measure what is best for the welfare of the child and the standard of what is the best interests of the child as parents always insist they know what is in the best interests of their child.

The other reason that causes the girl child to look for employment as a domestic worker is the insecurity in the home environment. One of the girl child domestic workers that I interviewed had this to say:

‘I ran away from home because my step mother was ill treating me at home in the absence of my father who works in South Africa.’



This clearly shows that sometimes the home environment may not be safe for children including the girl child. This causes them to run away from home despite the fact that the family might have all the resources to look after the child. Young children can also be swayed by the influence of friends to look for work as domestic workers. One particular respondent indicated she that she admired the life that her friend was living after being given her salary so she just decided to look for a job as a domestic worker so that she could earn her own money and spend it as she wishes. She wanted her freedom and money as her mother never gave her money to do as she wishes despite the fact that she also helped her in the home. This child was disowned by her parents who did not support the idea of running away from home. This child can easily be at the mercy of the employer should they know of this situation. A child in this situation might also miss the parental guidance that every child is entitled to by birth and also by law. The harsh economic conditions that are prevailing in the Zimbabwean economy has also contributed to many children especially the girl child dropping out of school for lack of resources to pursue employment and the easiest job to get is that of a domestic worker since the job does not require any qualifications, as has been discussed above. During the research I noted that most of the parents who fail to pay school fees for their girl children end up looking for jobs for them as domestic workers and the girl child will be expected to supplement the family income.

#### **4.11 Education of the girl child**

Very few children in domestic employment manage to go to school. From the research that I carried out only one out of the ten girls that I interviewed who are employed as domestic workers are in school. The other nine girls are school dropouts and not attending school. Most of the girls drop out of school after completion of Grade Seven and rarely go up to secondary school. Once a girl child has been denied education it means that she is usually bonded to eternal poverty and there is no way she can empower herself for the rest of her life. According to Michael Bourdillon (2009: 4), the vast majority of child domestic workers are deprived of education, thus ensuring their continual poverty. He further stated that a common complaint among the children who are employed as domestic workers is that they are not able to continue with their education.

Sometimes the children are able to combine their school work with their domestic work, as was the case of one domestic worker that I interviewed during the course of the research. It is

only after finishing the domestic chores that the child is allowed to go to school. She explained:

‘I have to work (*sic.*) up early so that I finish the domestic chores before school. If I don’t finish my household duties in time I will be late for school and teachers are usually not amused by late comers irrespective of the reason for coming late to school. Since I usually sleep late I find it difficult to wake up early in the morning.’

These were the words of one girl child employed as a domestic worker and she is aged thirteen years. Her school results are unsatisfactory due to the little time that she spends doing her school work as she has to combine work and school. This greatly impacts on the girl child’s right to education and also adversely affects her school grades. The domestic work takes precedence over the child’s school work and after doing the work the child is too tired to or has no time to do her homework to keep up with her classmates. This is an obvious disadvantage for the girl child and others might argue that the child is not very bright without taking into cognizance all the factors influencing the child’s life.

However, there are some girl children who actually think that it is better to work as a domestic worker than to go to school. The main reasons for their thinking are that because they believe they are not doing so well in school they also think that it will not be in the best interests of their parents to keep on investing in their education in the face of clear and obvious evidence that they are not likely to produce any meaningful results. Their parents could also send these children for vocational training but vocational training in Zimbabwe is expensive and beyond the reach of many Zimbabweans. One respondent actually indicated that she did not see any reason to continue going to school because she was always coming last in class and the best position that she ever came in her primary school was when she came second last in her class. This clearly shows a child who has no interest in school at all. It might be best for the child to go to work than to school but what has to be looked at are the conditions of the employment of the child and whether they are good for the well being of the said child.

Some have argued that domestic work prepares a child for securing a good husband in the urban areas especially for those who come from the rural areas and are school drop outs. The work of a domestic worker prepares them for being good wives who are able to carry out

their duties as a good wife. In other words performing domestic work prepares the girl child for later carrying out her wifely duties efficiently. This conforms to the African standard that for someone to be a good wife they must be able to do household chores properly. One of the girls indicated that the work that she is doing is a bridge to her later getting married. Her life only revolves around her domestic work and the need for marriage in the future and she rarely thinks beyond this and she had no interest whatsoever in personal development.

The headmasters I interviewed in Budiriro were of the view that there should be a transition between primary and secondary school so that children are not lost during the transition period due to lack of monetary resources. One headmaster actually indicated that the girl child is at a disadvantage when it comes to their education because the boy child is always given preference over the girl child when it comes to education irrespective of whether the girl child is better in school than the boy child. This is still happening in our modern day society. Some modern families still consider the girl child as 'the other' and the boy as the superior child despite the changes in modern society which dictate otherwise. The headmasters are of the view that the government should take an active role in ensuring that at least every child receives basic education up to secondary school.

The Constitution of Zimbabwe states that every child has a right to basic education. The Education Act states that the government should provide at least basic education for free and thereafter the burden falls on parents. The Government has introduced a programme called BEAM<sup>7</sup> to assist those children who cannot afford to pay their fees. This programme (according to the headmasters who were interviewed) does not receive adequate funding and targets very few pupils and also does not cover things like tuition which most parents fail to pay and thus the children are kept out of school. The children who benefit from the BEAM programme are chosen by the community, the school heads and teachers and also the local councillors. This programme has led to many loop holes and there are many cases of abuse in which intended beneficiaries were excluded from the programme. Those who can afford to pay their own fees were put on the programme. Other children at school may even lack basic necessities like shoes and uniforms and this might even prevent them from going to school.

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<sup>7</sup> Basic Education Assistance Module.

The majority of the girl domestic workers were primary school dropouts. In one focus group discussion that I held some of the participants were of the view that employers purposely kept their domestic workers from going to school because they feared that should they attend school and become empowered they could run away from their jobs in search of better paying ones. In other words they want to keep the girl child in eternal bondage and keep her ignorant of her rights which are enshrined in various protective legal instruments. The fact is, education will afford the girl child better opportunities in life.

The employers who are mostly female as in all the cases I came across during the research process do not want to empower the girl child lest they become empowered like their male counterparts. This is a case of a female employer ill-treating her girl employee. It is an extension of male dominance except that the power is wielded by one female against another to prevent her from empowering herself.

#### **4.12 Children's rights organisations**

There are many children's rights organizations in Zimbabwe. During the course of the research I had the opportunity to visit Girl Child Network and another organization called the Justice for Children Trust. These organizations clearly stated that they deal with any cases involving the breach of the rights of the children and in the case of the Girl Child Network they actually focus on the girl child. However, when asked what they were doing about the plight of the girl child who is employed as a domestic worker, an official from the Justice for Children Trust indicated that it is very difficult to take any positive action against the employment of children as domestic workers as parents and employers connive to send these young people to work in homes and any intervention will expose the child to the wrath of the employer and her parents. Also the job is undertaken in a private home which makes it a difficult place to access and also therefore very difficult to control what is going on. She also indicated that the collapse of the Social Welfare Department has also meant its failure to intervene in cases of abuse against children, especially those who work in private homes.

Fewer resources are now being channelled into child related programmes because of budgetary constraints. Should a child be declared to be a child in need of care they are usually sent to a children's home on the recommendation of the Social Welfare Department. These children's homes are in a sorry state of repair and are struggling to look after the few children

they already have in their care. So the question she asked is as follows, 'What is better: to leave the child in her place of work and advocate for better working conditions for her or to put her into an environment that is worse than where she was?' The Justice for Children Trust indicated there are mostly engaged with litigation and advocacy to champion the rights of the child but that they have never come across any case where the rights of the girl child in domestic employment are being trampled upon. They attributed this most likely to the fact that these girl children do not know how to enforce their rights or where to find help. The fact that they have not come across any cases of victimization of a girl child who is employed as a domestic worker does not mean that there are no cases involving such abuse.

The Girl Child Network is an organization that deals with the girl child's welfare in general. Officials at this organization indicated that their position is the ultimate ban of child labour, whether it be child labour in general or the worst forms of child labour. They indicated that it is very difficult to know what happens in a private home which is the place of employment of work for domestic workers and thus they only render assistance when such cases are brought to their attention and they depend on whistle blowing by members of the public where the welfare and well being of a girl child is at risk. The officer could only remember one case of a child they once assisted after she had been dismissed from work by her employer. This young child had not been paid her salary for six months and was about fourteen years old. The child indicated that she had nowhere to go and she had no money as her parents were in the rural areas. They took up the case and reported it to the police and gave the child shelter. Eventually she was given her salary and they facilitated the girl's reunion with her parents. The young girl only came to their offices after being referred to them by other people in the community.

From the discussion with the children's rights group it was clear that it is difficult to assist girl children who are hired as domestic workers when it comes to issues affecting their work mainly because of the location of their work place being in private homes where most of these children are kept out of public view and which makes cases of their abuse difficult to detect. The other issue that came from the discussion is that it is difficult to detect child domestic workers because of the foster arrangements that are made between their parents and employers. This is also the case where extended families make arrangements between themselves for their children to perform domestic chores in return for shelter and education. These social arrangements blur the difference that should be made between work in the home

and work as outside employment (Bourdillon, 2009: 1). The worst forms of child abuse take place in these social arrangements and yet it is difficult to control them and also there is the pretence that the child has become part of the employer's family when that is not in fact the case. This can be said of a young girl I came across during the course of the research who was working for a relative in return for being sent to school. The child was being made to do work that was too much for her at her age and this left her with little time to do her school work.

The Zimbabwe Domestic Workers Union which is an umbrella body for domestic workers also indicated that they rarely deal with cases involving girl children employed as domestic workers. They are concerned almost entirely with adults who are employed as domestic workers. He attributed this to the public and private dichotomy and the fact that most of these children do not know where to report their cases. He indicated that most employers of these minor children prefer to keep such children a secret and do not expose them to the outside world. This makes it very difficult to monitor the working conditions of these minor children.

An official from the Zimbabwe Domestic Workers Union had this to say:

‘Most of the labour activist will advocate for the complete ban of the employment of all children as domestic workers or even in most sectors of the economy. However, a narrow approach should not be taken as this might have long term consequences. Firstly for most children this is their only source of livelihood and forcing them out of the said work would cause abject poverty to some and if not to all of them. In order to ban domestic work the girl child support structures has to be put in place by the government to ensure that the ban will work or else there will be total chaos as some of the children might be forced to engage in some even dangerous trades like prostitution. What then has to be improved on is the working conditions of these children and the government has to put tentative structures to monitor the working conditions of the said children otherwise this abuse will continue as the children live in the private households of the employer.’

He gave an example of India where there was a complete ban of the employment of the girl child below the age of fourteen as domestic workers and in the catering industry. He said although the government of India enacted this law it was not very successful because it left an estimate half a million children out of employment and their situation was made worse because the government had not put in place any measures to sustain the lives of these young children in the absence of their abusive work situations. In essence what has to be looked at is

the practicality of the abolition of the employment of minor girl children as domestic workers.

#### **4.13 Law enforcement agents**

During the research there were some issues that emerged that I had not anticipated when I started my research. These will be expounded below.

##### ***4.13.1 Role of the police in resolving labour disputes***

During the research I realized that the police play a crucial role in the resolution of disputes between employers and their domestic workers and the girl child in domestic employment is no exception. The first person who led me to the police was the employment agent who I interviewed who indicated to me that most of the disputes involving domestic workers and their employees are resolved by the police and not labour officers as I had anticipated. He indicated that the police actually resolve these matters in an effective way and the most disputes that are dealt with by the police include the non-payment of salaries and unfair dismissals. The police wield great power in society, and hence they significantly influence the employer-employee disputes they resolve. The success rate of the police in resolving the disputes involving domestic workers and their employers was almost one hundred percent. This was the opinion of employment agent, Mr. Somerai. However, he said that some employers also take advantage of the corrupt elements in the police force and use them to victimize their domestic employees should they want to dismiss them from employment and this also includes cases involving the girl child domestic worker.

The public relations department is the unit in the police that assists employers and employees when they have disputes during the course of employment. The police officer whom I interviewed indicated that they play a crucial role in the resolution of disputes between domestic workers and their employers. This is not the core role of the police but they do it as a social responsibility to society. The police officer indicated that in terms of the law of Zimbabwe it is illegal to employ a child under the age of fifteen as a domestic worker and any person who does this can be prosecuted under the law. Thus whenever disputes involving these girl children come before them for resolution the first thing that they do is to tell the employer that employing a child of that age is illegal and that in itself is enough to put fear

into the said employer and usually whatever they resolve thereafter becomes binding because the employer will be afraid of being prosecuted.

Most disputes that come for resolution include unfair dismissals and non-payment of wages. Most of the people who employ young girls as domestic workers take advantage of their age and fail to pay them their salaries. The moment they ask about their salaries they will be dismissed and this is when the matter is usually reported to the police. He added that the reason that people prefer to come to the police for the resolution of their disputes is because the police are more visible to the public than labour officers and most people are not even aware that such labour officers exist. He further stated that their services are free which is not the case for other agents where a fee is charged and also involves the cost of travelling into the city centre to attend hearings. And just because a person can afford to launch a court action does not necessarily mean that their case will succeed.

The police officer also bemoaned the fact that people employ young children who do not have contractual capacity. Whenever a contractual dispute arises between an employer and a child domestic worker (most of whom are girls) the police always insist that the child comes with an adult.

This clearly shows the important role that the police play in society. This role clearly helps the girl child who does not have the resources to take their employer to court or even know where to find labour offices or the union to report the rampant abuse they suffer. The labour unions that assist domestic workers charge a fee for their services.

#### **4.14 Labour officers**

In terms of the laws of Zimbabwe if there is any dispute between an employer and an employee the first port of call to report that dispute is the Labour Office situated at the Makombe Complex in Harare. The labour officers indicated that in the course of their duties they rarely come across cases involving disputes between girl children who work as domestic workers and their employers. One of them said it would be prudent for the government to decentralize their offices as they did with the Department of Social Welfare which is located in almost every suburb of Harare which makes access to them very easy for people,



especially vulnerable employees like girl child domestic workers who are abused in private homes who believe they have no recourse to or protection of the law.

The labour officers indicated that even if they were to resolve these issues between girl domestic workers and their employers and even if the girl domestic workers won their cases, they (the officers) do not have any way of enforcing their decisions. They refer the cases to the Messenger of the Magistrates' Court or the Sheriff of the High Court for the enforcements of their judgments. It is highly unlikely that the girl children will be able to raise the money to pay for the services of the Messenger of Court or the Sheriff of the High Court which means that any judgment of theirs would become a *brutum fulmen*.

From the discussion with the labour officers the system of the law favours the rich meaning that the girl child remains without any remedy to her problems and this might be the reason why the girl child domestic workers seek to enforce their rights through the police.

#### **4.15 Social Welfare Department**

The Registrar of Social Workers, one Mr. Makalima Mlilo, explained as follows:

‘The rampant and increase in the number of children who are employed as domestic workers is because of the collapse in the social protection system. What this essentially means is that should there be a collapse in the social support system the children are the most vulnerable. Although domestic workers have been there since time immemorial it has increased in Zimbabwe in the recent years due to the collapse of the economy and most people have been left without any source of livelihood and thus the easiest job that is available is domestic work. This is usually a preserve of the female species due to our socialization that the duty to do household duties is a preserve of the women. It is illegal in Zimbabwe to employ children under the age of sixteen and people need to report to the law enforcement agencies any such abuse of children in any way and that the protection of children is everyone's responsibility.’

He took the approach that employment of children as domestic workers should be totally banned as it is against the law. When probed further he said the law is the law and should be observed at all costs irrespective of what society says. He argued that the economic abuse of children is illegal and an abuse of their rights which are enshrined in various relevant human rights instruments.

He closed his mind to the various benefits that can be derived from the employment of these children and especially to the family and even to these domestic workers themselves. During the course of the research I even realized that some girl children employed as domestic workers are not prepared to quit their jobs and go back to school or to their parents' homes. They indicated that life is better for them as domestic workers and they are able to sustain their poor families through their labour and that working for themselves as domestic workers improves their status in society and made into them better people, giving them the capability of buying nice clothes. One child domestic worker I interviewed stated:

‘Since I started workings as a domestic worker I have grown in stature and my skin texture has improved in quality.’

This shows some of the benefits she believed she enjoyed by working as a domestic worker. So in my opinion although it is illegal to employ girl children as domestic workers, in some situations a strict, inflexible armchair approach should not be taken, but rather a balance has to be struck. Each case has to be looked at on its own merits and domestic workers should not be treated as a homogenous group. The situation and working conditions of each child should be looked at separately.

#### **4.16 Social arrangements for children**

During the course of the research I came across a situation in which a girl child was put in the custody of a distant relative. The girl child would do domestic chores in return for food, shelter and education. The arrangement was made between the grandmother of the child and a distant relative. Upon being interviewed the distant relative indicated that the child's grandmother could not afford to send her to school and she was lonely and sick and needed someone to help her with the domestic chores and in return she would send her to school. Her own children had left home to start their own families and they were reluctant to let their own children live with her and thus this was the best way of finding someone to come and live with her.

However, the child was not happy with this arrangement and wished she could be returned to her grandmother in the rural areas. She did not see the benefits that she got from this arrangement and the neighbours indicated that child was not being well looked after. According to Ssemanda (2004), the arrangements made by non-relatives in the issue of *de*

*facto* guardianship of children tended to reflect the more narrow interests of the parents and the receiving family in terms of labour. The need and desire for a child's education is the main factor that influences these social arrangements. This arrangement might lead to a child realizing their right to education but what has to be taken into consideration in all these arrangements is whether the best interests of the child are being taken care of. In the particular case I have referred to the child was sometimes made to do work that was too heavy for her and the most important thing is that she was unhappy. Can a child's happiness be sacrificed for her education? The clear answer is no. The child missed her parents and she felt that she was being isolated from her grandmother and brother. This was definitely going to affect the child negatively in the long run.

#### **4.17 Employment agencies and their role**

Employment agencies play an important role in the employment of girl children as domestic workers. The employment agencies charge a fee for their service. These people are in business and are not worried about the conditions of service and or/the pay that the girl child receives. One respondent who is an employment agent indicated that he usually does not check the background of the employer but only that of the employees. He does this in order to provide the employer with credible or 'accredited' employees.

He indicated that he does not do background checks on employers, thereby exposing the girl child to possibly abusive employers. He indicated that he is in business and does not look beyond these immediate issues for things that do not concern him, especially the private household of employers lest people are put off using his services. This shows a situation in which such people are only interested in profiteering and are not concerned about the welfare of the child. The operation of employment agents is supposed to be regulated by the Labour Relations Act (sections 113 and 114) which stipulates that employment agencies must be registered; that the operation of an employment agent without being registered is a criminal offence and that a person is prohibited from charging any fee in connection with the procurement of employment unless they are already registered.

However, it turned out that the employment agency was not registered and was operating as they liked without any regulation under the law. This clearly shows that there is a loophole in the law which is not enforced to the prejudice of the vulnerable girl child. All unregistered

employment agencies should be closed down although I think that would be a mammoth task and most of them would go underground and continue to operate. Even some registered employment agencies are still involved in such clandestine activities because they operate purely in order to earn a profit and most of them do not take into account the welfare of any children, including girls.

#### **4.18 Conclusion**

From the findings based on the research it is clear that there is rampant exploitation of the girl child that is taking place but despite this nothing is being done by the authorities to protect girl children in domestic work or their rights. I should however hasten to add that it is very difficult to monitor or control the employment or conditions of work of girl children employed as domestic workers due to the nature of their job and the fact that it takes place in the private arena which makes the regulation of such a situation very difficult.

## **CHAPTER FIVE**

### **5.0 CONCLUSIONS AND RECOMMENDATIONS**

Although this research was confined to the Budiriro suburb of Harare and only a small number of respondents were interviewed, the conclusions and recommendations made herein can be useful.

#### **5.1 Raising awareness**

Worldwide there has been an increase in concern for the welfare of the girl child who is employed as a domestic worker. An awareness campaign is an ideal means by which information may be gathered about the conditions of work of girl children who are employed as domestic workers and then disseminated to the public. Such a campaign could focus generally on the issues of child labour and the harm it causes to the girl child.

The information for such a campaign should be gathered in a manner which is sensitive to the invisibility of the domestic worker and the private space in which they work. For the gathering and dissemination of information to be effective it should take into account the various reasons why a girl child is employed as a domestic worker and be able to define what acceptable work in the home for a girl child means and what amounts to child labour. During the information dissemination stage a balance should be struck between, on the one hand, the outright abolition of girl children working as domestic workers as such work does in fact benefit them and other people (e.g., their families) and, on the other, the dangers of child labour if such children are not protected from abuse. The awareness campaign could also involve educating the girl child about her rights as a domestic worker and what should pass as acceptable conditions of her employment. The girl child who is employed as a domestic worker should be also made aware of situations of exploitation and how these can be addressed. Drop-in centres could also be utilized where the girl child who is employed as a domestic worker could make the responsible authorities aware of her plight.

#### **5.2 Advocacy at national level**

The issue of the employment of the girl child as a domestic worker is an issue that affects many people's private and public lives, the economic well-being of the girl child so

employed and that of her parents and also society's social and cultural values. Advocacy could be carried out to reduce cases of the employment of girl children as domestic workers and also to reduce cases of their exploitation and abuse. Advocacy could be carried out to condemn the employment of girl children who have not completed their basic education and to encourage employers to improve the conditions of work of their domestic workers by, e.g., increasing their wages to the minimum laid down by the government, giving girl children leave days and enforcing minimum hours of work as stipulated by the Labour Relations Act and, where appropriate, sending girl child domestic workers to school thereby affording them their right to an education.

### **5.3 Free compulsory education**

The government should introduce free compulsory education for all children up to secondary level. The starting point for this task is the allocation of more resources to the education sector as it is an important sector. Such action will mean that children will be able to acquire education which is a right that is constitutionally guaranteed and this is the only way that the girl child can be empowered. Even if a girl child is employed as a domestic worker she still needs to be educated. Making education compulsory and free is another way of reducing and eventually eliminating the employment of the girl child as a domestic worker. Such a child will then be in school full time and thus unemployable. The girl child should be in school up to the age of fifteen after which she can choose to pursue her education or be employed.

### **5.4 Improvement of social services**

If the social services in a country improve, the livelihood of the majority of the people also improves. Poverty is the major cause driving the girl child into domestic work. Thus as long as the problem of poverty subsists it is unlikely that the problem of the employment of the girl child as a domestic worker can be eliminated. The major issue that we have to deal with here is the issue of life and death. Both the ILO and UNICEF have actively promoted the extension and improvement of schooling as the single most effective way to stem the flow of school age children into abusive forms of employment and the employment of the girl child as a domestic worker is one of them.

## **5.5 National legislation**

National legislation must be able to deal effectively with the issue of the employment of the girl child as a domestic worker. The law must not just be on paper but also be put into practice. Due to the nature of domestic work which takes place in the private sector it is likely that it will be difficult to control what takes place in such private homes and thus the government must put in place legislation that makes it mandatory to register every child domestic worker so that it becomes easy for the government to inspect and control what happens in the domestic arena as far as the employment of the girl child is concerned.

Firstly, the government of Zimbabwe must ensure the girl child who is employed as a domestic worker knows her rights. The major problem that I realized as I carried out this research is that most if not all of the girl children employed as domestic workers do not know their rights, let alone that they are being breached. There is a need for awareness campaigns so that the child domestic worker herself is made aware of her human rights after which she will be in a better position to assert them. Due to her age her bargaining power might be poor but as long as she knows her rights the rampant abuses inflicted against her will most likely be reduced.

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