

Safe Enough?

The Working Experiences of New Zealand Children

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Attestation of Authorship

“I hereby declare that this submission is my own work and that, to the best of my knowledge and belief. It contains no material previously published or written by another person (except where explicitly defined in the acknowledgements), nor material which to a substantial extent has been submitted for the award of any other degree or diploma of a university or other institute of higher learning”.

Danaë Meredith Anderson

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Abstract

'Serious work in social legislation begins always with the protection of children'

Albert Thomas, first director of the ILO (ILO, 1931: i)

The experience of New Zealand children in their working lives is a traditionally under researched area; where existing investigations have been primarily promulgated from the NGO sector (ACYA 2003; CARITAS 2007, 2003) with children recounting their working experiences. Concerns indicated from these findings include the lack of legislative protection of children, particularly in the areas of minimum age for work, minimum wage, and health and safety.

Therefore, the dominant themes of this thesis include the political economy of children's work; domestic and international policy debate about the appropriate regulatory role of institutions and legislation; as well as the fairness and equity of children's employment and occupational health and safety. Many themes were covered during interview with key stakeholders in the government and non-governmental advocacy areas. Further, key findings are presented from survey and interview data of young adults reflecting on their working lives as children. Working conditions varied widely according to industry and type of work, where the best working conditions were those provided by relatives or family friends. Young people were generally positive about their workplace experiences, but some dangerous and illegal trends were identified. These findings also challenge the assumption of successive governments and regulatory authorities that children are 'adequately' protected by current legislation and practice.

While there continues to be discourse regarding New Zealand's ratification of some United Nations and International Labour Organisation protocols relating to protecting children in their working lives, little debate relates to the lack of domestic legislative and monitoring

capacity in this worrying area of the labour market. Therefore, the central aim of this study is to inform discussion on children's work, identify strategies to strengthen the protection of child workers, and outline future areas of research.

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Chapter One

Introduction

1.1. Chapter Overview

The first chapter outlines the purpose of this thesis, and presents reasons why the working lives of New Zealand children are significant for analysis, including a short description of the types of work children engage in, and why some types of work may be a cause for concern. In addition, the desired contribution(s) of this research to the subject area and research method justification are presented. The chapter concludes with a brief summary of each chapter.

1.2. The Thesis Topic

New Zealand has a tradition of children participating in paid employment, the general view being that jobs such as ‘paper runs’ and ‘fruit picking’ are an appropriate passage into the adult world of work. There is also the perception that conditions of marginalisation, exploitation and mistreatment of child labour only occur overseas and are rarely witnessed in New Zealand. Moreover, research tends to focus on child labour developing countries, primarily children in service and agricultural sectors and in ‘sweatshop labour’ (Ashagrie, 1998, Basu and Van, 1999, Black, 1995, Levison, Anker and Barge, 2000). However, while child labour and its ‘worst forms’ (refer Appendix C, International Labour Organisation Convention 182) tend to congregate in the ‘Global South’ there is evidence that children work in the informal sector, in hazardous and/or illegal working conditions, and experience poor health and safety regulation and practice in industrial economies too (Anderson, Lamm, Shuttleworth, McMorland and Rasmussen, 2008, Cole, 1991, Gardner, 1998).

New Zealand research on the topic is scarce and incomplete, particularly around work-related injuries of child and youth workers. However, Accident Compensation Corporation (2006) evidence points to some disturbing injury trends among young

workers. Analysis of their injury data between 1985-1998 revealed that a total of 87 work-related fatalities were identified for children less than 15 years of age. These injuries often occurred when children accompanied their parents to their places of work, although 12 children were identified as working at the time of the accident or commuting to work (Lilley, Feyer, Langley and Wren, 2004). The most common location of a fatality was on a farm (39 per cent), where home and work activities overlap, and informal participation by children is commonplace. Nine fatalities were typically children aged 10-14 years, riding motorcycles to shift stock. Of the remaining three, two were working as street milk vendors and one was delivering newspapers. (Lilley et al, 2004).

In light of the concerning trends indicated involving extremely vulnerable labour market participants; this thesis seeks to investigate the working experiences of children in New Zealand. In particular, the thesis aims to address the address in detail the following three issues:

- minimum age for work
- minimum wage for work
- health and safety concerns of working children in New Zealand.

In addition, there will be exploration of some of the possible implications of legislation and regulation for further protecting working children. In order to gain a more nuanced understanding of what is actually occurring in New Zealand, this qualitative study collected survey and interview data of policymakers, employee and employer groups, government departments, non-government organisations, and, most importantly, young people themselves. A wide variety of perspectives and opinions became evident, reflecting the lack of consensus on the appropriate role for children in working environments.

1.3. Background

While the interests of New Zealand adult workers have been the primary concern of successive governments and their agencies, the rights of child workers have often been overshadowed. The 90th anniversary of the International Labour Organisation

in 2009 signaled an opportune time to further investigate the issues surrounding New Zealand's young workers in terms of what has been accomplished, but also to highlight the continuing gaps in policy and protection. There are many divergent opinions of the appropriate role of children in work environments, and as a result the issues surrounding children's work continue to be controversial and contentious. Moreover, while child labour is regulated in to some extent in virtually all countries, it continues to flourish worldwide.

There is a significant global history of working children, beginning with contribution to family and community. In pre-industrial times children were typically inducted into 'work' of a kind significant to the household economy at the earliest opportunity' (Black, 1995: 3, Heywood, 2001) where children helped their parents, progressing to children being sent out to earn household income. Such work was often family-based and tended to be 'invisible' (Goodyear, 2006, Roth, 2008a). Therefore, job types were often an extension of work around the home, and not generally considered exploitative - childhood was simply seen as training for work as an adult.

However, cruelty and exploitation of children (particularly those of the 'working class') regardless of industry was far from uncommon (Beaver, 1985). During the Industrial Revolution very young children were involved in factory work and production, where mass industrialisation was only made possible by their exploitation (Bolin-Hort, 1989, Fernández-Armesto, 1995). Nonetheless, despite rapid technological advances and greater protection for children, over two hundred years later, children's work continues to be of concern. By the mid-1990s, child labour was pronounced by both the International Labour Organisation and UNICEF to be 'one of the dominant issues of our time' (International Labour Organisation 2006; 1998, UNICEF 1997), '... generating discussion about how children's rights are to be defined and observed in an era of globalisation' (Myers, 2001: 129).

The density of and reliance on children as workers differs markedly between the primary (but not the only) cause necessitating the use of child labourers (Basu and Van, 1999, Manheimer, 2006). Stages of industrialisation and 'development' have

the greatest impact on the prevalence of child labour, but societal attitudes and government legislation also have some (more limited) impact (Cigno and Rosati, 2005, Waltz, 1999). Often western countries, while condemning children working in developing nations; forget their own relatively recent development histories with conditions of equal, if not worse depravity. So while the countries of the global North are considered further up ‘the development ladder’ many children still work, and not necessarily in safe or legal conditions.

Moreover, while variation in work practices is evident by locality, there are similarities with the type of work many children engage in, as well as common concerns. Although literature specific to the New Zealand context is limited, overseas studies have provided some background context relating to the working lives of children, reasons for undertaking work, and what the longer-term impacts may be for child workers. Many overseas studies are located in the economics discipline (for example, Basu and Van, 1998, Cigno and Rosati, 2005, Contreras, 2007, Grossmann and Michaelis, 2007, Rogers and Swinnerton, 2007). Such research tends to conceptualise the labour of children in terms of supporting impoverished families, while assuming the child’s leisure is an unaffordable luxury. There is also some interest in child labour within the discipline of public health (for example, Marlenga, Berg, Linneman, Brison and Pickett, 2007, Roggero, Mangiaterra, Bustreo and Rosati, 2007).

However, in a western and industrialised context there continues to be little discourse related to the rights and working conditions of these young workers. The general view is that work is positive for children and improved human capital qualities may facilitate positive employment outcomes in the future (Caspi, Moffitt, Wright, and Silva, 1998, Department of Labour, 2009c). In contrast, some studies both in New Zealand and overseas signpost worrying trends, refuting the western policy-making assumption that children are ‘adequately protected’. Further investigation indicates that this hypothesis is unproven, and makes a number of presumptions that are not necessarily evidence-based. An accurate picture of the situation of working

children can therefore be difficult to ascertain, and simply reviewing division of labour by countries can make understanding children's work difficult due to social, economic, and political differences.

1.3.1. New Zealand context

In the last two decades there has been a considerable increase in part-time work by children in New Zealand, and initial research indicates that there is some evidence that child labour does exist in New Zealand, although information is not routinely collected about this sector of the labour market (Roth, 2008*b*). Of concern is that the idealised picture of the nature of children's work by the public ignores the potential for worker marginalisation and dangerous working conditions. The status of New Zealand's child workers is of particular concern given that there is no legislation specifically covering the wages or conditions of children under the age of 16 years (see Employment Relations Act 2000, Health and Safety in Employment Act 1992, Minimum Wage Act 1983). While acknowledging that successive New Zealand governments have ratified most United Nations (UN) Conventions pertaining to the welfare of children, the United Nations and, in particular, its Committee on the Rights of the Child has criticised New Zealand's lack of progress towards child labour issues on a number of points:

- New Zealand continues to maintain a reservation of Article 32(2) of the Convention on the Rights of the Children relating to minimum age of access to employment, regulation of hours and work conditions. The Article is to protect children from economic exploitation and risks to their health and safety.
- New Zealand has failed to legislate a minimum wage for child workers under the age of 16 years.
- Children are poorly protected in occupational health and safety matters (for example, there is limited Accident Compensation coverage for child workers¹).

The situation in NZ is that children's work is very loosely regulated, and it is out of step with the International Labour Organisation standards in some areas. But there are real practical, social, and political obstacles in the way of raising standards' (Roth, 2008a: 4), and legislation largely fails to regulate working terms and conditions for children as a distinct group from adults. The lack of consensus between stakeholders regarding working children begets the question, what are the working experiences of New Zealand children? And what can be done in terms of domestic policy and legislation to improve the situation?

1.3.2. Research Problem and Methodological Approach

Due to the lack of research and inconsistency in data collection and analysis (International Labour Organisation, 2009a, International Labour Organisation/IPEC-SIMPOC 2007, IPEC, 2008), there is often uncertainty or disagreement over nature and scope of the supposed 'problem' posed by children working. Discussion internationally, and more specifically in New Zealand is hampered as it is unclear what is actually going on, and the numbers of working children posed are estimates at best. Because official data on child labour is not routinely collected the statistical information available is difficult to accurately analyse (Roth, 2008b).

While there is some evidence that child labour does exist in New Zealand, there is still a paucity of information with most research emanating from non-government sources (Gasson, Gasson, Linzey and Powell-Chalmers, 2003, 2001), and activist organisations (Action for Child and Youth Aotearoa Incorporated (ACYA), 2003, CARITAS, 2007, 2003; Child Poverty Action Group (CPAG), 2008, 2003). In general, research in this area is limited and captures a partial picture of what is actually occurring among child workers (Barry and Reddy, 2005, Caspi et al, 1998, Ehrlich, McClellan, Hemkamp, Islam, and Ducatman, 2004).

The dominant form of methodology applied to research on children's work labour to date is qualitative by nature, concentrating mainly on the social implications in this area and detailing children's experiences (for example, CARITAS, 2007; 2003, Gasson et al, 2003). There is also some quantitative analysis that focuses on either certain industries, geographic location, or relies on incomplete government statistics

(see ACC, 2006, Pugh, 2007). However, to make use of partial information is necessary to see the ‘gaps’ that manifest in findings and analysis. For this in-depth analysis a triangulated methodological approach using multiple data collection methods will be used.

1.4. Chapter Summaries

This section of **Chapter One** will provide a brief outline of the structure of this thesis, guiding the reader by summarising the contents of each chapter. This thesis is made up of eight chapters: **Chapter One** (Introduction), **Chapter Two** (Background to Children’s Work), **Chapter Three** (The History of Working Children), **Chapter Four** (Debates and the Literature), **Chapter Five** (Methodology), **Chapter Six** (Research Findings), **Chapter Seven** (Discussion) and **Chapter Eight** (Conclusion).

The First Chapter presents a rationale for the topic and elucidates the research parameters, also outlining the primary and secondary research questions this thesis intends to answer. **Chapter Two** outlines the extent of the issue and institutional responses, as well as framing the situation of working children worldwide and in New Zealand. In addition, the chapter highlights the problems with how child labour is defined and the problems with definitional issues in analysis. Finally, an overview of the international and domestic legislation protecting children is presented.

Chapters Three and Four provides a background to and the literature review of children’s work. **Chapter Three** presents the context and commences with a historic perspective of western ‘development’ (including New Zealand) in child protection. **Chapter Four** reviews the literature specific to the topic and identifies the themes and debates pertinent to the thesis topic. Drawing on multi-disciplinary research including political science, economics, and the social sciences; each discipline presents different perspectives on children’s work. The chapter concludes by highlighting ‘gaps in the literature’ and framing the research questions.

Based on the review of the literature and research ‘gaps’, **Chapter Five** explains and

justifies the methodological approach adopted in this study. That is, the rationale for the process best suited to answering the research questions and relevant data collection methods will be provided. The chapter also describes the qualitative, triangulated approach, where face-to-face interviews with key stakeholders and youth were undertaken and surveying was conducted. Further discussion concerning research validity and ethical considerations will also be presented.

Chapters Six and Seven present the findings and an analytical discussion of the results. In particular, **Chapter Six** sets out the main findings of each research stage, namely:

1. Face-to-face interviews with key stakeholders
2. survey results, and
3. summary of the interview data.

Chapter Seven discusses the research findings in greater detail, related to the relevant literature and research questions. In particular, key themes from the data analysis will also be presented. Finally, in **Chapter Eight** a reflective outline of each chapter will be presented along with significant findings. The limitations of the study in terms of the scope and methodological issues will also be discussed. Finally, recommendations for further research will be outlined.

1.5. Chapter Conclusion

This chapter provides a broad overview of the thesis topic, including why the topic is an important area of research and the intended contributions of this study. In particular, the background of children's work is described from a western perspective to give context to the New Zealand findings. An overview of concerns relating to the New Zealand child employment scene was also presented. Identified 'gaps' in the literature influenced the *Research Problem* and *Methodological Approach*, discussed briefly.

In this thesis the eight chapters are as follows: **Chapter One** (Introduction), **Chapter**

Two (Background to Children's Work), **Chapter Three** (The History of Working Children), **Chapter Four** (Debates and the Literature), **Chapter Five** (Methodology), **Chapter Six** (Research Findings), **Chapter Seven** (Discussion) and **Chapter Eight** (Conclusion). The following chapter will outline the definitional problems in qualifying children's work. International and domestic legislation relating to minimum age, minimum wage, and the health and safety of children will then be explained. Finally, an international overview of the circumstances of child workers will provide context for children's work in New Zealand.

Chapter Two

Background to Children's Work

2.1. Introduction

In many cultures working children remains a necessity or expectation in society, where financial necessity is the primary cause (Howse and Tebico, 1996, Manheimer, 2006). Delineation tends to be between developing countries where children often work to support their families and may not attend school; and industrialised countries with compulsory education and lower numbers of children economically contributing to their families' livelihood. Therefore, discourse primarily centers on developing countries and is focused on the worst forms of child labour (Bequele and Myers, 1995, Forastieri, 2002, Manheimer, 2006). However, many children still work in developed countries, and not necessarily in safe or legal conditions. Furthermore, although regional variations in the extent of child labour exist there are common concerns globally about the type of work children are employed in, the age of child workers, the wages they receive, and their health and safety (Howard and King, 2008, International Labour Organisation, 1973, Thomas and Reader, 1997).

Moreover, myriad perspectives are used to understand and explain the work children undertake. While existing literature is primarily located in the disciplines of economics, health, and public policy, there is also considerable discussion of the subject in the fields of ethics and gendered work. However, in a western context (New Zealand included), there continues to be little discourse related to the rights and conditions of young workers: the assumption being that children are 'adequately protected'³. Such a hypothesis is unproven and makes a number of presumptions that are not necessarily evidence-based. Again, the lack of knowledge in this concerning area of research presents difficulties in ascertaining what is really occurring, as well as concerns defining what constitutes 'child labour' versus

³ The definition of adequacy is 'satisfactory or acceptable' (Oxford Everyday Dictionary, 2005). The contention of successive New Zealand Governments has been that children are 'adequately protected' in their workplaces. However, questions need to be asked whether the rhetoric matches the reality and who is best placed to measure acceptability or satisfaction – working children or policymakers?

‘children’s work’ and in what context it occurs. Nevertheless, while an accurate picture of the situation is difficult to determine, focusing on the division of labour only within so-called ‘developing’ countries is a simplistic approach to a universal issue.

Discussed in this chapter are definitional issues inherent in qualifying children’s work, as there is disagreement regarding some topic-related definitions as well as a paucity of comparative statistical measures to evaluate the extent of this issue. As a result, debates in this area are often unclear as definitions and perspectives are value-laden, contentious, and complex. International and domestic legislation related to minimum age, minimum wage, and health and safety of children will then be explained. However, first it is important to understand the degree of children’s work worldwide to provide a context for children’s work in New Zealand.

2.2. Children’s Work Worldwide

During the past 15 years, there has been growing international concern over the issue of child labour and in particular the social, economic, and human rights of children’ (International Labour Organisation, 2008b: 13). Although historically children have worked in varying capacities, the transition through industrialisation and provision of education no longer necessitates the use of children in numbers seen in the past (Ackroyd, 1990, Blanchflower and Freeman, 2000, Raw, 2009). According to the International Labour Organisation’s latest estimates in 2006, there has been a decline in child labour overall, where the number of child labourers fell by 11 per cent globally during the previous four years and the number of children in hazardous work decreased by 26 per cent. Most significantly, there has been a significant decline in hazardous work among the 5-14 age group, dropping by around one third.

Despite positive reductions there are still estimated to be 218 million child labourers worldwide, 126 million engaged in hazardous work (International Labour Organisation, 2009). In the 5-14 year old range there were 191 million economically active children, of whom 166 million were considered child labourers and 74 million

were engaged in hazardous work. Most working children (69 per cent) labour in agriculture, compared to only 9 per cent in industry. The largest numbers are in the Asia-Pacific region (122 million) and the highest incidence of child labour is in sub-Saharan Africa (where 26.4 per cent of children aged 5-14 years are economically active) (Hindman, 2009: xxxi). As the statistical sampling was gathered prior to the onset of the financial recession in 2008, it remains to be seen whether this trend continues.

UNICEF (2009: 138) summarises the current trends worldwide:

- Every year 22 000 children die in work related accidents.
- 73 million working children under 10 years old.
- 40-50 per cent of those in bonded labour are children.
- The largest number of working children is in the Asia-Pacific region.
- Sub-Saharan Africa has the largest proportion of working children: 69 million (nearly one third of children aged 14 and under).
- Most children work in the informal sector (e.g. in homes or on the streets) without any legal protection.
- 69 per cent work in agriculture, commercial hunting, and fishing or forestry.
- 9 per cent work in manufacturing.
- 8 per cent are in wholesale and retail trade, restaurants and hotels
- 7 work per cent work in community, social and personal services, such as domestic work.

The above data derives from a combination of data sources where data sets are extrapolated to assess current trends. These include IPEC-SIMPOC surveys on child labour; individual country's labour force surveys; estimates from the UN Population Division; the World Bank's Living Standards Measurement Study (LSMS); and the Multiple Indicator Cluster Surveys (MICS). Nonetheless, while multiple collection methods have increased reporting accuracy; it is difficult to draw comparisons between the wages and working conditions of young people across countries as there are significant variations in labour statistical collection methods. There is also a surprising lack of comparative research exploring employment protection, minimum wage overall labour market demographics of young workers. Therefore, many

countries – New Zealand included - tend to have a partial picture at best regarding the experiences of their child workers.

2.3. Definitions most appropriate for this thesis

Mentioned above, further complicating analysis are contentious and inconsistent terminology. A lack of consensus over the definitions of ‘child work’ and ‘child labour’ has in turn often prevented a concentrated international or domestic response, as ‘child’ and ‘childhood’ may be culturally defined and not necessarily by a fixed age. Some social scientists believe that children’s abilities and maturities vary so much that defining a child’s maturity by calendar age can be misleading (For discussion, see Boyden, Ling, and Myers, 1998: 9-26). The age at which childhood is seen to end can be seemingly arbitrary, usually defined by the age of majority⁶ or the end of compulsory schooling. However, such a classification can also present many inconsistencies within and between countries and international and domestic legislation and regulation as there continues to be no universally accepted definition.

Multilateral organisations such as the United Nations and International Labour Organisation define children as aged 18 and under. However, this definition has a number of caveats, differentiated between institutions (and acknowledged by the institutions themselves that definitions can be unclear and contentious). The United Nations Convention on the Rights of the Child defines a child as ‘every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier’ (Convention on the Rights of the Child, 1993), a definition acceptable to the International Labour Organisation (2009c, 2006). Individual governments may also define ‘child’ according age or other criteria. In New Zealand there are two common definitions for children. The first is a child is anyone who is living with a parent. This includes people who are partnered and who are parents themselves. However, this broad definition is unhelpful in policy-making related to children as it does not specify an age. For deriving the family-type classification, only children in a family nucleus are counted as children (Statistics NZ, 2009).

Evident in the multiple definitions above is the potential for contradictory information, further complicated by differing ages for some work activities (Health and Safety in Employment Act, 1992), school leaving ages, as well as ages for voting and marriage. However, for the purpose of this research, individuals under 18 will be considered children as the age of majority is 18 in New Zealand, congruent with UN and International Labour Organisation definitions. Nonetheless, it is worth noting that these definitions are further complicated by attempts to define ‘child labour’ or children’s work, which have many alternative meanings. Terms such as ‘child’, ‘adult’, and ‘labour’ resist universal definition because of cultural and societal differences from one country to another and positive or negative connotations given to different definitions (see **Appendix D**: Illustrative set of economic and non-economic activities for example). Therefore, further discussion regarding the most appropriate terms by which to attempt to categorise by is discussed below.

2.3.1. Economic Activity

The employment of children in various roles pre-dates written history. Generally children were part of a community reliant on subsistence agriculture and hunting, so were needed to help with everyday tasks necessary for survival. In pre-industrial times ‘children were typically inducted into ‘work’ of a kind significant to the household economy at the earliest opportunity’ (Black, 1995: 3), a situation still evident in many developing countries. As a result, most of the literature (located primarily within the economic or sociological disciplines) is concerned with the worst forms of work, exploitation of women and children, and the relationship between economic context and child labour within developing countries.

The broadest definition referring to so-called –economic activity of children is International Labour Organisation Convention 138, specifying the International Labour Organisation’s concept of child labour. This is understood as:

‘Productive activities undertaken by children, whether for the market or not, paid or unpaid, for a few hours or full time, on a casual or regular basis, legal or illegal’ (International Labour Organisation, 2006: 6).

To be considered ‘economically active’, a child must have worked at least one hour during the seven-day reference period chosen. Even though this definition of

economic activity includes work whose outcomes are not intended for the market, activities that do not serve the ‘economic creation of value’ in terms of the gross national product (GNP) of a nation or society are excluded. The anomaly of this International Labour Organisation definition is that many types of work cease to be recognised, whether the activities are vitally important or not (for example, agricultural production to support the family unit, children working to support themselves) (International Labour Organisation, 2006, IPEC-SIMPOC, 2007). Non-economic activities are considered to be ‘household, schooling, or recreation’ (International Labour Organisation/IPEC-SIMPOC, 2007: 28) except ‘where such work can be assimilated to an economic activity’ (Fyfe and Jankanish, 1997: 5).

Further complicating definitions, from the viewpoint of the International Labour Organisation ‘economic activity’ of children is exclusively a ‘_statistical’ category, which while measuring the prevalence of work, is considered insignificant for political reform. However, Ritualo (2002, in Hilton, 2003: 46-7) discusses the definition of ‘economic activity’ among children, noting that this is often used as a proxy for ‘child labour’. Most research and reports on child labour have been based on economic activity ‘because it is easier . . . than translating the International Labour Organisation standards into a statistical definition’. Therefore, although this category may include most children who are working to support their families in subsistence agriculture or other industry, it is not considered a primary category for regulation or prevention. Moreover, in terms of regulated work and GDP value-adding much ‘economic activity’ is unmonitored or under-protected. In addition it could be argued excluding domestic chores may ignore significant household commitment for children, particularly females, who tend to do more domestic chores than boys (Barker and Knaul, 1992).

2.3.2. Child Labour

Although definitions of child labour assume that definitions for ‘_child’ and ‘_labour’ are well established (IPEC-SIMPOC, 2007: 3), there are still divergent understandings of such terminology. While ‘child labour’ can be defined in economic terms, it can also be defined legally, either as international conventions

(for example, International Labour Organisation Conventions), statutes, or guidelines aimed at reducing or preventing activities that exploit children (UNICEF, 2009). Ritualo (2002, in Hilton, 2003: 46) explains that International Labour Organisation and national definitions of ‘child labour’ differ from the definition of children’s ‘economic activity,’ used in most research. The broad definition covers all economic activities carried out by people under 15 years of age, regardless of their occupational status (for example, wage-earners, casual workers, unpaid workers), but not household work performed by them (Ashagrie, 1998, Bellamy, 1997, Cigno and Rosati, 2005).

The United Nations Children’s Fund (2009) further qualifies ‘child labour’ as ‘work that exceeds a number of hours, depending on the age of a child and on the type of work’. Young children below the age of five are assumed to be economically inactive while those aged 5 to 11 are assumed to be in forms of child labour requiring elimination (International Labour Organisation/IPEC-SIMPOC, 2007: 7). The definition excludes all children 12 years or older working a few hours a week⁷ in permitted ‘light work’ and those aged 15 and above whose work is not considered ‘hazardous,’ do not perform ‘child labour,’ and not classified as ‘child workers. UNICEF (2009) ‘suggests’ various ages at which it is appropriate to undertake different types of work:

- Ages 5-11: At least one hour of economic work or 28 hours of domestic work per week.
- Ages 12-14: At least 14 hours of economic work or 28 hours of domestic work per week.
- Ages 15-17: At least 43 hours of economic or domestic work per week.

Yet there are problems with using such criteria to measure the appropriateness of working hours and types of work a child may be engaged in. For example, to have a 15 year old in New Zealand doing 42 hours a week in paid work while attending

⁷ However, it is open to interpretation as to what a ‘few’ actually means. The Oxford Dictionary (2005: 376) defines a few as ‘not many, some, not none’.

school would fall outside the definition of harmful, but would be considered by many (if not the majority) to be detrimental to a child's development, and would probably hinder educational progress. Further, a child of 12 performing 27 hours of domestic work in addition to a similar amount of schooling would be likely to miss out on extracurricular activities and use their evenings and/or weekends for work as their primary activity.

Nevertheless, institutional definitions tend to use functional explanations concerned with measurement and/or legislative frameworks. As seen in the above definitions, what 'economic activity', 'child work' and 'child labour' actually entail may be open to interpretation and contention. Fyfe and Jankanish (1997: 5) present a more emotive definition:

'...children prematurely leading adult lives, working long hours for no pay or low wages, working under conditions damaging to their health and to their physical and mental development, sometimes separated from their families and frequently deprived of meaningful educational and training opportunities that could open them up for a better future'.

This classification presumes all child labour is exploitative. Moreover, Fyfe (1989) argues that using the terms child labour and child work interchangeably is incorrect as child labour is a 'subset' of child work; defining work that is exploitative or threatens the health and development of children. Nonetheless there is still a vast range of definitions of 'child labour' adopted by researchers to measure children engaged in non-schooling activities. The literature also indicates positive and negative associations of extant terminology, where 'child labour' is seen as harmful whereas 'children's work' is seen as constructive or inconsequential. While in part due to official definitions, emotive connotations particular words engender are also evident. Further, as much of the literature fails to identify the definitional parameters, clarifying and evaluating the extent of the issue is controversial and data may be incomplete and/or incorrect.

Therefore, for the purposes of this thesis a distinction will be made between 'children's work' and 'child labour'. 'Children's work' will be used when discussing work for remuneration undertaken by children in New Zealand under the age of 18.

While household chores and contribution to the family unit is important, the focus of this research is children's work outside the home, in terms of 'economic activity'. Furthermore, as it cannot be assumed that all children's work is incompatible with child welfare and development (International Labour Organisation; IPEC-SIMPOC, 2007: 5) the term 'child labour' will be used when discussing 'hazardous and/or illegal conditions of work in its worst forms only' (International Labour Organisation, 2006). Such definitional irregularities continue when attempting to define work types. Terms are used in varying contexts by different stakeholders. It is also important to realise that definitions may further particular interests (for example, a government may claim that child numbers have reduced by 'capturing' a data set favouring this finding).

2.3.3. *Light work* is defined by International Labour Organisation Convention No.138 (1973, Article 7) as work that should not:

- a) be harmful to a child's health and development, and
- b) prejudice attendance at school and participation in vocational training or 'the capacity to benefit from the instruction received'.

While used in parallel with UNICEF guidelines for working hours and child labour definitions, the definition fails to specify an appropriate number of hours to be worked by children. Furthermore, *light work* fails to acknowledge cultural context, where work may vary dramatically according to utility (for example, child collecting water from a well in Africa two hours away may be performing *light work* in their society, whereas a child doing a pamphlet run in western culture could also be performing *light work*). Difficulties of definition continue to define discussion in this area, where no uniformity has hindered clarity of what exactly the research is attempting to discover (Anderson and Lamm, 2009b, Creighton, 1996, Grootaret and Patrinos, 1999).

2.3.4.1. *Hazardous work*

The common definition adopted by regulatory institutions is that of children working in activities or occupation that 'will have adverse effects on child's safety, health and

moral development‘ (International Labour Organisation, 2006: 8), and work types defined in International Labour Organisation 182 (see **Appendix C** for further detail). Not all children work in harmful positions, acknowledged in UNICEF’s 1997 *State of the World’s Children Report*:

‘Children’s work needs to be seen as happening along a continuum, with destructive or exploitative work at one end and beneficial work promoting or enhancing children’s development without interfering with their schooling, recreation and rest - at the other. And between these two poles are vast areas of work that need not negatively affect a child’s development‘ (UNICEF, 1997: 25).

The following section links these definitions with the international conventions regarding children. The multilateral level legislation will then be framed within New Zealand will be domestic legislation.

2.4. International Legislation

At the 1919 inaugural International Labour Organisation Conference one of the founding conventions was to eliminate child labour (Cunningham, 2001, Hindman, 2009). This has been continued to be a cornerstone of labour standards, where over the last 90 years the United Nations and International Labour Organisation have sought to heighten protection for children through specific multilateral measures. The overarching guiding document enshrining children with explicit rights can be seen as the United Nations Convention on the Rights of the Child 1989 (UNCROC), in combination with International Labour Organisation Conventions 182 on the Elimination of the Worst Forms of Child Labour and International Labour Organisation 138, the Minimum Age Convention. These set parameters for the international community for protecting working children. Further, the International Labour Organisation Declaration on Fundamental Principles and Rights at Work (1998) sets core labour standards covering four fundamental principles and rights at work, being:

- freedom of association and the effective recognition of the right to collective bargaining
- elimination of all forms of forced or compulsory labour

- effective abolition of child labour
- elimination of discrimination in respect of employment and occupation. (International Labour Organisation, 2010).

While New Zealand is an International Labour Organisation member, it continues to maintain reservations on two of the four primary areas relating to the dominant multilateral areas of concern: Convention 87 Freedom of Association and Protection of the Right to Organise Convention, 1948 and Convention 138 Minimum Age Convention, 1973. Both can be seen to have important influence on the treatment of all workers, but greater impact on children as vulnerable workers. With successive governments showing a lack of interest in compliance the rights of children are not given resonance; as is the capacity for unions to address them by being recognised as a bargaining partner.

2.4.1. United Nations Convention on the Rights of the Child (UNCROC)

Following the end of World War II in 1948 the newly-formed United Nations introduced the Universal Declaration of Human Rights. While the Declaration did acknowledge the rights of children it was felt by many UN member states to be insufficient, and that children justified their own separate protection document. This occurred in 1959 when the UN adopted the first Declaration of the Rights of the Child. However, this Declaration was not legally binding and was only a statement of intent (United Nations, 2009). Little progress was made toward acknowledging children as separate entities with their particular needs and concerns until UNCROC was adopted in 1989, ratified by NZ in 1993⁸. It is one of the six core international human rights treaties with a wide-ranging and encompassing view of rights. Nations that ratify this international convention are bound to it by international law and are required to amend or create laws in the best interests of the child (Roth, 2008a). Throughout the 1990s it was signed by every country in the world except Somalia and the United States.

Recognised explicitly in UNCROC are the civil, political, economic, social and cultural rights of children, their rights and level of protection distinct from adults, and to be achieved through the combination of resources given for children to

develop to their full potential, political and legal protection well as legal rights of participation (Anderson and Lamm, 2009a, Creighton, 1996). Seeing children as individuals and members of the community offers a more cohesive view than children as being helpless with no role in their own life-decisions. The right for children to participate in decision-making about their lives is a particularly significant right and has developed from an emphasis on valuing choices children make (Hindman and Smith, 1999).

However, rights of participation for children are not absolute rights, for example Article 12 of UNCROC does not give children rights of self-determination but only a right to 'try to motivate or to persuade the adult to choose as the child herself would choose if allowed to'. Therefore, while government legislation is seen as a form of protection it is also a family responsibility to look after a child's 'best interests'. Recognising parents as having a primary role the text encourages parents to deal with rights issues with their children in a manner consistent with the evolving capacities of the child (Article 5). The Convention requires States to set a minimum age or ages for admission to employment, as well as regulate the hours and conditions of work for young people.

Article 32 states:

1. States Parties recognise 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 or social development.
2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
 - a) Provide for a minimum age or minimum ages for admission to employment;
 - b) Provide for appropriate regulation of the hours and conditions of employment;
 - c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

While this is the most ratified international treaty in history, a number of countries

party to UNCROC continue to maintain a reservation on ratifying a minimum age for work, including New Zealand. In its last review, the Committee on the Rights of the Child said it was disappointed by the slow pace⁶ of New Zealand's progress in removing this reservation (Hassall, 2009). The Committee also commented it was 'very concerned' that the protection of workers under 18 did not conform to international standards. The International Labour Organisation Minimum Age Convention, 1973 predates UNCROC and provides more detail on requirements for compliance (Refer **Appendix A** for UNCROC summary). It has been signalled by the United Nations that if New Zealand were to lift the Reservation on Article 32(2), they would comply with International Labour Organisation 138 (Keeler and Darby, 2008).

2.4.2. Minimum Age Convention, 1973 (No. 138).

This is the core Convention addressing child labour, consolidating ten earlier International Labour Organisation Conventions and applying to all sectors of economic activity (International Labour Organisation, 2010, 2009a; Roth, 2008a). International Labour Organisation 138 assumes there is a need for special legislative provision for children and young persons through all spheres of economic activity (Creighton, 1996). Legislation addresses all types of working relationships, as well as paid and unpaid work. Use of the words, "employment or work" means that all labour by young persons is covered by the Convention 138, whether or not work is performed under an informal or formal contract of employment (International Labour Organisation, 2003). Signatory member states are required to set a minimum age for work not less than the completion age for compulsory schooling, or 15 years. For light work a minimum age of 13 years is established, or 18 years for hazardous work. In developing countries, regulation allows for a lower minimum age – 14 years in general, 12 to 14 years for light work and in special cases 16 years for hazardous work in the case of states "whose economy and educational facilities are insufficiently developed" (International Labour Organisation, 1973, Article 2(4)).

But the International Labour Organisation Committee of Experts (2009b) has also emphasised that the existence and enforcement of a system of compulsory schooling is not in itself sufficient to demonstrate compliance with Article 2(1). There must

also be appropriate restrictions on employment or work outside school hours and during school holidays, designed to protect children's rights to free time and additional activities. International Labour Organisation 138 has been ratified by 155 out of the 181 (86 per cent) of International Labour Organisation member countries, the majority since 1999. These countries cover approximately 63 per cent of the world's children (International Labour Organisation, 2010) (Refer **Appendix B** for International Labour Organisation 138 summary).

2.4.3. Worst Forms of Child Labour, 1999 (No. 182).

During the 1980s in the International Labour Organisation, priority was given to eliminating the worst forms of work, regardless of Member States' stage of development (International Labour Organisation, 2006: 23). While International Labour Organisation Convention 138 is the primary mechanism for the abolition of child labour, Convention 182 focuses on the worst forms of children's work. International Labour Organisation Convention 182 describes the types of work for children considered unacceptable and to be abolished:

1. Labour performed by a child that is under the minimum age specified for that kind of work (as defined by national legislation, in accordance with accepted international standards), and likely to impede the child's education and full development.
2. Labour that jeopardises the physical, mental, or moral wellbeing of a child, either because of its nature or because of the conditions in which it is carried out, known as hazardous work.
3. The unconditional worst forms of child labour, which are internationally defined as slavery, trafficking, debt bondage, and other forms of forced labour, forced recruitment of children for use in armed conflict, prostitution, and pornography, and illicit activities (International Labour Organisation, 2009).

Although establishing criteria for the identification of 'hazardous work' is left to the discretion of individual countries, Recommendation No. 190 specifies that particular consideration should be given to work:

- that exposes children to physical, psychological or sexual abuse
- underground, under water, at dangerous heights, and in confined spaces

- with dangerous machinery, equipment, and tools, or which involves the manual handling or transport of heavy loads in an unhealthy environment that may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations
- damaging to their health
- under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.

It is difficult to estimate the number of children worldwide involved in the hazardous employment as such work tends to be in the informal sector and these types of jobs are often situational, for example, in conflict-areas children may be forced into soldiering (International Labour Organisation, 2009a). Approximately 87 per cent of Member States have ratified International Labour Organisation Convention 182, covering more 75 per cent of children in the world, while all non-compliant Member States were required to design and put in place ‘appropriate time-bound measures by the end of 2008’ (International Labour Organisation, 2006: 85). (Refer **Appendix C** for International Labour Organisation 182 summary). However, while many countries have ratified the Conventions, there is not necessarily compliance or adherence to International Labour Organisation standards, as the Conventions do not establish a baseline standard of working conditions, wages, or health and safety standards, regulation and enforcement is open to individual governments to interpret and legislate as they choose. Furthermore, the lack of International Labour Organisation enforcement mechanisms beyond political pressure limits its influence on non-compliant states (Collingsworth, 2002).

To address these weaknesses in guidelines and regulation, since 1992 the International Labour Organisation has specifically focused on working on comprehensive policy frameworks through the International Programme on the Elimination of Child Labour (IPEC) (International Labour Organisation, 2006). These frameworks usually accommodate the concept of exploitation, as there tends to be a ‘gain or profit extraction for a third party, usually the employer. This ‘gain

is a loss for the child, for example, education, freedom of choice, physical and moral safety, also ‘recognises children’s subordinate position in society’ (Fyfe, 1989: 19). However, monitoring and regulation recognising and protecting children is reliant on international compliance, domestic legislation, and the enforcement mechanisms available. New Zealand’s compliance with the international Conventions will be discussed in the following section.

2.5. New Zealand’s Ratification of ILO Conventions on Child Labour

Given that the research in this thesis is New Zealand focused it is important to clarify the legislation that New Zealand is (or isn’t) a party to. Since New Zealand’s signing of UNCROC in 1993 little substantive improvement is evident regarding the safety of children in their employment. There continues to be no:

- minimum wage for those under 16 years minimum age for work
- change to health and safety issues (Shuttleworth, 2007).

Related to specifying age-related entry into employment, New Zealand has not ratified International Labour Organisation Convention 138: Minimum Age Convention (1973):

‘Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young person’s’ (International Labour Organisation, 2002a).

Moreover, minimal progress has been made by successive New Zealand governments in clarifying minimum age requirements for work under UNROC. Currently New Zealand has a reservation opting out of minimum age obligations in relation to UNCROC Article 32(2) requiring that:

‘States Parties shall...

- a) Provide for a minimum age or minimum wages for admission to employment;
- b) Provide for appropriate regulation of the hours and condition of employment;
- c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article (United Nations, 2006).

In terms of setting a minimum age, successive New Zealand governments' policy stance has been that legislative changes would be necessary to meet the Convention's terms. Indeed, *The New Zealand Government's Report on Implementation of the International Covenant on Economic, Social and Cultural Rights (Draft)* (2008: 71) states:

'The Government of New Zealand considers that the rights of the child provided for in Article 32 (1) are adequately protected by its existing law. It therefore reserves the right not to legislate further or to take additional measures as may be envisaged in Article 32(2).

However, internal communication obtained from the Department of Labour under the Official Information Act in 2009 reveal there was disagreement by policymakers regarding the definition of 'adequacy' and whether this term was 'overstating the current protection afforded to children'. As a result, the official policy response from the department with sole authority for regulating the labour market conflicts with the reality of what is actually happening in practice. Nonetheless, an accurate picture is difficult to ascertain as there is very limited data sets available concerning working children in New Zealand. Reasons for delays in addressing minimum age requirements under UN Article 32(2) and International Labour Organisation 138 have been justified because 'it is both acceptable and common practice for children to engage in work outside school hours' (Boyd and Fleming, 2000), reiterating the commonly held view that children's work in New Zealand is '...socially desirable, since it prepares them for independence and greater responsibility in a way which complements their formal education' (Chetwin, 2002: 2). This idealised description of children's work does not portray the reality of what actually occurs in many cases nor acknowledges the fact that New Zealanders have a strong culture of encouraging their children to work, even from a very young age (McKechnie and Hobbs, 1999, CARITAS, 2007, 2003).

The New Zealand Government undertook an Annual Periodic Review and fulfilled their reporting obligations under the 1998 UN Declaration in 2009 (International Labour Organisation, 2009b). Relevant government agencies consulted with employers, employee's groups and also key stakeholders - but did not include

children in the process. In the resultant report the Government stated challenges related to recognising the International Labour Organisation Fundamental Principles and Rights at Work were related to ‘social and economic circumstances’ and ‘legal provisions’ (International Labour Organisation, 2009b: 15), the Council for Trade Unions citing ‘social values and cultural traditions’ (International Labour Organisation, 2009b: 14). So with the record for international regulatory compliance mixed at best, does domestic legislation reflect this apparent indifference?

2.6. Legislation for Child Workers in New Zealand

Although New Zealand has had a long history of ratifying International Labour Organisation Conventions relating to working children, a number of key international have a greater impact on controlling the wages and conditions of working children in New Zealand (Boyden, 1997, Buchanan and Nicholls, 2003). Employment statutes work in tandem to strengthen individual authority (for example, by regulating minimum school leaving age and the hours children can work during school hours), but to date it is questionable whether comprehensive protection has been achieved. Some New Zealand employment laws are ‘pale’ versions of international legal tenants and conventions, do not necessarily conform to best practice for regulating children’s work, and have limited reach. While relevant legislation pertaining to children covers the social, economic, and political, for the purpose of this thesis regulation discussed here will relate to children participating in economic activity, beginning with the Employment Relations Act 2001.

2.6.1. Employment Relations Act 2001

The Employment Relations Act 2001 is the foundation of New Zealand employment law. Its primary objective is to build productive employment relationships through good faith behaviour in all aspects of the employment relationship (Employment Court of New Zealand, 2009). Advocating ‘good faith’ in bargaining while recognising an inherent power imbalance between the employer and employee, the Act governs the terms and conditions of work. However, while acknowledging a power imbalance in the employment relationship, the Act neglects to specifically

mention children as stakeholders with vulnerable status. Further, the role of unions as the sole ‘bargaining agent’ for collective agreements neglects to address the lack of union membership generally and amongst young people specifically: currently 19 per cent and unmeasured by age (Department of Labour 2009a). With the prevalence of individual contracts in sectors that child workers form a large part of (for example, customer service), there is limited scope for improving employment conditions within the boundaries of this legislation. So what of the more specific area of health and safety?

2.6.2. Health and Safety in Employment Act 1992

The Act has its antecedents in early Victorian legislation aimed at protecting the safety of children (for example, the Employment of Females and Children’s Act 1873). At the heart of the Act is a duty of care allocating the main responsibility for workplace health and safety, including identification and management of potential workplace hazards to the employers (DOL, 2003). As part of an employer’s duty of care, training and supervision must be given to ensure that inexperienced workers are not exposed to ‘excessive risk’ during workplace duties. Employees also have the right to participate in health and safety regulation to ensure minimisation of potential injury or harm (HSE Act Section 2A, 1992). There is some mention of children, recognising their vulnerability. Children aged under 15 cannot work where:

- goods are prepared or manufactured for trade or sale (such as factories)
- any construction work is conducted (for example, building sites)
- logging or tree-felling is being done
- any other work is being done in areas that is likely to harm (HSE Act, 1992).

A number of restrictions relate to the types of work that can be done, controlled by age. Those under 15 cannot operate machinery, lift heavy loads or ride on a tractor, impellent or mobile plant. Children undertaking agricultural work can use tractors over the age of 12 years only if fully trained, being trained, or under supervision, an anomaly recognising traditional farming practices in which the separation between

family chores and working on the farm are blurred (Department of Labour, 2003). The Act also prohibits employing children under 16 during school hours or when it would interfere with their school attendance as per Regulation 58:

‘Every employer shall take all principal steps to ensure that no employee under age of 16 years works at any place of work under the control of that employer between hours of 10pm on any day and 6am on the next day unless the employee’s employment is in all respects in accordance with an approved code of practice relating to the employment of people under that age of 16 years between those hours in work of the kind the employee is doing’.

Compared to New Zealand the health and safety of young peoples is more closely regulated overseas, with maximum hours of work and minimum rest periods in many of the Nordic countries and Europe (Esping-Andersen, 1990; Forsberg and Kröger, 2009). New Zealand merely has a general guideline stating that work hours should not endanger health and safety, and for those 16 and under, should not interfere with school attendance (Roth, 2008b: 5).

2.6.3. Human Rights Act 1993/ Amendments 2001

The Human Rights Act lists the grounds where discrimination is unlawful, as well as exceptions to this law. The Act works in accordance with the UN Human Rights Covenants and Conventions, with an encompassing and inclusive view reasons for illegal discrimination. There are 15 grounds on which discrimination is illegal:

- sex (including pregnancy and childbirth)
- marital status
- religious belief
- ethical belief
- colour
- race
- ethnic and national origins
- disability (including physical, psychological, presence of organisms)
- age
- political opinion
- employment status

- family status
- sexual orientation
- sexual harassment
- racial harassment.

While Section 21 provides that age is a ‘prohibited ground of discrimination’, there are some exceptions that limit the rights held by children in a variety of spheres, limiting the effectiveness of the Act. Under the Act age is defined as:

‘For the purposes of sections 22 to 41 and section 70 of this Act and in relation to any different treatment based on age that occurs in the period beginning with the 1st day of February 1994 and ending with the close of the 31st day of January 1999, any age commencing with the age of 16 years and ending with the date on which persons of the age of the person whose age is in issue qualify for national superannuation under section 7 of the New Zealand Superannuation and Retirement Income Act 2001 (irrespective of whether or not the particular person qualifies for national superannuation at that age or any other age):

For the purposes of sections 22 to 41 and section 70 of this Act and in relation to any different treatment based on age that occurs on or after the 1st day of February 1999, any age commencing with the age of 16 years:

For the purposes of any other provision of Part 2 of this Act, an age commencing with the age of 16 years’ (Human Rights Act 1993: Section 2(i)).

Various exceptions can be argued to protect children (limiting ages for being left alone, driving a car, and marrying), some provisions are difficult to justify from a human rights perspective. For example, section 30(2) of the Act permits employers to discriminate on the grounds of age in terms of paying a lower rate of pay to employees below 18 years. Furthermore, children under 16 do not have the same aged-based rights as those over 16. This discrimination on the basis of age is evident in setting minimum wages, where Section 30(2) justifies this double standard of the age-setting basis of wages generally. While one of the stated intents of the Human Rights Act is international human rights compliance, this does not comply with International Labour Organisation 138 or UN 32(2) recommendations for setting a minimum age for work and disallowing discrimination in based on age.

2.6.4. Minimum Wage Act 1983

The Minimum Wage Act sets minima an adult (age 18 and above) can be paid, as well as guidelines for setting wages for new entrants and training wages for 16 and 17 year olds, although for those under 16 there is no statutory minimum wage. Following changes brought about by the Minimum Wage (Abolition of Age Discrimination) Amendment Bill 2007, there are three minimum wage rates related to age.

- The adult minimum wage applies to all employees aged 16 and over who are not new entrants or trainees.
- The new entrants minimum wage applies to employees aged 16 and 17 except for those who have completed 200 hours or three months of employment, whichever is shorter; or who are supervising or training other workers; or who are trainees.
- The training minimum wage applies to employees aged 16 and over who are doing recognised industry training.

2.6.5. Minors' Contracts Act 1969

The Minors' Contract Act relates to contractual capacity of minors, asserting that a contract entered into with someone under 18 years of age is presumed to be unenforceable. Certain contracts may be excluded, such as some contracts for life insurance and some employment contracts. For a contract of employment, children under the age of 18 are required to have a parent or guardian sign their contract confirming they have permission to work. This does not mean that all children have a written contract as they may often work in the informal economy (for example, babysitting or agricultural duties). Courts may choose to enforce contracts entered into by minors if the contract was 'fair and reasonable...'

2.6.6. Other legislation

Some legislation while not directly employment related, regulates the welfare of children. Of note the *Children, Young Persons and their Families Act 1989* concerns the care and protection of children and young persons while in protective custody as victims of abuse, neglect, or in custody as a young offender. Considered progressive when enacted, it was world leading in applying a rights-based approach (Ministry of

Youth Affairs, 2009). The benefit system supports children whose primary caregiver is bringing up dependent children alone and not in paid work by providing the Domestic Purposes Benefit. Further, child support legislation protects children by legislating compulsory child support (tested by income) from the parent not involved as the primary caregiver so financial support is fairly distributed.

More recently, the Working for Families tax credits have incentivised both parents to engage in paid work, although there has been criticism by the Child Poverty Action Group (2008, 2003) that the tax incentives for working adults disadvantage poor children in New Zealand. Furthermore, media coverage in 2009 focused on the Government's attempts to lower the age of criminal responsibility in an adult court from 18 to 12- contrary to UNROC compliance (Article 40) (Tait, 2007). Extant legislation shows existing New Zealand legislation is somewhat contradictory where children are acknowledged as vulnerable and in need of heightened safeguards than adults in some legislation (see Health and Safety in Employment Act, 1992; Minimum Wage Act 1983 for those over 16; The Education Act 1989), yet lack protection and are knowingly discriminated against in other areas (see Employment Relations Act 2000; Human Rights Act 1993; Minimum Wage Act 1983 for those under 16). Such conflicting levels of protection have implications for the security of children in political, social and economic arenas.

2.7. Chapter summary

As can be seen, understanding and defining child labour is contentious and complex when varying segments of society have different views on what is legitimate and illegitimate work for children. These perspectives have diverse focuses and the lack of consensus in definitional issues influences direction of debate. Therefore, for the purposes of this thesis, the terms that will be used are summarised below.

Table 2.1: Definitions used in Thesis

Child	A young person below the age of 18, as defined by the International Labour Organisation and United Nations legislation, as well as the New Zealand age of majority ² .
Child labour	Hazardous and/or illegal conditions of work in its worst forms
Children's work	Work for remuneration undertaken by children in New Zealand under the age of 18.
Economic activity	Children's work outside the home creating economic value'. As this term is open for interpretation it will not be used within the course of discussion without qualification.

Firstly, the global situation related to working children provides information on the international context and recent trends has been described. Secondly, international and domestic legislation and regulation are described to give a contextual setting to discussion in upcoming chapters. By presenting legislation that protects working children, some of the regulatory and legislative issues emerge.

In the following chapter the history of children's work is presented in two parts. Firstly a historic background is presented of children's work from a western context. Second, the New Zealand history of working children is discussed to provide a background for discussion and analysis in following chapter.

² This is a legally fixed age, where an individual is no longer considered to be a child or 'minor', and is seen as being responsible for their own actions as an adult. For example, they may be able to enter binding contracts, purchase alcohol, and marry (Age of Majority Act, 1970). Setting the age of majority at 20, this definition only applies when other legislation does not specify an age at which the right can be obtained.

Chapter Three

The History of Working Children

3.1. Introduction

Traditionally children's work has a controversial history, reflecting progression of social mores over time, where worldwide in all societies children undertake paid or unpaid work, although the types of work children do and the forms of their involvement vary (Fyfe and Jankanish, 1997). Historically children were economically active as contributors to the family income from a young age. While the majority of current literature focuses on the problems of child labour in the developing world (see Basu and Van, 1999, Black, 1995, Cigno and Rosati, 2005, Contreras, 2007), the bulk of literature relating to the historical 'development' of child labour focuses on Europe and America, and changes brought by industrialisation and The Enlightenment (Corrigan and Sayer, 1985, Cunningham, 2001, Van Horn Melton, 2001).

New Zealand's documented history of children's work is relatively short due to recent colonisation and subsequent industrialisation. However, in spite of the limited timeframe it mimics many countries' stages in terms of early agricultural work, followed by industrialisation and subsequent economic development (Carnoy and Levin, 1985, Heywood, 2001, Hindman, 2009). Extant literature reiterates the presumption that western countries have 'evolved' further than developing countries where there is continued social and economic reliance on working children (Hindman and Smith, 1999, O'Brien and Williams, 2008).

Discussed in this chapter is the history of children's work covering western 'development' and then New Zealand context. This background chapter sets the scene by showing that while New Zealand was settled and industrialised later than many western countries, there are continuing themes that mirror overseas precedent and developing countries' current experiences.

3.2. Western Historical Background

The history of working children is premised on the family as a social unit; but also an economic unit where each member of the family was required to contribute to the survival of the family and ultimately the community. In pre-industrial times working children were vital to the household economy, where children assisted their parents and/or were sent out to work for others. Such work was often an extension of work around the home, and not considered exploitative:

‘... the set nature of the community and the accepted codes governing social behaviour meant that most child work – herding cows, collecting water, helping a parent perform their daily round – usually consisted of a natural expansion of existing physical and occupational horizons, not an abrupt curtailment of nurture or upbringing’ (Black, 1995: 3).

In an agrarian-dominated economy, child labour was a major component in factory production of the next epoch, the Industrial Revolution. This type of mass industrialisation was predicated on exploitation, whereby cruelty and exploitation of children (particularly those of the ‘working class’) was far from uncommon (Fernández-Armesto, 1995), Amin (1997: 131) noting ‘In the early stages of national industrial development, unencumbered by social or economic reforms, horrific excesses were committed in the name of accumulation – particularly in the treatment of workers, especially women and children, and in the despoliation of the environment’.

Beginning in Britain, ‘progress’ saw millions of children working in appalling conditions in mines, mills, factories, and farms. Working children were subjected to long hours, using or working around heavy and dangerous equipment, with many accidents occurring injuring or killing children on the job (Lees, 1998, MacKinnon, 1987). This mistreatment meant ‘the wellbeing of several generations of children was sacrificed to make Great Britain wealthy’ (Nardinelli, 1990: 3). Acknowledging exceedingly poor conditions for children by the government, the first step in Great Britain was the 1833 Factory Act. The Act limited the number of hours children could work: children 9 to 13 years of age were limited to 8 hours a day; those 14 to 18 years of age could not work more than 12 hours a day; and children under 9 were

prohibited from working. Further, children were to attend school for no fewer than two hours a day.

However, despite signalling the end of ‘unregulated capitalism’, changes to working conditions were incremental at best (Cunningham, 2001, Hindman and Smith, 1999). Continuing opposition to the horrific work environments children were forced to work under was immortalised in literary works such as Charles Dickens’ ‘Oliver Twist’ in 1838. ‘Oliver Twist’ described the effects of industrialism on 19th-century England, also criticising the Poor Laws¹ (Ackroyd, 1990). Nonetheless, as there was no compulsory education before 1870 work was often the only option for deprived children to leave the workhouses (Blaug, 1963, Winstanley, 1995).

In addition, some children were recruited as criminals, an issue seen as so serious Karl Marx called for the abolition of children’s factory labour in the hugely influential 1848 Communist Manifesto (Marx and Engels, 1998), and writing in May 1875 to the *Eisenach* faction of the German social democratic movement. In the letter Marx argued the importance of legislation and education to protect children, although acknowledging an incompatibility with industrialisation and the lack of impetus for regulation at that time, arguing:

‘Here it was absolutely essential to state the age limit. A general prohibition of child labour is incompatible with the existence of large-scale industry and hence, an empty pious wish. Its realisation-if it were possible-would be reactionary, since, with a strict regulation of the working time according to the different age groups and other safety measures for the protection of children, an early combination of productive labour with education is one of the most potent means for the transformation of present day society’ (Marx and Engels 1962: II, 36).

For an increasingly industrialised America the same issues were also becoming evident. One of the first to denounce conditions children were working under was union organiser Mary ‘Mother’ Jones, encouraging strikes as a form of protest in the

¹ The English Poor Laws were a system of poor relief in Great Britain that developed out of late medieval and Tudor laws. The Poor Law system existed until the emergence of the modern welfare state after the World War II. Authorities tried to deter entrance to the Workhouses through measures such as the introduction of prison style uniforms and segregation of ‘inmates’ into yards - there were normally male, female, boy and girls yards (Lees, 1998).

early 1900s (Haman, 2003). In Philadelphia in 1903 she organised a strike where 100,000 textile workers (including 16,000 children aged below 16) walked off their jobs at the mills (Postol, 2008: 3). Increasing strikes helped to influence the founding in 1904 of the National Child Labor Committee, concentrating on eliminating child labour industry by industry. Alexander McKelway, a preacher and campaigner for working children in the textile factories of the Southern States, helped foster the idea that working children possessed rights that were distinctive from the rights of adults. Many parents had until then assumed that they possessed the right to send their children out to work, and that this was one of the primary roles as a parent (Fyfe and Jankanish, 1997). In 1913 *The Declaration of Dependence by the Children of America in Mines and Factories and Workshops Assembled*, McKelway resolved:

‘Childhood is endowed with certain inherent and inalienable rights, among which are freedom from toil for daily bread...That we declare ourselves to be helpless and dependent; that we are and of right to be dependent, and that we hereby present the appeal of our helplessness that we may be protected in the enjoyment of the rights of childhood. That we demand the restoration of our rights by the abolition of child labour in America’ (cited in Trattner, 1970: Preface).

Thus, the dominant paradigm of early child labour intervention during the Industrial Revolution was initially shaped by the legacy of European and American experience. In particular, the exploitation and abuse of child labour was treated as a public policy issue where children were viewed to be ‘unfairly burdened’ by economic responsibilities (International Labour Organisation, 2006). Nonetheless, other influences were at play in the late 18th and 19th centuries, particularly the Romantic Movement which idealised childhood and the integrity of the individual. Originally set against a backdrop of violent revolution during a period of economic, political, and social transition, it was a European phenomenon and coincided with major changes in ideas about children and childhood (Holt McGavran, 1999). The supposed malleability of children was attractive to reformers (Heywood, 2001), ‘children seen as a natural person whose qualities should be preserved if humankind was to be redeemed’ (Hassall, 2007: 1).

The other-counter influence to emerge around the mid 19th century in Europe was the

‘Enlightenment’ period in which the proponents argued for human and scientific reasoning as the primary source of legitimacy for authority over faith, in contrast with the religious and arbitrary political power structures of the day (Van Horn Melton, 2001). Many prominent figures of the Enlightenment observed the importance of education, and lamented the poor schooling standards, as there continued to be a broad gap between the elite and the workers, who were mainly illiterate (Lavalette, 1994, Heywood, 2001). Newly established societies aimed to bring the message of the Enlightenment to the wider public, and in Europe textbooks for children began to be mass produced relatively cheaply, the Dutch novelist Betje Wolff writing, ‘This is the century in which we have started to write for children’ (quoted in Dekker, 1999: 46).

Enlightenment philosopher John Locke's 1693 book *Some Thoughts Concerning Education* signalled this new way of seeing children, comparing the child with a blank slate parents should stimulate, and stressing the need for an individual approach to each child. This contrasted with earlier writers, who regarded children as born with innate ideas and marked by ‘original sin’ (Locke, 1996). However, a contrasting Enlightenment opinion was that of the philosopher Rousseau, warning education and culture could only spoil the child (Fass, 2003, Rousseau, 1979).

Nonetheless, while intellectual movements focused on protecting children, unions generally opposed the practice of child labour in principle but the issue was not seen as of primary importance compared to concerns of adult workers (Hindman and Smith, 1999). Furthermore, the initial trade union stance on child labour in the late 18th century was framed by the fear children would displace adult workers and undermine work hierarchy. There was also widespread and virulent opposition to compulsory schooling, frequently coming from working-class families reliant on their children’s extra earnings (Cunningham, 2001). Education was often criticised for not being useful when working could reward a family economically, and the ‘right’ not to work was a privilege afforded to few children during this period.

Priorities had changed by the late 19th century, when the international trade union movement, spear-headed by trade unions in Great Britain, Germany, and New Zealand began to campaign for the abolition of child labour (Fyfe and Jankanish, 1997, Harrison and Nolan, 2004). In particular the trade unions argued for the need to move children from the workplace to the classroom, without undermining working conditions of adults (Nokov, 2000). Furthermore, the first International Workers Congress in 1866 demanded international legislation to cover child labour (Fyfe and Jankanish, 1997, Stewart 1989). The Congress was formed by the International Workers Association, an international socialist organisation aimed at uniting different left-wing political groups and trade union organisations. Consequently, early legislation was aimed to control child labour to an appropriate level as seen by governments and society at large,

‘Firstly, legislation controlled children’s work in industries where there was cause for concern, such as textiles, the mines, and the pottery industry. Their strengths (and limitations) were that they were industry-specific; combining a minimum age for work and compulsory schooling’ (Cunningham, 2001: 16).

Although regulation of child labour had begun in many developed countries, regulation became explicitly internationally focused by the end of the 19th century (Roth, 2008a). At one conference held in Berlin in March 1890, 12 countries were invited by Kaiser Bismarck ‘to work on achieving international agreements so nations could compete on an equal footing’ (Hassall, 2007: 2). The agenda was focused on the labour of children, young people, women in mines and factories, and Sunday work. Twelve years was set as the minimum age of entry to industry, except for Spain and Italy, where it was set at 10 because of the supposed more rapid maturing of children in hot climates’ (Cunningham, 2001: 19). Work at night and on Sundays for children under 16 was banned, although there was little inter-country enforcement capacity. Jules Simon, who led the French delegation, voiced reservations about protecting adult labour but accepted limits on child labour as a ‘state obligation’ (Stewart, 1989: 175).

Other non-European countries also began to set basic standards for child workers. In America, the continuing agitation to end child labour in the mid- to late 19th century

was carried out in tandem with other civil rights movements, such as universal suffrage and anti-slavery movements (Fernández-Armesto,1995). The political and economic schisms of the American Civil War of 1861-1865, which ultimately led to the abolition of slavery and opened the Southern states to free-labour capitalism; also included campaigns on ending child labour and promoting general worker rights, particularly for the right to work only eight hours per day (Trattner, 1970). In parallel with other socialist movements round the world, the movement to abolish the exploitation of child workers began to gather momentum in America by the late 19th century, illustrated Samuel Gompers, President of the American Federation of Labour (AFL) speech to the delegates at the 1893 AFL Convention:

‘The damnable system which permits young and innocent children to have their lives worked out for them in factories, mills, workshops, and stores, is one of the very worse (sic) of labour’s grievances. We shall never close our agitation until we have rescued them and placed them where they should be, in the schoolroom and playground‘ (in Fyfe and Jankanish, 1997: 2).

However, in Europe and America conditions were slow to improve for child workers because of the substantial benefits derived from having children engage in the most menial and worst forms of work. These conditions were the cause of the ‘Match Girls Strike‘ of 1888 protesting long days, poor pay, and health complications related to working with phosphorus at the Bryant and May match factories. Women’s rights activist Annie Besant had published an article entitled ‘White Slavery in London‘ in her paper *The Link*, alleging ‘sweating’³ (Norton and Company, 2010).

‘Such is a bald account of one form of white slavery as it exists in London. With chattel slaves Mr. Bryant could not have made his huge fortune, for he could not have fed, clothed, and housed them for 4s. a week each, and they would have had a definite money value which would have served as a protection. But who cares for the fate of these white wage slaves? Born in slums, driven to work while still children, undersized because underfed, oppressed because helpless, flung aside as soon as worked out, who cares if they die or go on the streets, provided only that the Bryant and May shareholders get their 23 per cent, and Mr. Theodore Bryant can erect statues and buy parks?’

³ Sweating is where workers are employed for long hours, at low pay and in poor working conditions. This continues to be common for workers in many countries worldwide (London School of Economics, 2009).

As a result, Bryant and May tried to get their child employees to refute the article's contents, which they refused to do. This resulted in a strike lasting nine days, involving 1400 match workers (Beaver, 1985). The involvement of prominent women's suffrage campaigner and social activist Emmeline Pankhurst and writer George Bernard Shaw increased publicity about the appalling conditions women and children were working under, resulting in improved health and safety conditions. However, conditions continued to be concerning in the match industry, which was still using poisonous white phosphorus. To increase pressure on industry and authorities the Salvation Army opened their own match factory in 1891 using less toxic phosphorus and paying better wages. Such pressure continued until the matches were banned in 1908 (Raw, 2009).

In 1894 Emmeline Pankhurst applied to be a Poor Law Guardian as a consequence of the terrible conditions she had witnessed in the match factories. Her role involved regular visits to the local workhouse. Becoming increasingly concerned about the way vulnerable women and children were treated there reinforced her belief that women's suffrage was the only way these problems would be solved. She described the poor circumstances of child workers in conditions of virtual enslavement in the workhouses:

‘The first time I went into the place I was horrified to see little girls seven and eight years on their knees scrubbing the cold stones of the long corridors. These little girls were clad, summer and winter, in thin cotton frocks, low in the neck and short sleeved. At night they wore nothing at all, night dresses being considered too good for paupers. The fact that bronchitis was epidemic among them most of the time had not suggested to the guardians any change in the fashion of their clothes’ (Pankhurst, 1914: 25).

Her worry also extended to the impact of institutionalisation on poor children's later prospects, ‘...if they are regarded merely as children under the guardianship of the state, they assume quite another character (Pankhurst: 1914: 18-19). However, trade unionists continued to be reluctant to condemn child employment when to do so would mean a deterioration of their own working conditions (Bolin-Hort, 1989). Instead, trade union activity was centered on highly unionised industries, primarily male dominated. In spite of these setbacks, some advancements in setting child labour minimum standards occurred with the formation in 1900 of the International

Association for Labour Legislation. While initial concerns focused on the abolition of night work by women and prohibition of the use of white phosphorous and white lead, interest groups such as trade unions were later asked to report on child labour in their countries (Cunningham, 2001).

On the basis of these reports, controversial legislation was drafted to regulate the working hours of children. However, the outbreak of World War I halted any further diplomatic conferences on the topic until 1919 (Van Horn Melton, 2001). Of further significance is that from 1919 onwards the International Labour Organisation had anti-socialist agenda so that ‘...labour unrest would subside...’ (O’Brien and Williams, 2004). This counter-influence meant that the exploitation of children, particularly those children in sweated conditions or in the informal economy, tended to be ignored (Lieten and White, 2001: 21).

Following World War I, interest in the welfare and rights of child workers was again reignited, although rebuilding the economy and industry post World War I took primacy over issues concerning child labour. However, the rights of child workers were some of the first to be set down in the foundation documents of the newly formed League of Nations in 1919. The League’s Covenant pledged to protect the young and to ‘endeavour to secure fair and humane conditions of labour for men, women and children’ (Article 23, cited in Marshall, 1999: 105). The establishment of the International Labour Organisation as part of the Versailles Treaty meant the problem of ‘child labour’ was largely seen to have been solved (Lieten and White, 2001). Article 427 of the Treaty assigned to the International Labour Organisation as one of its most nine most urgent tasks ‘the abolition of child labour and the imposition of such limitations on the labour of young persons as shall permit continuation of their education and assure their proper physical development⁴’ (Cunningham, 2001: 20).

⁴ However, the non-government welfare sector was minimised in comparison to government models. An early non-governmental intervention at the end of the First World War was the Save the Children movement, established by Eglantyne Jebb to relieve the effects of a famine on children in defeated countries (Hassall, 2007: 2). There were a number of organisations focused on child welfare: the International Red Cross, the Save the Children Fund and the Save the Children International Union, and the International Association for Child Welfare. Most had links with the League of Nations child welfare committee.

The International Labour Organisation's original constitution gave governments a 50 per cent representation (Cunningham, 2001, International Labour Organisation, 1931). As the vote in decisions, with the remainder divided between employers' and workers' tripartite coalition of government, employer, and trade union representatives was unlikely to disagree that there should be some legislative protection for children, it was easy enough to set minimum standards. As a result of widespread condemnation of the working conditions of children, four of the first ten International Labour Organisation Conventions (dating from 1919-1921) dealt with child labour and the minimum age for work in particular sectors such as agriculture, factories, and shipping.

In subsequent years Conventions were quickly adopted concerning child labour, and in the following years minimum ages were set for entry into industry, where fixing of minimum ages for certain types of work formed the basis of subsequent international standards (Fyfe and Jankanish, 1997). However, the states that ratified early Conventions were predominantly European and saw ratification as confirmation that their existing laws were compliant (Cunningham, 2001). Some obvious 'hold outs' were the USSR and the USA, neither of which were International Labour Organisation members. The initial version of the Convention of the Rights of the Child was drafted by the Save the Children International Union founder, Eglantyne Jebb, in 1923. The initial 1923 document consisted of the following stipulations:

1. The child must be given the means requisite for its normal development, both materially and spiritually.
2. The child that is hungry must be fed, the child that is sick must be nursed, the child that is backward must be helped, the delinquent child must be reclaimed, and the orphan and the waif must be sheltered and succoured.
3. The child must be the first to receive relief in times of distress.
4. The child must be put in a position to earn a livelihood, and must be protected against every form of exploitation.
5. The child must be brought up in the consciousness that its talents must be

devoted to the service of its fellow men' (Child Rights Information Network, 2009).

The Convention was adopted by the League of Nations in 1924 as *The Declaration of Geneva* (Cunningham, 2001: 21), acknowledging the protection that should ideally be afforded to children in employment:

'The reason for not admitting a child too early to remunerative employment is that its physical development is not yet complete; moreover, the period of childhood ought to be the period of school attendance if the future worker is to have every opportunity of developing his adult personality to the full' (The International Labour Organisation, 1931: 143).

Subsequent progression of the League of Nations' agenda was seen as relatively uncontroversial in a world focused on post-war reconstruction. A number of Conventions continued to be presented to improve working conditions and to set age limits for employing young workers. However, while there was general tripartite agreement that young people should be protected by law, most discourse at the time referred to the presumption of children as future adult workers, rather than concentrating on the rights of the child. The *International Labour Review* carried a small number of articles regarding child labour between the 1920s and 1950s, but no particular country was targeted and interest was minimal by governments and the general public alike.

General disinterest regarding working children was further complicated by the Great Depression of 1929–32, while the United States and Great Britain were still rebuilding industry Post-World War I. In Great Britain, a minority Labour government had just gained office, with limited experience of governance or economic direction, struggling during its term to produce policy that was politically acceptable and addressed economic and social concerns (Booth and Pack, 1985; Broadberry, 1986). During the Depression's peak one-fifth of the workforce was unemployed, and industrial areas and child workers were among the hardest hit with mass unemployment. With mass unemployment, the existing contributory insurance scheme was soon found inadequate, and many had to rely on poor law relief paid by their local authority (Broadberry, 1986). As the scheme's weaknesses became

apparent, in 1931 it was replaced by a fully government-funded unemployment benefit system paid according to need (Cole and Ohanian, 2007).

A similar situation of widespread deprivation quickly became apparent in the United States when approximately one-quarter of the labour force was out of work, with the young again bearing a disproportionate burden of unemployment and poverty. Although young people under 16 represented only 31 per cent of the U.S. population they constituted 42 per cent of all of the poverty-stricken Americans who became relief recipients (Cohen, 2003). This harrowing situation engendered greater reliance on the American Government (a member of the International Labour Organisation since 1934), and pressure to further regulate and protect workers from the vagaries of the market.

However, the gains for adults often resulted in losses for young workers. For example, to protect adult workers, in 1938 the American Government decided children under the age of 16 could not work during school hours and that businesses could not give jobs to children instead of adults. This legislation had dramatic effect on already vulnerable workers that were not eligible to the (albeit limited) social insurance of the time. Consequently, the Fair Labor Standards Act 1938 established a minimum wage, overtime pay, and child labour standards for workers in the United States. Nevertheless, the start of World War II in 1939 signalled the unravelling of much progress that had been made regarding working children in many western countries. Mass deployment of men to battlefields worldwide and patriotism towards the ‘war effort’ meant there was little criticism of women and children returning to work to ‘help’ their country. Many industries during wartime were kept running only because of this labour (Nokov, 2000).

Post-World War II the global priority was once again rebuilding financial institutions and industry, the formation of the Bretton Woods institutions designed to regulate global finance and trade (Goldstein, 2004). Therefore, focus on international children’s rights was mainly part of Cold War détente where ‘international legislation on child labour came in part from the fear of socialism and the concern to organise a

smooth-functioning capitalist world, and these could hardly be said to stem directly from a concern for children and their rights' (Cunningham, 2001: 14). Furthermore, the 1948 Declaration of Human Rights proclaimed that 'everyone has the right to work' (Jenks 1960: 119), but that 'right' (and resulting protection levels) continued to exclude children. The post-war years of economic prosperity and growth offered unprecedented development and wealth for western economies, and the many children no longer engaging in paid work was caused by greater wealth rather than legislation or enforcement of regulations. Nonetheless, in November 1959 the United Nations General Assembly adopted an expanded version of its own Declaration of the Rights of the Child, with 10 principles in place of the original five. However, 'it was a one-page document whose length reflected the rudimentary development of the idea of children's rights at that point' (Hassall, 2007: 2).

The 1970s heralded increasing global economic interdependence, but the reality of the 1970s 'oil shocks' meant post-war welfare states were looking less viable for the future. Indeed, 1973 'can be said to mark the end of the post-war boom years, and the beginning of the processes of globalisation which have themselves enormously increased the level of child labour' (Cunningham, 2001: 23). While the International Labour Organisation's 1973 Minimum Age Convention largely superseded industry-specific Conventions adopted since 1919, 'in tone, it seems to belong to an era when there were reasonable prospects that child labour would be eliminated' (Teeple, 1995). Continued debates ensued between member states over the minimum age for employment: 14 was accepted but a large minority favoured 15, or the age at which compulsory education, or whichever was higher, was accepted as the norm. A minimum age for employment of 14 was agreed upon for developing countries, but a target age of 16 was suggested (Cunningham, 2001).

Deteriorating economic circumstances of the 1980s saw a rise in child labour – a return to 'Dickensian Britain', (Cunningham, 2001: 23) and similar conditions in the United States. Declining circumstances were further evident in the breakdown of the USSR, resulting in economic instability, widespread movement of people, and deprivation. In the late 1980s various countries with weakening economic conditions showed an increase in child labour, again becoming a concern for multilateral

institutions and governments (Cornia, Jolly and Stewart, 1987). The end of the decade saw 1989 named 'The Year of the Child' by the United Nations and the International Labour Organisation- thirty years after the previous Convention, the 1989 UN Convention on the Rights of the Child (UNCROC) was introduced. Aiming for 'best practice', it was 'more comprehensive at seven pages and recognised better the special interests and vulnerabilities of children' (Hassall, 2007: 1). Some of its manifestations continue to be the presence of children's commissioners in each International Labour Organisation-signed country, a growing number of ministers for children, and domestic monitoring and reporting apparatus⁵. There are now non-governmental organisations (NGOs) in most countries advocating for children's rights, political interests, and safety (for example, Save the Children, Oxfam, United Nations Children's Fund), and laws are being enacted that more specifically recognise children's unique needs (Hassall, 2007).

However, continuing problems regarding the presence of appropriate legislation and lack of monitoring apparatus manifest. While such problems are greatest in developing countries, there is still concern that the 'appropriate role' of working children has not been adequately resolved in western countries either. In 1994 the International Confederation of Free Trade Unions launched a campaign to end child labour, which was followed by a Charter against Child Labour. These campaigns reflected greater effort by trade unions worldwide to build networks focusing on social rights as well as labour issues (Myconos, 2005). Action by multilateral institutions, governments and NGOs has to date been hampered by the lack of statistical information and qualitative analysis that accurately measure the extent of child labour.

This makes analysis difficult, for example in 1995 the International Labour Organisation estimated that there were 73 million economically active children aged 10-14 years worldwide. However, only a year later when the International Labour Organisation set up the International Program for the Elimination of Child Labour

⁵ Although this aspect continues to be debated, given the United Nations and International Labour Organisation has no international monitoring or 'enforcement' mechanism other than international criticism and recommendations.

(IPEC) this estimate was revised to at least 120 million between the ages of 5 and 14 for whom work was their primary activity, and more than twice as many for whom work was a secondary activity (International Labour Organisation, 2006).

The 87th session of the International Labour Organisation Conference in 1998 heralded universal adoption of *Convention 182: Elimination of the Worst Forms of Child Labour*. Member States pledged to work towards eliminating child prostitution, trafficking, child soldiers, and bonded labour. The same year the International Labour Organisation launched the Statistical Information and Monitoring Program on Child Labour (SIMPOC) to provide more accurate estimates and narratives concerning child labour. This data collection has led to household surveying of a wider range of countries and greater accuracy of results gathered. In addition, in recognition of the continuing gaps in discourse surrounding child labour in 2000 the International Labour Organisation, World Bank, and UNICEF launched the Understanding Children's Work Project (UCW Project) to build research around child labour.

The same year the United Nations Youth Policy was presented to the United Nations General Assembly focussing on four areas of policy intervention: employment creation, employability, entrepreneurship, and equal opportunities. In 2002 the UN General Assembly passed a UN Resolution on Promoting Youth Employment⁶, calling on member states to prepare national action plans on youth employment. So while data collection has increased and multilateral commitment to addressing the continued presence of child labour has improved, significant 'gaps' in knowledge and practice continue to exist. With many studies limited by location in particular industries or regions, research is not necessarily replicable in a wider context. Therefore, academics, union, non-government, and to a lesser extent government research continue to investigate the working conditions of children worldwide.

Globalisation's 'compression of time and space' has increased media and internet access, leading to many social issues becoming more widely publicised and

⁶ Promoting Youth Employment -United Nations Resolution 57/165 adopted by the General Assembly on 18 December 2002.

discussed, including child labour. Some widely publicised campaigns have concerned children in developing countries (for example, publicity surrounding Primark and Nike manufacturing, and the 2007 Shanxi child labour scandal). While such publicity has been positive in terms of generating coverage and discourse, the results have not necessarily been borne out in terms of furthering children's rights domestically or internationally. Scant attention is paid to children in western countries where the general assumption is that children are appropriately protected by existing domestic legislation. Periodic reporting to the United Nations and International Labour Organisation may mean countries need to chronicle and justify their compliance progress to regulatory committees, but the lack of enforcement procedures by multilateral organisations can often engender indifference between reporting periods. Therefore, often progress in this area is often haphazard and incremental - if at all.

While the primary focus of information and research continues to be demarcated between 'developed' and 'developing' countries, this historical chapter is recounted from a western-centered one for three main reasons. Firstly, as the primary early settlers in New Zealand were from Great Britain, they brought the Westminster legislative system and democratic state norms with settlement (Sinclair, 1991). Secondly, the bulk of historical description and analysis concerns Europe as to a large extent reflects the trends of other industrialised economies such as the earliest continent to industrialise. Thirdly, while New Zealand has a relatively short history, post-settlement it has largely followed a western model of development and United States and Australia. To be covered in the next section is New Zealand's history of working children, elucidating the similarities and differences with other western countries. This examination will give a background context to recent developments. While New Zealand has a differing and more time-limited history than the western countries discussed above, the same issues continue to be of concern and relevance.

3.3. New Zealand History

New Zealand's history of child labour can be split into two epochs – pre-colonisation and post-colonisation. Within the limited New Zealand child labour history literature, the primary focus has been on post-colonisation, particularly the exploitation of child factory workers between the mid- and late 19th century and the subsequent political and social reforms of the welfare of children, which set an international benchmark. However, it is important to acknowledge the history of child labour of pre-colonisation and during early colonisation, although little written documentation exists for the first part. Presented in this section is a historical description of working children in New Zealand, with explicit comparison between early Māori and European modes of practice. The timeframe covered is pre-European settlement to the present, showing the development and progression of children's rights, explicitly linked to the importance of women's roles in child protection and progress.

Although it is assumed that children were working long before European settlement, there is no available recorded data (Binney, 2001), and while there is subsequent descriptive historic work documenting children's experiences (Belich, 1996, King, 2003), later historic accounts are interpreted through the impact of colonisation, industrialisation, and changing social attitudes toward children and childhood. Founding Polynesian migrant populations settled in New Zealand around 1200, where hunting, fishing, and gardening patterns associated with subsistence living at the time would have seen young people fishing, catching birds and animals, and planting crops; many tasks were divided according to gender (Graham, 2009, Salmond, 1998). With increasing population, competition intensified for resources, so children as part of the tribe were expected to participate. This would often mean the old and young worked together and, as Māori history was oral, tribal history and stories were passed among generations (Belich, 1996).

While there is some formal documentation of Māori village life, given the absence of a written language pre-European settlement, the information is framed through a European lens where Māori cultural differences were seen to represent a contrast to European civilisation (Spencer, 2007). Traditional Māori society emphasised the

rights and obligations of persons as members of village, whānau, and hapu rather than as discrete individuals. Moreover, as with other unindustrialised countries children had utility value: they could do work such as water-gathering, stock minding and tending, gathering fire utensils and food. This was seen as contributing to a community in which the values of collectivism outweighed individual needs (Spencer, 2007). Early settlers witnessed Māori children working largely for their family unit in villages, so it is assumed this type of work predates colonisation (King, 2003, Sinclair, 1991).

European exploration began as a transition phase from around 1769, lasting almost fifty years. There was increasing interaction with the indigenous people through trade cooperation and conflict, some intermarriage, and sexual liaisons. Christianity was also prevalent with its emphasis on the written word (Salmond, 1998). From the 1790s there was some semi-permanent European presence in New Zealand, comprising a mostly transient collection of British, French, and Americans, active in whaling, trading, and sealing, using local children for the more menial tasks of gutting, selling, and cleaning. Described as ‘the advance guard of emerging industrial capitalism’ (Belich, 1996), the crews traded European goods including guns and metal tools, for Māori food, water, wood, flax, and sex (King, 2003:122).

Colonisation of New Zealand continued to gather pace in the late 18th and 19th centuries, with European settlers establishing communities across New Zealand. The first European women arrived in 1806, facing a harsh environment of manual work and basic utilities. Both Māori and European women on average bore six or more children, with many women dying in pregnancy or labour. The pioneer lifestyle was dangerous and cruel in many ways with conditions exposing settlers and their children to accidental deaths from drowning; falling trees, and burns (King, 2003).

From the 1800s missionaries began settling in New Zealand and attempting to convert Māori to Christianity and control the noticeably lawless European visitors (and settlers). Reports of ‘the accumulating evils of permanent anarchy’ to the British Government aimed to ensure greater intervention in local affairs (King, 2003). With settlement the entwined ideas of –material and moral progress’ (Hobsbawm, 1975)

meant the dominant European ideal was that of –Protestant values - individualism, sobriety, abstinence, labour - and the moral relations of capitalism (Corrigan and Sawyer, 1985: 81). Māori social organisation and family structure contravened European normality, and at the time the prevalent attitude to the native people was that of ‘savages’ who needed taming (Belich, 1996). Missionaries promoted literacy to Māori children, seeing it as crucial that Māori be schooled but also as a focus for ‘civilisation and conversion’ (Graham, 2009: 957).

The resultant increase in literacy and some English knowledge allowed tribes to increase their trade as settlement grew (Salmond, 1998). With settlement there was a continued shortage of domestic workers, so work continued to fall on daughters helping out around the household and boys outside. In rural areas, Māori workers would often have their children accompany them to work for Pakeha settlers. The children helping out with gardening and gathering, usually in their own village, but some travelled to major trading outposts and ports to sell and distribute various goods (Graham, 2009).

Following the signing of the Treaty of Waitangi in 1840 there was increased European settlement, primarily from England and Wales, Scotland, and Ireland; and to a lesser extent the United States, India, and various parts of continental Europe. The settlements were so large that within 20 years the immigrant and settler populations were roughly equal: 56,000 Māori and 59,000 Europeans in 1858⁸ (Graham, 2009: 957). With increased industrialisation, working women became a primary focus of public and state concern about threats to their ‘reproductive role’. Introduction of Labour Law Regulations in 1873 and the Employment of Females and Children’s Act the same year aimed to help protect women and child workers from exploitation and hazardous work. The Employment of Females and Children’s Act was amended in 1875 to prohibit the employment of children under 10 but as there were no enforcement provisions the Act was largely ignored. Such legislation was ‘moral and largely preventive rather than remedial’ (Martin, 1996: 14).

⁸ However, this was to change as Maori succumbed to ‘settlers’ diseases and population numbers began to decrease (King 2003).

With the introduction of free and compulsory elementary schooling in 1877 ‘labour standards developed in tandem with state education requirements’ (Roth, 2008b: 3), where children were required to be at school rather than working on family farms. This took some time to become a full reality, but it did so as more local schools were set up and school bus services became established (Dewson and Phillips, 2009). Unfortunately the same year a worldwide recession began and the economy remained stagnant for around 16 years. Dalziel (1996) described the recession’s impact as ‘unemployment, poverty, the exploitation of women workers, ragged children in the streets, threadbare men on the tramp, damp dark cottages in mean alleys...’

Increasing unemployment and negative growth meant there was a tendency for employers to employ women and children on lower rates. As a result, conditions for workers deteriorated and the rapidly falling cost of labour meant expansion of some industry (Sinclair, 1991). Rising concerns were echoed in an 1888 sermon by Dunedin Presbyterian Minister Waddell on ‘The Sin of Cheapness’, alleging ‘sweating’ in the clothing industry. The allegations of such poor working conditions shocked many politicians and the public alike (McLintock, 2009). After the miserable experience of working women and children in the ‘home country’, evidence that sweating had followed to a ‘better Britain’ shocked the public as settlers did not want poverty to be part of the new country (Eldred-Grigg, 1984).

As an attempt to appease the public, the Sweating Commission was created by the Government to inquire into the conditions of shop workers, but also to enquire ‘...as to the mode and terms in and on which persons are engaged or employed in any manner in supplying or making goods or articles...’ (Report of the Royal Commission into Sweating, 1890: H1). These workplaces were in many cases female and child-dominated. The Commission contended vague and badly defined provisions in existing Acts contributing to poor working conditions for many. In one

workplace:

‘We found there boys of ten, eleven, and twelve working in factories without any attempt at concealment, while the regulations as to the hours of employment were quietly ignored. One of these boys could not read, and others had passed but the First, Second, or Third Standard’ (Report of the Royal Commission into Sweating, 1890: H5).

The Commission also commented:

‘That the division of labour and the use of machinery have led to the employment of a larger number of youths and girls that were formerly engaged in the trades... it was inevitable that those engaged in keen competition should employ the cheapest labour at their command...’ (Report of the Royal Commission into Sweating, 1890: H5).

In some trades in which young women were employed such as dressmaking, there was an expectation that service in the first year would be unpaid, and then training wages. Often other young girls replaced these workers if a pay increase was asked for. Recommendations of the Committee included greater numbers of inspections and power to inspectors⁹, no factory work for children under 14, registered proof of age for young workers, and limited working hours for those between 14 and 18 years old. The Commission also commented where there was an active trade union the prevalence of child labour was lower. While the Sweating Commission reported that there was no sweated labour in New Zealand, there was evidence that women and child workers were being exploited. However, there was little consensus on how sweating was actually defined and as a result, two Commission members dissented from the Commission’s report on the grounds that poor conditions and exploitation constituted sweated labour (Amalgamated Workers Union, 2009). With work seen to have the potential for ‘physical and social degeneration’ (Harrison and Nolan, 2004: 267), the findings presented a gendered anxiety for the government and society.

Of greatest concern was the appropriate protection level for women and children - seen as the most vulnerable in society. Given New Zealand’s delayed development (compared to Europe, where most settlers had come from), it was not surprising the

⁹ While the Sweating Commission was aided in its inquiry by Factory Inspectors appointed under the Employment of Females Act 1881, the Commission was critical of the limited powers the inspectors had (Harrison and Nolan, 2004: 271).

high prevalence of child labour during the Industrial Revolution overseas was transplanted with settlement (see Report of the Royal Commission into Sweating, 1890). However, many settlers were working or lower-middle class and seeking to replicate a 'better Britain'. While looking to imitate the seemingly more positive aspects of Britain (development, moral values, and religious adherence), settlers sought to remove the worst parts (class system, social structure, and conditions of work). As a result of the findings of the Sweating Commission, the public's shocked response combined with trade union activity led to heavier regulation of the conditions of women's and children's employment with the passing of the Factories Act 1891. This Act entitled women and workers under 18 years to five holiday days, not extended to all workers until the 1940s.

1890 signalled the formation of the Liberal Party, a coalition of 'the more radical MPs who sought labour and industrial reforms...' (King, 2003: 238). The Party would go on to win the general election in January the following year and rule for 21 unbroken years. Their rule laid the foundation of the modern welfare state and more coherent policymaking for women and children, with an increased state role in the economy and regulation. As a result, early legislation was progressive and aimed to legally enshrine greater equality in working circumstances. As part of reform, in 1892 the Department of Labour was formed from the previous Bureau of Industries, under William Pember Reeves, a poet and newspaper editor with socialist ideals (King, 2003: 260). The newly-formed Department saw its primary role at the time as protecting the rights of working people, and labour laws introduced considerably improved working conditions for many.

In addition, from the 1890s the New Zealand parliament began enacting a number of enlightened initiatives including women's suffrage in 1893 and the provision of old age pensions in 1898 (King, 2003). To circumvent industrial unrest, the Industrial Conciliation and Arbitration Act 1894 sought to replace strikes with arbitration and have workers belong to registered unions¹⁰. This Act enshrined the rights of the working 'man' in the notion of a 'fair wage', based upon the assumption of his

¹⁰ As a result of the Act, New Zealand became for some years a 'land without strikes' (King, 2003: 308).

support of a dependent family, and in combination with other policy measures protected the male worker. While this protection helped develop the ‘wage earners’ welfare state’ (Castles, 1996) an unintended consequence was undermining the protection and status of women and children - working or not. And while legislation was slowly progressing, the coverage for children was still far from comprehensive, and as the 20th century approached, it had become clear that liberal reform had not yet improved conditions for many workers (Sinclair, 1991).

Nevertheless, in the early 20th century the thousands of family farms made possible by cheap land, cheap loans, and an expanding export market ‘could not have succeeded without child labour’ (Graham, 2009: 958). This ‘family farm economy’ began in 1893 when the Liberal Government began by subsidising large plots of rural land (Dewson and Phillips, 2009). As a result, schoolteachers in rural areas like Taranaki often complained about children falling asleep at their desks after early starts herding and hand milking, repeated after school. Reliance on household rather than paid labour meant that often children were removed from school during particularly heavy seasonal work, and many encountered problems if they attempted to return because of heavy regulation regarding attendance. This meant that many children, particularly in rural areas, had their schooling cut short because of family obligations, in spite of compulsory education¹¹ (Graham 2009).

The founding of the Plunket Society in 1907 and the work of Frederick Truby King¹² signalled the beginning of political advocacy for children in New Zealand. King spoke of children having rights and of agencies having an obligation to provide those rights, a rights-based approach that had not previously featured in discussions of child welfare. ‘Early twentieth century law and policy provided children with income support, education, protection, security of family relationships and criminal justice but cast them as passive victims rather than active agents’ (Hassall, 2007: 3). The development of organisations for mothers, infants, and children showed a change in attitude to the appropriate level of protection that should be afforded to

¹¹ My grandfather was one such child in Taranaki. He was removed from school aged 14 in 1934 to help his father on a dairy farm. This removal from school ended his formal education although his schoolteacher mother had wanted him to become a doctor.

¹² Founder of the Plunket Society; King was the superintendent of the Seacliff Lunatic Asylum. He progressively reformed the treatment of the mentally ill in the asylum, turning his attention to issues of childrearing when adopting a baby in 1905 (Bryder, 2003, King 2003).

children (Bryder, 2003). Also of influence was falling birth-rates: New Zealand's birth rate declined from about six or seven per family in the 1880s to just over three in 1913 and continued to decline until after World War II (Dewson and Phillips, 2009).

Regrettably, the First World War would mean a step backwards for children's working conditions. At the beginning of World War I in 1914, the arbitration system continued to set wages and conditions for industry, and union membership was approximately 70,000 (about one-quarter of the workforce). However, conscription rapidly changed the working landscape, and particularly affected were rural areas as high rates of male youth volunteering engendered labour shortages. To mitigate the effects of a decreased workforce many older boys left school earlier than intended and often younger children took on manual work beyond their capabilities, for example, agricultural work. New Zealand suffered massive war casualties, leaving a continued 'gap' in the labour force, where some 'small communities lost their entire crop of young manhood, some families all their sons' (King, 2003: 303).

Discussion about new international governance structures began in 1919 at the end of the war. New Zealand had signed The Treaty of Versailles as one of the allied powers that had defeated Germany, all signatories agreeing it would be desirable to form the League of Nations to further collective security and mediate international disputes (King, 2003). As a founding member of the League of Nations and its labour regulatory body, the International Labour Organisation; New Zealand was also one of the first signatories to the founding conventions on child labour. Yet while New Zealand committed to the International Labour Organisation ideals in principle there was little change to meet these ideals in practice. No timeframe was set for compliance to early Conventions and enforcement mechanisms were not made specific. Moreover, the post-war government focus was primarily economic and committed to strengthening industry and exports. As a result children were not clearly acknowledged as contributing to industry and were seldom mentioned in any employment legislation of the time (Sinclair, 1991).

The Great Depression had a large impact on domestic working dynamics, with a progressively greater cause for concern in the years following 1932. The Court of Arbitration lowered wages, and minimum wage rates vanished (King, 2003). During this time many young people worked to supplement family income or helped in the family more, and such work was usually unpaid. The reliance on men left many women and children destitute during the Great Depression as men moved away from their home bases to seek work, unable to play the traditional role of breadwinner (Cohen, 2002, Howard and King, 2008). Such detrimental economic times showed the fallacy of the presumption of men as the primary earner, and, with no benefit system to support family and children left behind, it was often up to children to help 'pad' family incomes by taking on 'odd jobs' to provide additional income (Spencer, 2007).

Once again the role of the welfare state was under question, and an Auckland Labour Party Member of Parliament, John A Lee saw the need for far greater cover than many of his Labour colleagues (Sinclair, 1991). Following the end of the Depression he wrote his first novel, *Children of the Poor* (1934), described as a 'sensational book on vice, poverty, and misery'. Largely autobiographical and recounting his experiences in the poorhouses, the book argued that poverty generated crime and vice, and that only a socialist programme in government could solve society's problems (Smithies, 2008). The election of the first Labour Government in 1935 reflected disillusionment with how the Depression had been handled, and Lee played a significant role in the formulation of Labour's economic policies and social reform where an extensive welfare state was developed. Of great importance was the Social Security Act 1938, which gave virtually free healthcare, a means-tested pension at 60, and universal superannuation at 65. Prime Minister Michael Savage described the system as 'from the cradle to the grave' (King, 2003: 358).

In addition, New Zealand followed overseas trends and introduced children's education initiatives in the late 1930s and early 1940s (Ministry for Culture and Heritage, 2007). By extending open access to free education to 14 -19 year olds in 1936, education was made a real alternative to work for many children. But any government was reluctant to risk interference in family life even though it often interfered with schooling attendance. Lee's advocacy for children to be given greater

protection was still considered radical, and over time he became increasingly unhappy with the new government's economic policies, which he saw as lacking protection of workers – children included (Olssen, 1977).

Changing social norms meant that by the late 1930s childhood was recognised both in New Zealand and internationally as a distinct stage in human development where a child's value to the family was no longer seen as primarily economic. Instead, children were viewed in terms of 'emotional capital' with their own unique characteristics and needs (Ministry for Culture and Heritage, 2007). However, progress lessened with the beginning of World War II in 1939, another pivotal moment in New Zealand children's working history. Many young men left New Zealand, creating a massive gap in the labour market. Women and children again filled this gap as part of the 'war effort', using their numbers to continue to keep New Zealand functioning in the absence of male workers. There was minimal criticism of this effort, it being seen as for the 'greater good' of the country (Sinclair, 1991).

With the end of the war and subsequent return of soldiers, women and children were relegated to their previous roles. However, New Zealand suffered the highest casualty rate per head of population in the Commonwealth (King, 2003), so in parts of the country labour shortages continued to be a reality. Moreover, with compulsory schooling to 15 from 1944; areas such as farming previously reliant on children began to be filled by adults, often young men returning from war. Further, a post-war economic boom and financial assistance meant that in New Zealand many farms expanded, with mechanisation of activities previously done by humans such as milking and haymaking (Callister and Didham, 2010). In addition, the end of a long war and renewed prosperity meant children were seen as vulnerable and worthy of greater protection - their role was no longer to be 'little adults'.

By contrast, financial assistance was not available to land in collective ownership so Māori gained little advantage from dairying expansion and continued to be largely excluded from many of the gains of increased prosperity. Māori children continued to help their families as part of contributing to the wider family unit, compared to a

more individualistic European model. Many relied on cash income, particularly as their subsistence lifestyle had been largely destroyed, and they had become increasingly urbanised (Belich, 1996, King, 2003).

To promote the family unit post-war, in 1945 Deputy Prime Minister Walter Nash introduced legislation for the Universal Family Benefit where mothers were to be the sole beneficiary. The Minister of Internal Affairs explained: 'We have to create such enthusiasm for the service the mother renders, that it will be lifted to the highest pinnacles of service in the nation'. (Ministry for Culture and Heritage, 2007). This was intended to help pay for items that children would need for school and other activities. Such welfare reforms and economic improvements in New Zealand, coupled with the impact of increased global youth culture and social change, created new opportunities and challenges for New Zealand young people.

However, rapidly changing social mores ensured that negative publicity was directed at youth in New Zealand. The *Mazengarb Inquiry* (1954) into 'juvenile delinquency' blamed the perceived promiscuity of the nation's youth on working mothers, the easy availability of contraceptives, and on 'young women who enticed men into having sex'. The Inquiry blamed lack of parental supervision for juvenile delinquency and advocated a return to Christianity and traditional values: findings were considered so important that they were sent to every home with a child on the family benefit (King, 2003). However, while making evident a change in value systems between generations, the Inquiry did not address the newly evident alienation of young people before and upon entering the workforce. Their working conditions were worse than those of previous generations, and attitudes at the time did not necessarily acknowledge changing expectations about the role work should have in individual's lives.

Overseas influences of the civil rights and feminist movement began to have an influence in the 1960s. This led to youth questioning the value systems they had been brought up with, and the 'rights' different groups in society were given (Haskins and Benson, 1988). Nonetheless, in the commentary and discussion, children were rarely mentioned, where it seemed that public perception of children as

‘not full humans‘ meant they were not seen as worthy of consideration in public policymaking or legislative protection. An optimistic view of childhood as being precious did not manifest in heightened security for children or acknowledged their inherent vulnerability.

The economic downturn of the 1970s contributed to large increases in unemployment, with the rapid withdrawal of farm subsidies affecting the viability of many family farms (Ministry of Culture and Heritage, 2007). While the National Government of the time was highly interventionist, long-term unemployment and the resulting poverty levels signalled intergenerational poverty and lack of opportunity for some children (see St John and Craig, 2005, St John and Wynd, 2008), particularly those reliant on welfare benefits or in a single-parent household. Full employment was a relic of the past, and working children primarily featured in marginalised and poor working environments. However, the International Year of the Child 1979 was a milestone in the children’s movement in New Zealand, providing the opportunity through a series of theme seminars such as ‘Children and health’, ‘Children and the law’, for people working for children’s interests in diverse fields to meet, make common cause, and plan for change‘ (Hassall, 2007: 3).

Deregulation of New Zealand’s economy continued throughout the 1980s, further dissipating working conditions. The election of the 4th Labour Government in 1984 was the end of an era of ‘big government‘ and extensions to welfare state provision. Over the next decade there would be neoliberal economic and market reforms that went further than most countries, leading to changing approaches to regulation and heightened importance of the market (Dannin, 1996). In more recent years this form of *laissez-faire* economic direction has meant that individuals pursuing their own ends is seen as having primacy, and that the state interferes in ‘natural order‘ with overt intervention and regulation (Howard and King, 2008, O’Brien and Williams, 2004). While the 4th Labour Government did follow an economic policy of deregulation and privatisation (King, 2003), it largely continued a ‘traditional‘ social democratic model of welfare state provision (Esping-Andersen, 1990).

In 1989 the United Nations Convention on the Rights of the Child (UNCROC) was

revised at the General Assembly. It was more comprehensive and detailed than the previously, and designed to work in tandem with International Labour Organisation Conventions. The terms of reference were modelled on those of the Norwegian children's ombudsman, the first such office in the world, established in 1981 (Hassall, 2007: 3). While monitoring and enforcement mechanisms were minimal, as a member state New Zealand appointed the first Commissioner for Children in 1989.

The 1990 Second Sweating Commission Report again focused on industries employing predominantly women and young workers (Bunkle, 1990), again reporting that sweating existed in the New Zealand retail industry – 100 years after the first shocking report. Of additional concern was the casualisation of the retail workforce and subsequent widespread employment of young people for their lower pay rates under the award system of wage setting. Questioned by the Commission was whether

‘youth rates in fact support training and foster employment and opportunity for young people or they are an exploitative mechanism used to drive down wage rates and increase the use of casual labour‘ (Bunkle, 1990: 16).

The Commission concluded that child labour had re-emerged in New Zealand. The competing demands of work and school were termed ‘Foodtown Syndrome‘ by one assistant principal, showing little change from teachers‘ concerns in Taranaki in the early 1900s. No change was evidenced as a result of this Report, with the newly-elected National Government continuing the economic and social reforms of the previous six years.

In 1993 the New Zealand Government ratified the United Nations Convention on the Rights of the Child and three years later submitted to the Committee on the Rights of the Child. New Zealand is generally well regarded in multilateral organisations, elected to a United Nations Security council rotating seat in the 1990s (King, 2003). During the increased discourse surrounding protection of children, in the 1990s three significant non-government child advocacy organisations were founded. Children's Agenda aimed to reform government processes to better reflect the importance of children, Child Poverty Action Group New Zealand aimed to reduce child poverty,

and Action for Children in Aotearoa (ACA) intended to monitor and report on New Zealand's compliance with the United Nations Convention. While the organisations operate independently of one another, there is cooperation and some overlap of these organisations' roles has occurred ¹³ (Hassall, 2007).

Evident is that while successive New Zealand governments have taken incremental steps toward ideals promoted by the children's movement, there has been slow 'development' in improving conditions for working children and progress has been haphazard and uneven to date (Dalley, 1998). New Zealand has not ratified two fundamental International Labour Organisation Conventions: International Labour Organisation 138, The Minimum Age Convention, and International Labour Organisation 87 on Freedom of Association and Protection of the Right to Organise. International Labour Organisation Convention No. 182, The Worst Forms of Child Labour Convention was ratified with reservations in 2001 (IFCTU, 2003). In 2003, the NZ Government made a further commitment to revisit child labour issues concerning minimum wages and working age as well as occupational health and safety in 2008-2009.

Of continuing concern is insufficient information about the experiences of working children in New Zealand. The only two comprehensive studies have been conducted by CARITAS, the Catholic Social Justice Agency: *Protecting Children at Work, 2003; and Delivering the Goods, 2006*. Both studies showed concerning evidence of dangerous and illegal working conditions for some children, many also lacking protection and knowledge of their basic rights. A further study by Pugh (2007), *Health and Safety Knowledge of Young Workers: a Study of School-aged, Part-time Workers in the Taranaki Region* again showed significant gaps in terms of working conditions and young people's awareness of their employment rights.

¹³ In 2001 ACA became Action for Children and Youth Aotearoa (ACYA). In 2004 the Every Child Counts coalition was formed and took up the Children's Agenda role of broad advocacy for children and proposing changes in the structures and processes of Government (Hassall, 2007: 3).

Increasing politicisation of the rights of working children became apparent in 2007 with the youth union Unite's successful 'Supersize my Pay' campaign, where large-scale protest and a new model of union membership¹⁴ meant youth rates were again on the political agenda. The highly successful campaign protested the payment of youth rates to those aged 16-18, arguing that it contravened the Human Rights Act 1993 and some UNCROC standards, leading to reform of wage rates for those 16 - 18 in 2007. However, children under the age of 16 continue to be unprotected by law in terms of having a minimum wage rate.

While current legislation does protect children to some extent, more recent research by the Organisation for Economic Cooperation and Development (OECD and Child Poverty Action Group on outcomes for New Zealand children is disturbing. The OECD's report, *Doing Better for Children* (2009) was the first that had compared child well-being within its 30 member countries, criticising New Zealand in a number of areas:

- New Zealand was struggling in terms of health, with the highest youth suicide rate in the OECD and an above-average child mortality rate.
- Children lived in poor material conditions, average family incomes were low by OECD standards, and child poverty rates were high.
- In the general measure of "health and safety" of children, New Zealand was ranked 29th out of 30, with Mexico on 28.

It is also estimated one in five children live in poverty in New Zealand (St John, and Wynd, 2008), and there continues to be an increase in inequality and life outcomes, indicating a seemingly 'hands off' attitude to protection of children. This presents greater complexity in discussion and analysis, as the lack of protection given to children in their working lives may be evidence of deeper attitudes relating to children and their role in New Zealand society.

¹⁴ To recognise the transience of many young workers, Unite membership is able to be transferred between workplaces and also could be retained between periods of work: ideal in cases such as students, seasonal workers. In addition, Unite specifically targeted particular sectors and workplaces that had large numbers of youth workers: for example the service industry and McDonalds.

In addition, the recent recession has had an alarming impact on youth in the labour market. Generally operating at the periphery of the labour market, they are more likely to be affected by adverse economic conditions and usually lack protection such as union membership or bargaining power. While most available data defines youth as those aged 18- 24 (see Household Labour Survey, Statistics NZ, Ministry of Economic Development), of particular concern are those in the 15-19 age group as this cohort has low levels of skills and experience and are 2-3 times more likely to be unemployed. Only once since the Household Labour Force Survey began has teenage unemployment been under 10 per cent (in September 1987).

While realising in the current recessionary environment overall unemployment is at a nine-year high, there were 62,700 registered unemployed youth in September 2009: almost double the previous year (Statistics NZ 2009). The national average registered unemployed rate in September 2009 was 6.5 per cent, while the youth unemployment rate is 25 per cent (see Household Labour Survey September 2009; Statistics NZ 2009). 19,836 unemployed youth were collecting the unemployment benefit, nearly 2½ times more (n=5772) than the previous year. While this research focuses on those aged under 18, heightened unemployment across the labour market will have consequences for young people in a particularly vulnerable period in their working lives.

3.4. Chapter Summary

It is evident that there has been substantial progress in a western context and in New Zealand concerning the protection and advocacy of children. This has been in part a result of legislation but also a redefinition of what childhood *should and could be*. However, with such extensive progress, especially in the 90 years the International Labour Organisation has been in evidence, the question still remains. Why is child labour still so prevalent in developed countries? And why does legislation (both global and domestic) continue to offer such limited protection for these vulnerable and largely unheard workers? And finally, what are the specific concerns of child workers regarding fairness and equity of their employment?

The following chapter will elucidate the main economic, social, and political

theoretical viewpoints concerning child labour. In doing so, an attempt will be made to address and answer some of the ongoing struggles to inform and regulate policy and practice in this contentious area of research.

Chapter Four

Debates and the Literature

4.1. Introduction

Children's work continues to have immense social and economic impact, especially in the developing world. For both the organised and unorganised sectors of the working population, labour market policy is a major determinant of material wellbeing and opportunities in life (McBride and Williams, 2001). Child labour has been used to varying extents throughout most of history, but was considered progressively less acceptable with industrial development and mitigated by universal schooling in the western world.

Although many perspectives on children's work exist, there is little consensus on its appropriate forms. While the largest volume of published literature is in the fields of economic, occupational health and safety, and political theory; there is also growing discussion concerning the ethics of child labour and gendering of such work (Murray and Hurst, 2009, Cole, 1991). As academic analysis is multidisciplinary and reflects multiple perspectives, this can present difficulties in coherent 'theory building' due to differing theoretical perspectives. In addition, each field may have varying methodologies and research designs, depending on what the data collection seeks to capture. However, looking at children's work in its varying forms there are obvious causes for concern.

Discussed in this chapter is a review of the literature and the links to the current theories and research in the area of child labour. Therefore, the approach of this chapter will be a macro to micro approach in looking at the dominant issues worldwide and how they apply to a New Zealand context. Moreover, discussion of the roles of domestic and international regulatory agencies and legislation will be applied. The review will endeavour to provide a context for global policy-making that has influence on New Zealand's legislative compliance, covering in detail the areas of:

- minimum age

- minimum wage
- health and safety

4.1.1. The impact of definitions and data collection methods

It is important to reiterate (discussed in detail in Chapter Two) that there continues to be a lack of consensus on what ‘child labour’ actually is or its impact. Lack of comparative data or different data collection methods between countries make comparison fraught and open to disparate and conflicting conclusions. However, there is some consensus between some international governing bodies such as the International Labour Organisation and United Nations, governments, and NGOs. This consensus primarily focuses on the worst forms of child labour: forced labour, child trafficking, and child prostitution (C182). However, it has been evident that there is less agreement on the ‘less serious’ forms of child labour and what they entail:

‘What about refuse packing and sorting? Car washing? Cobbling? Light industrial? Rug, mat and fabric work? Fast food service? If not the _worst forms of child labour,’ then how should this child labour be treated?’ (Turner, 2008: 6).

Further, New Zealand government statistics are not capturing this data routinely. For example, the Census, NZ Income Survey and Household Labour Force Survey all begin at 15 years although it is clear young people are employed before this age (ACYA, 2003: 4). Extrapolating data sets from various information sources, Aotearoa Child Youth Action estimates that around 155,000 children aged under 18 and under are in paid work (ACYA, 2003: 9).

Although a clear distinction has been made in Chapter Two regarding the appropriate terminology to use, child labour may be referred to in research when discussing children working, and not necessarily the most hazardous forms. Therefore, in this chapter child labour will be assumed to have the same meaning as ‘working children’ or ‘children’s work’ unless otherwise stated. To set the scene, in the following section discussion will center on the presumed ‘utility of work’ as preparation for adult life. In addition, types of work for children will be compared between the global North and South. Finally, the New Zealand situation will be presented.

4.2. The Utility of Work

With capitalism as the dominant economic model worldwide, much of life as children is dedicated towards preparation for work as an adult, including education and training opportunities as well as encouragement to work. Many people identify themselves (at least in part) by the type of work they do or organisation they work for. Therefore, work is not just about financial benefit but also identity and emotional benefit that can enhance an individual's future opportunities and skills. At its best work can be enriching and valuable for future progression. At its worst, work can be dangerous and exploitative (see **Appendix C**, International Labour Organisation 182: The Worst Forms of Child Labour).

While industrialised countries widely condemn the conditions that around 165 million children routinely labour under in developing countries (International Labour Organisation, 2009a), there is an apparent denial of the stages of development all countries undergo to reach industrialisation where:

‘unencumbered by social or economic reforms, horrific excesses are committed in the name of accumulation – particularly in the treatment of workers, especially women and children, and in the despoliation of the environment’ (Amin, 1997: 131).

For the industrialised, primarily western countries of the global North, the move away from using children as a primary source of labour has been influenced by changes in the type of work people do – to a large part influenced by technological development. Changes in both the prevalence of and types of work have included:

‘...the shift from manufacturing to service industry employment, up-skilling in the work process, the rise of industries based upon new technology, such as computing and biotechnology, and the mechanisation of previously unskilled manual work, for example robots replacing workers in car assembly. These changes are held to have had the effect of reducing the number of unskilled and semi-skilled job openings for less qualified young people’ (Shelly, in Raffe, 1998: 103).

The types of work people do refers to how they fit into the production process, with variations by economy, rural and urban location, nationality, primary industry,

educational levels, age, and gender, ‘The assumption is that the market operates in response to impartial forces, but racial, class and gender divisions continue’ (O’Brien and Williams, 2004: 199). For these reasons, comparing conditions and the extent of child work between nations is difficult, further encumbered by differences in data measurements and definitions.

4.2.1. Developing Countries

The greatest numbers of child labourers in the world are in developing countries with high unemployment rates, low economic growth and economic development. Developing countries are also most likely to violate fundamental labour standards and human rights (Vinckovic, 2008). Asia, the most densely populated region in the world, has the most child workers. However Africa comes first, in that one child out of three on average is engaged in some form of economic activity (Fyfe and Jankanish, 1997). Most of the world’s child labourers operate within the informal labour market, working predominately in small business, agricultural, and horticultural sectors, the primary sector being agriculture.

Due to the subsistence-based nature of this work, most research is located in developing countries, and in industries and areas that traditionally rely on child labour, such as agriculture, textile and clothing (Black 1995, Levison, Anker and Barge 2000, Kapstein, 1996). The general contention is that children are often exploited and lack protection (Bequele and Myers 1995, Hassall, 2009), evidence reiterated by UNICEF’s report entitled *The State of the World's Children: Focus on Child Labour* (1997). Moreover, there is a clear link in developing countries between children working and receiving inadequate education due to pressure to support their families financially. While the IPEC programme and education campaigns have encouraged education as a primary way to combat child labour, there are problems for families involved in such subsistence living:

‘There are lots of jobs you can do when you are on the edge of subsistence. It takes two hours to walk to the places where you gather firewood, so you need a kid whose job that is. It takes all day to walk the cattle to the far-off waterhole, so you need a kid to do that. It takes two hours to carry water from the borehole to the family home, so you need a kid to help Mum do that. It takes all day to plough a stony field, where rocks have to be weeded from the ground in huge quantities before you can apply the single-bladed

plough pulled by the only ox you can afford to hire, so it takes two kids and their dad all day to do it. Take away the necessity to do all those immediately time-consuming chores and the birth rate falls naturally, as it has done in the developed world' (Geldof, 2005: 70).

The International Labour Organisation/IPEC-SIMPOC (2007) recognises the short-term economic benefits of large families, framed within 'moral relativism'. This perspective recognises that in addition to the definitional difficulties of children's work there is a cultural dimension, so what one country may view as abhorrent activity (six year old selling jewellery in Morocco), may be viewed as the norm (and even desirable) by that country. However, using a model of 'cultural relativism' where good and bad in an abstract ideal that is culturally based (Cornia, Jolly, and Stewart, 1987, Hindman and Smith, 1999) may be a pragmatic view but fails to acknowledge common and inalienable rights of all people. In many developing countries domestic labour laws are not conceptualised within a human rights framework so the impetus for change is low as children have economic utility for their families. Therefore, addressing child labour has to address the dual challenge of providing families with both short-term income and long-term prospects.

SIMPOC (2004, in International Labour Organisation 2006b) estimate globally children work in services (22 per cent), industry (9 per cent) and agriculture (69 per cent). The International Labour Organisation (2006a) estimates that 18 per cent of the age group 5 – 14 are 'economically active', participation increasing to 23 per cent if those up to 17 are included. Overall, data collection suggests that the number of child labourers continues to fall worldwide and that the 'worst forms' continue to show the fastest reduction. However, as the statistical sample was gathered before the onset of the financial recession in 2008, time will tell if this continues to be the trend. The following sections will describe the western and New Zealand situations.

4.2.2. The Western context

While most literature is still concentrated in developing countries, there is evidence that child work persists in the more developed industrialised countries of today. In industrial nations where data is extensive, there are high levels of working children

generally (Mizen, 2009), and when all forms of work are considered, the percentage of children working in industrialised countries can be surprisingly high. For example, in the United Kingdom, the most reliable estimates available show that between 15 and 26 per cent of 11-year-olds and between 36 and 66 per cent of 15-year-olds are working (Goldstein, 2004). Occupational patterns collected in the United States show similar patterns in the tasks children undertake. The largest overall occupational group for workers at ages 14 and 15 was service occupations, employing 33 per cent of young people aged 14 and 37 per cent of those aged 15. Food preparation and service jobs — such as cooks, waiters, and waitresses—are among the service occupations frequently held by young workers. Among 14- and 15-year-olds, sales jobs (including cashiers) were also frequently undertaken. After these sectors, entertainment and recreation services industries and construction were most common (Rothstein and Herz, 2000, United States Bureau of Labour, 2004)

In Northern European countries, and Australasia, most child employment also concentrates in the services (retail, distribution, catering), with trades (mining, construction, and manufacturing) and agriculture (farm, forestry, and fishing) making up a smaller proportion (Vinkovic, 2009). Such information is not routinely collected for children in New Zealand, but limited research (CARITAS, 2007, 2003) signposts children's presence similar industries and positions, not surprising given the prevalence of the service sector as the primary employment sector and farming as the primary industry (Conway, 1999, Callister and Didham, 2010). It is widely understood that many young people first enter the labour market through casual employment arrangements or household systems of production (Hindman and Smith, 1999). These –freelance arrangements are characterised by doing one or more tasks, often on an as-needed basis or for multiple employers. For example, babysitting and lawn-mowing services often are provided in this way (United States Department of Labor, 2004). However, it would be anticipated that some may have engaged in the 'freelance' work mentioned above but saw their work as a more formal arrangement.

4.2.3. The New Zealand situation

Overseas and New Zealand research indicates that that child workers are typically

found in family-run businesses, in the primary sector (primarily in agriculture or horticulture) as well as the retail and hospitality industry sectors (Department of Labour, 2009c, 2008). Children also constitute a significant part of the informal labour market in New Zealand. While in many developing countries work may be children's primary activity whereas in New Zealand it is usually a secondary activity (at least until the school leaving age of 16). Full-time employment is not legal until 16, but often there are tasks such as babysitting, delivering newspapers and pamphlets, and shop work.

However, again the problems of measurement become apparent. Children who work a few hours a week while attending school are seen by official statistics as attending school, whereas their working lives may compromise their attendance and performance. While children in New Zealand typically do not work to fund their schooling or support their families, there is some evidence to indicate that the exploitation of child workers does exist in New Zealand. This group of workers is frequently vulnerable to exploitation for two reasons. First, they are typically not specially protected within employment legislation. Second, they are often an 'invisible' segment of the labour force and thus are largely ignored in statistical reporting and analysis. Further, child workers are predominately employed on a casual, part-time, or temporary basis and few would be protected under either an individual or collective agreement. In a survey of nearly 5000 New Zealand children in 2003, CARITAS reported that some children were being forced to work to support their families, '... often working for very low wages and at times in dangerous and/or illegal working conditions' (CARITAS, 2003:11).

There is concern also for the psychosocial impact of work and possible negative effects of early work (Mizen, 2009). However, a counter to these concerns is Christopher Baker of UNICEF's contention that 'Kiwi kids are over-protected, live in a virtual world and are less capable of shaping their futures than those in war zones' (Burgess, 2009: 1), claiming that over-protectionism of children impedes their healthy development and makes them unable to discover their own limits. It may be that childhood has become a sort of paradox (Dalley, 1998), where children are overprotected and yet also left alone to find their own limitations. In addition, the dominant model of *laissez faire* regulation may also leave children _alone in

their employment relationships more than previous generations.

This section has described the types of work children typically engage in provide a context for western ‘developed’ countries’ (New Zealand in particular) situation. Having outlined the situation for child workers, the following section will present theoretical perspectives by which to see child labour, linked to the political economy of children’s work.

4.3. Ways to Understand Children’s Work

There are numerous statistical and theoretical methods of analysis that seek to understand the reasons for children working or to link causal variables together. For example, whether wage rates are linked to child labour density or if labour standards foster economic development (Forrest and Dennison, 1984, Forsberg and Kröger, 2009). Of particular relevance for this research are theories that seek to explain why there are still so many child workers in industrialising and industrialised economies alike. To be discussed in the next section is theory that attempts to ‘make sense’ of the current situation by referring to the political economy of children’s work. Worldwide findings of the prevalence and ‘need’ for child labour will also be presented along with discussion of the utility and prevalence of these continuing trends.

4.3.1. The Political Economy of Child Labour

‘A person’s place in the global division of labour will have a great impact upon how long they will live, how much they consume and what kind of health they can enjoy’ (O’Brien and Williams, 2004: 223).

Politics and economics are intrinsically and inextricably linked, where market-driven economic reforms have seen organised labour incorporated into the political economy of New Zealand (Buchanan and Nicholls, 2003). The interdisciplinary nature of a political economy perspective has resonance when attempting to explain the multitude of reasons for the prevalence of working children worldwide (Crouch and Streeck, 1997). The global division of labour has an obvious effect on child labour density, related to country, industry, and types of work children typically engage in. While the strongest demarcation is evident between global North and South regardless of country, children typically congregate in the secondary labour market in the worst work sectors.

Moreover, ideological and political pressures have ensured that children's work activities have been channelled into areas of low-paid and low-status work, perpetuating the assumption that children work for pocket money, not wages (Lavalette, 1994:9). It is misleading to believe that child workers are simply 'peripheral wage labourers' (Mizen, Pole and Bolton, 2001: 2) as they contribute to overall business performance, often doing work that is poorly remunerated and has little uptake except among other vulnerable workers. To help explain why children are overrepresented in precarious parts of the labour market, the economic explanation for child labour will be discussed in the following section.

4.3.2. Economic Theory of Child Labour

Adam Smith (1776/1983) conceptualises the principal determinants of wealth in a country as:

1. The proportion of the population engaged in productive labour
2. The relative productivity of that labour.

This emphasises the importance of labour in economic development, to what extent child labour substitutes for adult labour, and whether child labour can complement economic growth (Hindman and Smith, 1999). The economic benefits of division of labour are the basis of liberal economic theory, detailed by Adam Smith in *The Wealth of Nations* (1776/1983).

At present as the dominant system is a capitalist market model, this normative structure creates a global supply-chain that is divided into primary and secondary labour markets (further discussed in ***4.3.5. Atkinson's Labour Market Model 1984***). This segmentation of labour markets and the primary industry and jobs within them means China has become 'the Factory of the World' and western economies move toward 'knowledge economies' and away from manufacturing (Beech, 2009). But a complete picture of the economics of child labour cannot be limited to simply determining supply and demand functions, because the political economy of child labour varies significantly. Within economic theory, discourse centers on the economic reasons for child labour and economic solutions (Cigno and Rosati, 2005). The theory posits that the absence of child labour is a luxury that many poor states cannot yet afford, and that to prohibit it is to prevent the

overall economic growth necessary to eventually relieve a society of the need for child labour.

Further, Basu and Van (1999) argue that the primary cause of child labour is parental poverty. Child labour has no value judgment attached to it as it is simply seen as increasing utility and developing human capital (see Amin, 1997, Cigno and Rosati, 2005). That being so, they caution against the use of a legislative ban against child labour and argue that such a ban should be used only when there is reason to believe that a ban on child labour will cause adult wages to rise and so 'lift up' households of the poor children. Therefore, the work of children is seen primarily through the lens of national economic development. To combat child labour at the macro-economic level entails raising the GDP, and at the micro-economic level providing enhanced options for the poor (Myers, 2001: 34). However, there are many exceptions and qualifications, such as:

- what age work starts
- what type of work
- parent's financial situation
- level of education
- gender
- country.

Therefore, within this perspective it is necessary to understand the causes and consequences of child labour to address policy issues. While the economic perspective is strong in terms of measuring and justifying child labour, there are weaknesses in this approach. Neoclassical economics as the dominant paradigm has had an increasing impact on society (O'Brien and Williams, 2004, Polanyi, 1997), presuming:

- people have rational preferences among outcomes that can be identified and associated with a value
- individuals maximise their utility and firms maximise profits
- people act independently on the basis of full and relevant information.

Theoretically this assumes that as 'rational utility maximisers' one does what is best for oneself, with full knowledge of outcomes (Crouch and Streeck, 1997).

However, people are notoriously poor at evaluating what is the best option (Argyle, 1987) and often fail to evaluate in terms of short-and long-term consequences. For example, a parent may remove their child from school to help them with work. While in the short term this may ameliorate the problem of insufficient labour, in the longer term it will mean the child has lessened options for progression of any kind (Basu and Van, 1999, International Labour Organisation, 1983, Kahn-Freund, 1974). This does not tend to lead to a high-performing economy and human capital accumulation, further limiting development (Contreras, 2007).

Using rational economic theory, labour market intervention can only be justified if it increases equity or improves conditions (Grootaert and Kanbur, 1995). However, much policymaking has unintended consequences, and intervention may further harm those who are the most vulnerable³. Unintended consequences reduce the salience of economic modelling and implications for policy. And if child labour is inefficient, then why is it so prevalent still? The following section will present some of the ‘push and pull factors’ in the labour market relating to child workers.

4.3.3. The ‘push’ and ‘pull’ factors of children’s work

The causes of children’s work can be seen from a supply and demand side. Supply is determined by a number of factors. Poverty is the single greatest force that creates the flow of children into the workplace. However, there are a number of other push factors that influence the starting age of workforce participation and type of work children engage in, including the:

- Competitive labour markets where wages are flexible, children can substitute for adult workers. Precarious types of working conditions can encourage child labour.
- education system: cost, availability, and quality can lead children to end up working rather than completing school. Many become discouraged by the education system and prefer to work (Carnoy and Levin, 1985)

In addition, there are social, cultural, and environmental pull factors that influence

³ For example, in 1994 in Bangladesh fifty thousand child workers were fired in the garment industry when a bill was introduced to the House in the United States to ban goods coming from factories (Edmonds, 2002, Hindman and Smith, 1999). The result was that many children ‘were forced into more dangerous and lower-paid work, with most of the girls resorting to prostitution’ (Manheimer, 2006: 6).

the acceptability and prevalence of children's work. These factors may include the:

- informalisation of production: children's work in the formal economy is relatively low, but much work done by children aims to minimise production costs. This may involve subcontracting and avoidance of regulation.
- cost: child workers are generally paid less, but often their lack of experience and knowledge may mean the economic benefits are less compelling than expected. Also, companies are limited in the sort of industries in which they can expand, usually in the low-skill manufacturing sectors. However, the 'race to the bottom' means that demand for these types of worker is international, and often businesses will move production overseas to benefit. (Fyfe and Jankanish, 1997).

Another 'pull factor' is the pressure to work for family, for example, a child milking cows every morning before school or a child ringing up purchases in the dairy. This may be helpful or even necessary to keep the business competitive, but at what point this type of work becomes exploitative is subject to contention. It is therefore evident that New Zealand has both 'push and pull' factors in the economy, in particular the push factor of a market economy, particularly in a recessionary climate where competition for jobs has increased. This has a large impact on the contingent labour market where workers tend to work in vulnerable positions and marginalised conditions, as per *Atkinson's model* (see **Figure 4.3**).

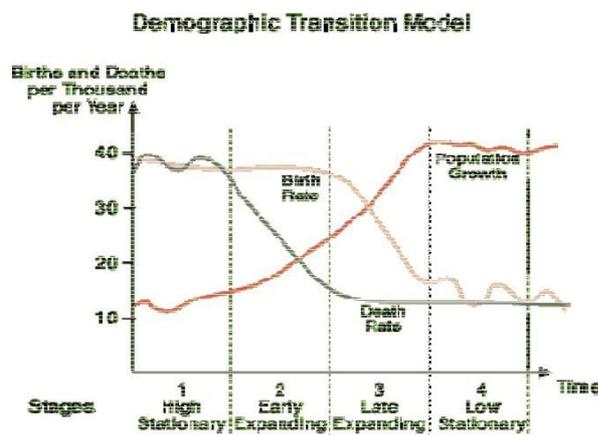
Theories for child labour can have more or less relevance by country, mainly dependent on what sort of economy operates, but also depending on social mores related to the 'appropriate' role of children in society. A political economy perspective recognises that political, social, and economic factors are intertwined and cannot be easily separated when researching, regulating, or enforcing in this contentious area. Demographic transition helps to understand industrial development stages relating to reliance on working children, to be discussed next.

4.3.4. Demographic Transition

As discussed in the previous chapter, the history of child labour is lengthy and the differences between countries are primarily due to industrialisation, where the industrialised nations have developed ‘beyond’ a reliance on working children. The demographic transition model is useful to understand child labour between different countries at different stages of industrialisation, progressing from a population with short lives and large families to one in which people tend to live longer lives and raise small families (Caldwell, 1976, Lesthaeghe, 1995). The process of change is linked to movement away from agriculture as a primary form of production, and where there is an ‘economic gain from restricting fertility’ (Caldwell, 1976: 322).

Only one-third of the world's countries have completed this transition: the industrialised or ‘developed’ countries. However, about another third of all countries, (around 1.5 billion people) are still in the transition's early or middle phases, most in sub-Saharan Africa and the Middle East, and scattered through southern Asia and Latin America (Caldwell, 1976, Heywood, 1998).

Figure 4.1. Demographic Transition



(Caldwell, 1976:12).

This transition can be explained in four stages:

Stage 1 is *High Fluctuating*. This is where the birth rate and death rate are both high. Therefore population growth is slow and fluctuating. The high birth rate is a result of:

- lack of family planning
- a high infant mortality rate: putting babies in the 'bank'
- the need for workers in agriculture
- religious beliefs
- children as economic assets.

The high death rate is because of:

- high disease levels
- famine
- lack of clean water and sanitation
- lack of health care
- war
- competition for food from predators
- lack of formal education.

This stage was typical of Britain in the 18th century and the least economically developed countries (LEDCs) today.

Stage 2 is termed *Early Expanding*. The birth rate remains high although the death rate is falling, leading to a steady population rise. The death rate falls as a result of:

- improved health care
- improved hygiene
- improved sanitation
- improved food production and storage
- improved transport for food
- decreased infant mortality rates.

This stage was typical of Britain in 19th century and currently countries such as Bangladesh and Nigeria.

Stage 3 is *Late Expanding* where the birth rate starts to fall and the death rate continues falling, leading to rising population. Reasons include:

- family planning available
- lower infant mortality rate

- increased mechanisation of equipment reduces need for workers
- increased standard of living
- changing status of women.

This stage typifies Britain and New Zealand in late 19th and early 20th century; and currently encapsulates China and Brazil (O'Brien and Williams, 1998; International Labour Organisation, 2006).

Stage 4 is *Low Fluctuating* where the birth rate and death rate are both low. Consequently the population is steady or negatively fluctuating. This stage is typical of the USA, Sweden, New Zealand, and Britain. Strulik (2004) theorises long-term equilibrium models, showing their contrasting outcomes: with greater education, mechanisation, and increased status of women, the prevalence of child labour falls over time. Therefore, most historic description tends to focus on those that have already undergone transition, as per Chapter Three. However, while New Zealand is understood to have 'transitioned' to the final stage in the model and reflects such demographic trends, children do work and not necessarily in safe or legal conditions (see CARITAS, 2007, 2003; Pugh, 2007). While children in New Zealand typically do not work to fund their schooling or support their families, there is some evidence to indicate that the exploitation of child workers does exist in New Zealand. While work is usually a secondary activity (at least until the school leaving age of 16), many are likely to be situated in precarious positions with little employment protection, such as babysitting, delivering newspapers and pamphlets, and shop work.

This group of workers is frequently vulnerable to exploitation for two reasons. First, they are typically not specially protected within employment legislation. Second, they are often an 'invisible' segment of the labour force and thus are largely ignored in statistical reporting and analysis. Further, child workers are predominately employed on a casual, part-time, or temporary basis and few would be protected under either an individual or collective agreement. In a survey of nearly 5000 New Zealand children in 2003, CARITAS reported that some children were being forced to work to support their families, '... often working for very low wages and at times in dangerous and/or illegal working conditions' (CARITAS,

2003: 11).

This section has described the types of work children typically engage in provide a context for western ‘developed’ countries’ (New Zealand in particular) situation. Having outlined the situation for child workers, the following section will present theoretical perspectives by which to see child labour, linked to the political economy of children’s work.

4.3.5. Atkinson’s Core and Periphery Labour Market Model

Atkinson’s model of the labour market is important in framing where children generally congregate and emphasising the importance of the primary labour market, where those on the periphery are likely to have precarious and substandard conditions. Young people are more likely to be situated in the contingent labour market, where the availability of work and conditions of employment is influenced by external factors generally out of the control of worker, for example, economic downturn or increased summer customer base. This means the work is situational, and the individual fills the desired role at the desired time, the work being highly sensitive to economic conditions (Blanchflower and Freeman, 2000). The negative connotations associated with a short-term, cost-saving approach from employers are the resultant creation of dead-end, boring and lowly paid jobs (Rasmussen, Lind and Visser, 2003).

As children often work in the informal economy, their terms and conditions are often precarious and unregulated. Employees with precedence are those in the core, and those who are most vulnerable are in the periphery (or secondary) labour market. Such workers are attractive to employers wanting employees to meet fluctuations in customer demand, especially in service sector roles (Nickson, Warhurst, Lockyer and Dutton, 2004). As part of both peripheral groups one and two, children’s work situations are likely to be part-time, casual or employed as subcontractors. In addition, even those children in the formal economy are not generally considered ‘vital’ workers with in-demand skills, and as some of the most vulnerable workers, they lack regulation in terms of wage rates (if under 16), and health and safety protection.

Of concern is that within the paradigm of neoliberalism and ‘flexible markets’, this

type of work demarcation has become more common as the model becomes normative (O'Brien and Williams, 2007). The rise in 'flexible working patterns' coincided with the development of Atkinson's model of the flexible firm (Atkinson, 1984) and of various flexibility typologies (Deeks and Rasmussen 2002:159). However, such conditions are also linked to labour markets effects in terms of skill development and having appropriate work protection and decent conditions, especially for marginalised workers.

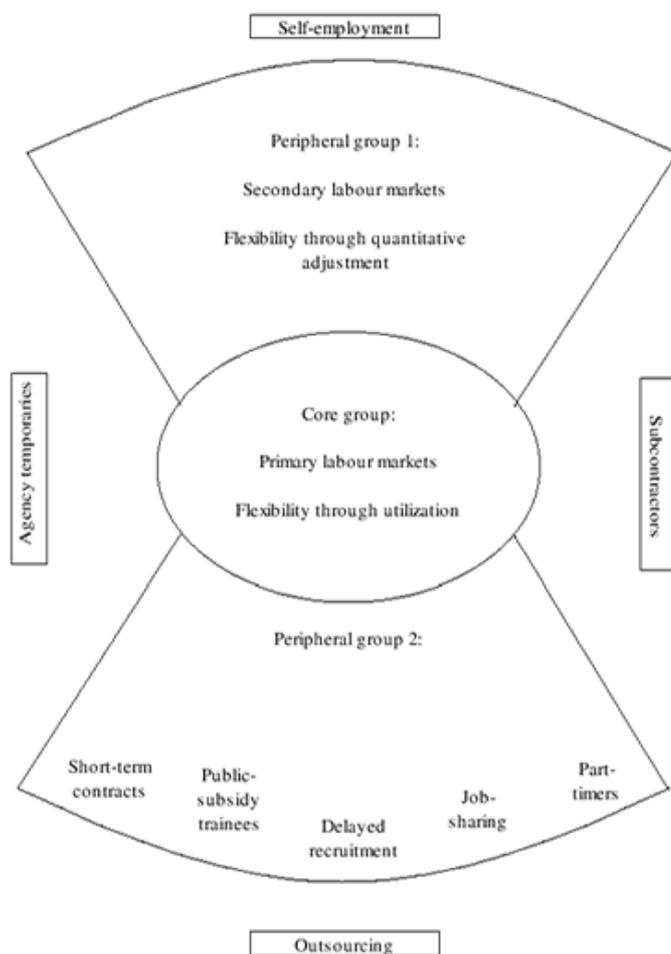


Figure 4.2. Atkinson’s Core and Periphery Labour Market Model (Atkinson, 1984)

All the perspectives presented in this section could be argued to have a somewhat myopic view of the employment relationship. For example, economics tends to view labour markets from a supply and demand model, while demographic transition theory argues that if countries ‘progress’ the need for, and presumed prevalence of child labour will disappear. All have their strengths, but most are contingent on a variety of factors and can contribute to ‘building’ a big picture view within the political economy framework. Given these problems of analysis, policy imperatives will be discussed in the next section.

4.4. Policy imperatives

When seeking to make policy, governments must balance the interests of their stakeholders, in particular those in the business sector who generally push for lessened regulation (see Business NZ, 2010; 2009; 2008, O’Brien and Williams,

2007, Goldstein, 2000) with social concerns. What is an ‘appropriate’ balance will depend on political perspectives and overarching policy goals. However, with a three-year electoral cycle in New Zealand, policy is often incremental and centered toward pragmatic considerations such as middle-ground policymaking and re-election. In the following section the supposed trend by nations towards policy convergence will be discussed, underlining the impact globalisation has had on labour market policy and regulation.

4.4.1. Global Policy Convergence?

Historically regulation has worked to improve what were extremely harsh working conditions, often in jobs done by very young children (Cunningham, 2001). Evident in more recent times has been the tendency for like countries to congregate within common regulatory frameworks through convergence, where ‘policies grow more alike in the form of increasing similarity in structures, processes, and performances’ (Kerr, 1983: 3). Convergence was premised to occur due to the homogenisation of society via industrialisation and modernisation where countries became more alike due to commonalities in development and economy (O’Brien and Williams, 2007), further encouraged by global governance organisations such as the World Bank, International Monetary Fund, and also the International Labour Organisation and UN regarding conditions for children. To be members of these institutions, countries tend to adopt similar policy stances and practice.

The rise of generic agenda in education and social welfare (Hulme, 2000) means policy transfer represents ‘a process in which knowledge about policies, institutions and ideas developed in one time or place is used in the development of policies, institutions etc. in another time or place’ (Dolowitz, Hulme, Nellis and O’Neal, 2000: 3). At ‘the level of domestic governance, policy ideas and practices are transferred across sectors and from previous governments and policy trajectories’ (Hulme, 2005: 418, Kawachi and Wamala, 2006), while at international level, multilateral organisations form policy that is designed to be replicable in many countries. Convergence may occur through global policy transference such as adoption of conventions, economic and political policy directives, or through globalisation, with its inherent compression of space, time, and distance ‘drastically reducing the barriers to economic, political, and cultural exchange’ (Drezner, 2001: 53).

However, while transference may offer frameworks for ‘best practice’ is not always the strongest type of lawmaking, as there are difficulties in making such an approach ‘institutionally practicable’ (Dolowitz, Hulme, Nellis and O’Neal, 2000). What fits one country may be wholly inappropriate in another and the approach may largely ignore the political, economic, and social structures and norms, and what will suit one country to regulate and enforce may be vehemently opposed by others, child labour being a case in point (Hulme, 2000). Moreover, there is a contradiction inherent within international regulatory regime ‘where policy coordination implies some agreement on the acceptable bounds of regulatory policy, but it does not mean that all states implement identical rules or regulations’ (Drezner, 2001: 57; Kapstein, 1996). The interpretive nature of domestic legislation in conforming to International Labour Organisation Conventions is considered to be a weakness. Moreover, many Member States have little chance of meeting the regulatory framework but have signed the Conventions regardless.

The assumption can only be that there are advantages in membership even if in practice there is little change in domestic policy. Therefore, when analysing policy it is useful to question the strategic motivation of the actors in the policy process: ‘financial, ideological or simply pragmatic’ (Hulme, 2000: 419). At this time, while greater enforcement measures are linked to trade and financial regulatory institutes there is no mechanism in UNROC or the International Labour Organisation Conventions that enables agencies to ‘force New Zealand to take or abstain from taking any action’ (Ludbrook, 2007: 9), apart from exerting pressure and/or criticism. In addition, for industrialised countries like New Zealand that has strong institutions and regulatory frameworks but are criticised for relatively minor transgressions it may seem as if the International Labour Organisation is focused on unimportant issues.

However, it is questionable whether changes through globalisation will lead to lessened state regulation as per a liberal labour market model (the dominant model in the capitalist economy), or a ‘new form of global governance’ (Drezner, 2001: 53) able to exert normative pressure on states to conform. Currently many countries

ratify Conventions but are able regulate (or not) as they see fit, with little monitoring from the International Labour Organisation other than mandatory reporting periods. So is the International Labour Organisation an institution with a bark but no bite? Hindman and Smith (1999: 31) argue that

‘The more generalisable patterns of economic, political and social developments are – that is, stronger the trends toward convergence – the stronger the argument for universality of human rights in general, and the rights of children in particular’.

From this perspective it may be argued that convergence mechanisms such as International Labour Organisation 138 will form a common standard that all states (should) aspire to. However, while some policy approaches may be dominant does not mean that a ‘best practice’ model is necessarily evident: in the case of the International Labour Organisation it may be that policy direction is chosen within the limitations of its tripartite and consensus-based decision-making model. Further, domestically there has been criticism that while ‘Government agencies have made a commitment to ‘evidence-based practice’ and there is recognition policies and practices should be based on research evidence rather the individualised assumptions of bureaucrats and policy makers’ (Ludbrook, 2007: 27), there continues to be concern from some stakeholders whether ‘evidence’ is actually given any weight in policy development. The non-governmental sector has been particularly vocal in criticising the assumptions of multilateral and domestic agencies in prioritising policy imperatives (ACYA, 2003, IFCTU, 2003).

4.4.2. A Race to the Bottom?

‘Race to the Bottom’ (RTB) hypothesis assumes policy convergence pressure stems from the free flow of trade and capital, and this power overwhelms countries’ ability to act contrary to market forces (Drezner, 2001). The presumption is that the more a state is exposed to and reliant on global markets the more likely their economic and regulatory policies will converge and seek to mimic others. It is also evident that states will gravitate towards the policies of the most *laissez-faire* country (Drezner, 2001), to lessen the burden of regulation and enforcement mechanisms. Myriad academic and policy analysis claims that globalisation forces wages down and begins

a ‘race to the bottom’ in labour standards as countries seek to compete on a global stage (Goldstein, 2004, McBride, and Williams, 2001). Some claim reduction in barriers of exchange lessen social contracts of protection of citizens while others argue that global governance can engender comparative regulation between countries (Hulme, 2000). McBride and Williams (2001: 284) speak of labour market ‘flexibility’ – shorthand for reduced levels of social provision and employment protection that insulated workers from the vicissitudes of a market economy‘ that can be expected from an capitalist free market system. With child workers largely situated in the precarious labour market, reduced levels of protection could potentially weaken their rights in a number of areas such as employment conditions and health and safety.

Polanyi (1944) described the negative effects of RTB, observing that when the market is permitted to reorganise parts of society (such as exerting pressure on regulation and labour criteria) the result was that society was operating in addition to the market, prophesying that ‘To allow the market mechanism to be the sole director of the rate of human beings... would result in the demolition of society...’ (Polanyi, 1944: 73). However, evidence-based or not the multilateral institutions all conform to and encourage a neoliberal labour market policy and a deregulatory model (Amin, 1997; Hulme, 2005). However, the weakness of this conception is the presumption that the state responds only to capital and not other stakeholders such as voters, government agencies, or interest groups (Drezner, 2001). Therefore, ‘buy in’ varies considerably (McBride and Williams, 2001 O’Brien and Williams, 2004.). States in the flexicurity cluster such as New Zealand attempt a compromise between employers’ demands for flexibility and workers security aspirations – a perhaps dichotomous relationship, particularly for the most vulnerable workers like children? (Marx, 1998).

Within economic theory the poor working conditions of children could be seen as a failure of the market, and active state involvement may be necessary to correct these failures (Chang, 2001). In the current recessionary climate in New Zealand many children are unable to find work when competing with adults for ‘children’s jobs’ such as supermarket positions and pamphlet deliveries. Nevertheless, it could be

speculated that demarking some jobs as ‘children’s’ keeps wages low for all vulnerable workers. This labour market delineation coupled with New Zealand’s unequal age-based legislation means employers could again turn toward children to reduce wage costs- perhaps evidence of a RTB in worker’s conditions.

Neoliberal institutionalism counters RTB theory by assuming states have market power in their relationship with capital (Vogel, 1996). Even if the state increases regulation, business will still have incentives for compliance as it will enable full market entry into their desired economy. Such a model does have resonance within the International Labour Organisation system that relies on tripartism to make policy (Hindman and Smith, 1999). Policy convergence also begs the question of whether in a global and interdependent economy politics is the servant or the master when making policy in this contentious area? In the following section the role of the institutions and for tripartism will be briefly discussed.

4.5. Role of the Institutions

According to North (1994, 1990) the incentive structures of societies are formed by its institutions. At one end is the notion of institutions establishing ‘the rules of the game’ suggested by North (1990), or the formal and informal constraints on political, economic, and social interactions and their enforcement characteristics for society (Grossmann and Michaelis, 2007). Toward the other end of the spectrum are definitions that specify in more detail the organisational, governance, and incentive arrangements for entities, procedures, and regulatory frameworks. With a normative policy response, the International Labour Organisation tends to tell states how to create policy to ensure that certain standards are met, sometimes impeded by differing viewpoints between the three core interest groups: governments, union, and employer organisations. In attempting to ‘balance’ the issues policy may be ‘watered down’ by the time it has been discussed, debated, and finally agreed upon.

While the global institutions can make policy and encourage compliance, it is up to individual countries to implement and adhere to such policies. In an era of interconnectedness but autonomy in interpretation and compliance, is there still a role for tripartism?

4.5.1. A Role for Tripartism?

While it is evident that there are a multiplicity of interests related to child labour, discussion of the role of tripartism is important as it forms the basis of multilateral agreements related to labour practice. The International Labour Organisation accomplishes its work through three main bodies, comprising government, employer and worker representatives (International Labour Organisation, 2010, O'Brien and Williams, 2004). By encouraging consensus and diversity of opinion, Conventions need 'buy in' from the groups that will need to regulate (government), work within it (employers), and have their conditions of work influenced by it (employees). Employer cooperation is crucial in ameliorating the conditions of children's work by ensuring children have adequate conditions, pay, and appropriate health and safety legislation. Moreover, national employers' organisations have power to influence national policy, partnering NGOS and trade unions in appropriate responses to ensure work is safe and promote public awareness (International Labour Organisation, 2006a).

Nevertheless, a paradox emerges. Do the interests of business reconcile with workers, or has

'...the business community predictably rallied against every regulatory impulse that threatens to increase labour costs (but encourages regulation that promotes competitive advantage). From child labour to minimum wages and maximum hours to workplace safety and health, the business community has aggressively advocated the rights of the worst elements of their own community: employers who wished to be free to exploit labour...' (Hindman and Smith, 1999: 28).

In New Zealand, in partnership with most of New Zealand's national industry associations Business NZ represents over 76,000 employers and businesses, as well as tripartite working parties and international bodies including the International Labour Organisation and OECD (Business NZ, 2008: 8). As an institution with comprehensive membership of the business sector, its 'weight' has been felt through its lobbying wing and representation at various institutions of governance. However, to protect the interests of its members, Business NZ may lobby for policies that will not necessarily improve the situation for working children in New Zealand. Their favoured policy direction from a neoliberal perspective and

seeking minimal regulatory interference is particularly evident in terms of minimum wage standards and seeking a return of youth rates (see Business NZ, 2009; 2008). However, an organisation of this type must be pragmatic as a key stakeholder seeking to reconcile their overarching goals with a productive working relationship with the union movement. While the two groups goals may not be diametrically opposed their general perspectives are different, together with their perspectives of the political economy of labour markets.

The union movement is represented by the Council for Trade Unions at the international regulatory level. Currently, although unions are the representatives of workers their 'power' could be seen as constrained due to low membership numbers, particularly among young people. Current union membership represents 17.9 per cent of the total employed labour force (Department of Labour, 2009a), and 21.5 per cent of wage/salary earners for that period (Statistics NZ, 2009a). This means that only one in five workers belongs to a union or is covered by a collective contract. Further, casualisation of workforces in which children are largely situated (retail/service) has undermined the union's ability to protect and enhance working conditions due to a largely non-unionised workforce (Bunkle, 1990). Therefore, child workers tend not to be unionised and often have poor knowledge of their rights. In addition research shows that children's work is more prevalent where trade unions are weak (Barry and Reddy, 2005). By heightening union presence and authority further in the area of children's work, Myrstad (1999) notes the potentially protective and advocacy role unions could play for children.

Ironically, the most overlooked role in the tripartite is that of the government, as the state is charged with protecting public interests as well as determining what is fair and just. Government policies can also affect the supply of and demand for child workers, as can the government's commitment or reluctance to pass and enforce legislation. Contradictions arise within this role, as 'who in a government can oversee a child labour approach that may demand intervention in several sectors at once?' (Myers, 2001: 42). For example, a labour ministry can handle labour policy but has no say over the education and health aspects of child labour, while a health ministry can seek to minimise risks for children but is not directly involved with

formulating policy to mitigate the obvious risk factors.

Political imperatives and priorities have a large impact on what legislation is prioritised domestically and internationally. Each key actor has ‘different social and economic development aspirations’ (Myers, 2001: 43) that are not reconcilable without compromise. While within the tripartite there may be differences but also key areas of practical agreement. For example, the ratification of International Labour Organisation Convention 182: The Worst Forms of Child Labour was agreed to by all three main stakeholders. But what of the role for the non-governmental organisations (NGOs)?

NGO groups are challenging the dominant paradigm of liberal market principles that make up the current global world order, where ‘they seek to put pressure on governments and industry to conform to a best-practice model that protects the rights of workers, driven by concern about conditions that impair children’s growth and violate their rights’ (Myers, 2001: 40). The NGO sector is not part of the tripartite arrangement so is seen not to have substantive power, but it can exert pressure on all of the stakeholders in varying ways like presenting a counterpoint to the government view, identifying, researching and lobbying on issues of concern and generating support (Center on Law and Globalization, 2010). Moreover, it could be argued that within the International Labour Organisation the tripartite arrangement has been weakened with the interests of business seen to be assuming priority as the system works within the boundaries of a capitalist market system (North, 1990, Marx, n.d., Kerr, 1983). This will always undermine rights for the most vulnerable workers, predominantly women and children globally.

4.6. Issues for Young Workers in New Zealand

The aim of the research was to find out what were the experiences of New Zealand’s child workers. Moreover, there were specific areas of concern that was seen as relevant to explore. Therefore, it was necessary to review the literature relating to three specific areas of children’s work:

- minimum age for work
- minimum wage for work

- the health and safety of child workers.

By evaluating the available literature and more specifically New Zealand research, a more comprehensive picture of the situation should be evident while also identifying gaps in the literature requiring further investigation. The research in this section will attempt to link with appropriate international and domestic regulation to see New Zealand's progress to date, and what is needed in the future.

4.6.1. Minimum Age for Work

With the signing of UNCROC in 1993, New Zealand undertook to -take appropriate legislative, administrative measures for the implementation of the rights in the Convention² (Article 4). By entering into this multilateral agreement New Zealand has agreed that every child (under the age of 18) has the right conferred by UNCROC. However New Zealand continues to place a Reservation to Article 32(2), requiring that:

‘States Parties shall...

- Provide for a minimum age or minimum wages for admission to employment;
- Provide for appropriate regulation of the hours and condition of employment;
- Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article‘ (United Nations, 1999).

This is an unusual reservation and could be argued to be an impermissible reservation because it is impermissible with the ‘object and purpose of UNCROC (Ludbrook, 2007: 13), and derogates from full acceptance of the rights given to children in UNCROC’. There is an expectation all countries will take all reasonable steps towards the withdrawal of reservations. New Zealand's justification to date for this reservation has been that existing law provides for the young people may work adequate protection of employment rights for children.

² It is illegal for children under 16 to work during school hours and between the hours of 2200 and 0600 (Health and Safety in Employment Act, 1993; Wilson, 2004).

However, while forbidding employment for young persons during school hours and times² may limit the times the legislation does not meet the Convention's requirement for specifically setting a minimum age and there are still 'many possibilities of abuse inherent in this approach' (Creighton, 1996: 3).

Little progress has been made by successive New Zealand governments in clarifying minimum age requirements under UNROC, although in 2003 the Labour Government at the time directed the Department of Labour to assess what steps were necessary to enable withdrawal of the reservation (Department of Labour, 2008, OIA request, 2009). New Zealand submitted its third periodic report in November 2009 responding to the UN Committee's comment and recommendations given in 2004. Covering the 2004-2008 period, the report was required to show changes in legislation and regulation towards meeting recommendations given in 2004. Covering the 2004-2008 period, the UNCROC obligations. New Zealand has also not signed the International Labour Organisation Convention 138: Minimum Age Convention (1973) Minimum age of access to employment':

'Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons' (International Labour Organisation, 2002).

Convention 138 assumes there is a need for special legislative provision for children and young persons through all spheres of economic activity (Creighton, 1996). While this Convention is considered to give practical application to UN 32(2), it works in tandem with the areas of minimum wage for work, and health and safety, to be discussed next. Nevertheless, from discussions between the Department of Labour and Minister(s) of Labour that the longstanding recommendation has been to 'agree that it is not desirable for New Zealand to proceed towards ratification of Convention 138, at this time' (OIA request, 2009)

If New Zealand is looking to move towards compliance of these two global policies in the future, widespread debate is needed on what should be the appropriate minimum age for employment in New Zealand. While there are age-related restrictions for 'dangerous work' such as operating machinery, working in factories

or construction (OSH, 2009), further legislation in this area will be a minefield as the public perception is that working for children is a largely positive experience. Should it be as the International Labour Organisation specifies: no younger than 15 or the age of adult? Could it be more appropriate to set a minimum age of employment at 14, that is, the age at which parents are allowed to leave children unsupervised at home?

4.6.2. Minimum Wage for Work

Persistent variations are evident in statutory minimum wage levels worldwide (Pond and Winyard, 1983, McBride and Williams, 2001), where minimum wages can differ substantially between countries: from being set low (and having minimal impact on labour market outcomes) to being higher and acting as a pay rate for much of the actual workforce. In New Zealand there may be the impact of wage fixing as many people work at or just above the minimum wage rate, including young people:

‘The minimum wage can be argued to be an instrument of social policy, representing a government intervention to alleviate issues of social consequence by mitigating the impact of free market policies (Business NZ, 2010: 10).

Liberal economic theory sees raising the minimum wage as constraining opportunities for growth because increasing the minimum wage _reduces the number of low-paying jobs typically held by teenagers because some employers can’t hire at that rate‘ (Wirtz, 2009: 9). Business NZ (2010: 3) agrees with this perspective, saying that ‘increases in minimum wage rates reduce job and training opportunities for youth’. Further, in a competitive labour market the higher productivity of better-qualified workers will be reflected in higher wage rates and lower contribution to output is reflected in lower wages generally (Forrest and Dennison, 1984: 21), while basic economic theory predicts the consequences of minimum wage rates being a labour market that is not at equilibrium. But are young people really less productive? In reality, workers will differ widely in their skills, depending on natural ability, experience and training – and age-tiering wages does not reflect this.

While children may lack maturity and experience, enthusiasm and motivation can make up for this, as they have yet to be ‘hardened‘ by a lifetime of work. In

addition, the sort of work children engage in tends to be low-skilled and where there is less responsibility, repetitive and menial tasks (Cunningham, 2001). However, the premise is that children work for pocket money not wages, their primary activity is school, and they are not supporting families. This was once the argument for setting women's wages lower than men's (see Chapter Three for further discussion).

Nevertheless, a review by Godfrey in 2003 of industrialised countries suggests that where studies have found a relationship between the minimum wage and employment effects, the link is very weak. Belchamber (2004) asserts that minimum wages are an essential component of active labour market policies and contribute to raising living standards and reducing poverty. There is however contention by some theorists that of all the groups to suffer disproportionately from minimum wage-laws youth are worse effected, arguing if there is comparability between adult and youth wages, the expectation would be that adult workers would be more likely to be chosen. However, this contention tends to talk about youth as a cohort— meaning those age 15 -24. Many are not at school or other training, and have a high unemployment rate (Blanchflower and Freeman, 2000). Therefore, while there may be competition in some industries for work, work that is done by those under 16 is not generally in competition with adult work due to poor pay and working conditions.

So while the evidence is mixed, most literature suggests that if minimum wage rates for youth have any effect on youth employment, the relationship is weak. However, prevailing pay rates for child workers continue to be low, particularly in the informal economy. Where data exists (such as the US and UK), pay rates are lower than adults and often that stipulated by minimum wage law. Evidence for both countries also shows a downward trend in real pay levels for teenagers in the last quarter of the 20th century (see US Bureau of Labour, 2007). Whereas there are legislatively imposed minimum wage rates for new entrants to the labour market, adults, and trainees in New Zealand, set by the *Minimum Wage Act 1983*; no statutory minimum wage exists for employees under 16 years old.

There is no longer a minimum wage for youth (16-17 years) as of April 1 2008, changing to a 'new entrant' rate for the first three months or 200 hours of

employment. Once the hourly or time criterion has been fulfilled, the adult minimum wage of \$12.75 (from the 1st April 2010) per hour will apply. The presumed rationale is that young fulltime workers will be the primary users of this scheme, and while engendering increased equity for many young workers, it only applies to those employees 16 and 17. Children below the age of 16 continue to have no minimum wage protection.

The Government policy has been not to set a minimum wage below 16 on the basis that ‘children should be in formal education. The government (sic) is concerned they having a minimum wage for children may encourage them to leave school’ (Shuttleworth, 2003). However, this is an assumption as the legal school leaving age is 16 and there is little data collected to iterate this view: for example, the New Zealand census does not collect data concerning employment of those under 15. There are a large number of children (around 90,000 currently) under the age of 16 who are registered with IRD for tax purposes. Although some may be registered for tax avoidance purposes, some will be working. Tax information from IRD is also incomplete, as PAYE is not deducted from children under 16 under the tax threshold of \$2,340. This means ‘child workers are invisible to the tax system and the collection side of the accident compensation system’ (Roth, 2008: 1).

In New Zealand, there has been little analysis of effect of minimum wage legislation on employment figures, although generally the CTU have promoted and Business NZ has opposed raising minimum wage rates (see Business NZ 2009; 2008). In a recent submission for the 2009 Minimum Wage Review, Business NZ recommended no ‘raising of the minimum wage until it falls below 25 per cent of the average national wage, and a reinstatement of the youth rate for 16 -18 years. This rate was suggested as set at 80 per cent of the minimum wage, applied until:

- reaching 18, or
- completing 90 days probation, or
- completing 90 days employment, or
- being appointed to a role requiring supervision of others’.

While the scheme would usually only apply during the 90-day probationary period, it signals a move from business lobbies that they believe wage rates for the most

vulnerable sector are too high. In addition, given their part in the tripartite, this move signals that policy will be at least a compromise at multilateral level, and may have resonance at domestic level with the 2008 election of a National Government. The inherent presumption for opposing minimum wage protection is that by government setting wage levels, the labour market cannot ‘value’ itself and becomes distorted (O’Brien and Williams, 2007).

While the Human Rights Commission argues that any minimum wage distinction between 16 and 17 year olds and the rest of the labour force is not justified, children under 16 years are not covered by the Human Rights Act (1993). Sections 21 and 22 of the HRA provide that it is unlawful to discriminate on the grounds of age in employment if a person is over the age of 16. Section 30 sets out an exception in relation to the minimum wage. The effect of this is that an employer may pay a person at a lower rate than others doing the same work on the basis that a person has not reached a particular age, not exceeding 20 years (Boyd and Fleming, 2000).

Although a minimum wage distinction does not breach the HRA due to section 30, any minimum wage distinction between 16 and 17 year olds and the rest of the labour force is not justified. It is difficult to reconcile why a person aged 16 or 17 be paid substantially less, until they attain 18 years of age. The validity of paying a 17 year old 60 per cent of the income of an 18 year old for no other reason than age, regardless of qualifications and capabilities, is difficult to justify in terms of the Human Rights Act 1993 (Anderson and Lamm, 2009a, b).

However, within the dominant capitalist market system, decentralisation allows employers to set their prices, terms and conditions, where strict enforcement of statutory minimum ages may be difficult to enforce (Palmer, 1990). The obvious impact of this is on children, who tending to be new to the employment relationship are unaware that the employment in New Zealand is considered a partnership, with the presumption of ‘good faith’ and ‘due consideration’ of requests (Employment Relations Act, 2000). In practice, a company, its operations, products and structure tend to be distanced from external factors such as union involvement, the economic

context, and culture (Palmer, 1990).

It is also interesting to note that particular work sectors have been demarcated as ‘children’s work’, with the effect that they are either casual, part time or have poor working conditions. Mizen, Pole and Bolton (2001) found children were often chosen as employees because they offered flexible, low-paid labour and maximised employer’s profit margins. Such employment often leaves children largely powerless in the employment relationship (Gasson et al, 2001) as the sectors child workers congregate typically have little or no trade union presence to gain more preferable terms and conditions (Barry and Ready, 2005). From another perspective, child labour can be seen as excluding adult workers from a place in the workforce to which they are more entitled, distorting pay structures by providing a cheaper substitution’ (Hassall, 2009:1).

Gasson et al's 2003 study indicates 63 per cent of all children surveyed opposed a minimum wage, wanting to maintain their right to work even though their rates of pay were lower than adults. This seemingly contradictory approach to betterment of their conditions was captured in this quote:

‘If the introduction of a minimum working wage was to be considered either in conjunction with, or separately from a minimum age, then it might be the low paid workers who would most directly feel its impact, either by losing their jobs or gaining more pay for their work’ (Gasson et al, 2003).

Generally, as workers on the periphery, there is little certainty which way conditions would go for child workers. It is significant that in a survey undertaken by the NZCTU in 1999 showed that of respondents to its questionnaire, only a minority of 17 and 18 year olds in paid work were paid below the *adult* minimum wage despite the adult minimum being only payable from age 20 at the time. NZCTU analysis suggests that the lowering of the adult minimum wage may have a limited effect (Human Rights Commission, 2000: 4). However, those ages are at the upper end of the definition of child, and there continues to be cause for concern for wage rates amongst those below 16 because they have no legislative protection. In addition, children are often in the informal sector where age rates will usually be set by their employer, for example, babysitting or gardening.

At a broad level, setting the youth minimum wage must be considered in the context of the Government's overall policy direction in relation to the implementation of UNCROC, and possible ratification of International Labour Organisation 138 on the Minimum Age for Admission to Employment. As a signatory to the Convention, the government will need to work towards ensuring that New Zealand's employment laws are compatible with The Convention by ensuring that all workers irrespective of age are paid equitably. At a domestic level, policy makers are obliged to consider compliance with sections 21 and 22 of the Human Rights Act, which, subject to an existing minimum wage exception in section 30, broadly prohibit discrimination (against persons over the age of 16) on the grounds of age in employment (Human Rights Commission 2000: 2). So far there has been little movement towards domestic conformity with international regulation.

4.6.3. The Health and Safety of Child Workers

Many concerns relate to working children and the protection offered to them, both overseas and New Zealand. Young workers face considerable occupational risks, regardless of their place of work (Windau and Meyer, 2005) as they are not only susceptible to all the dangers faced by adult workers when placed in the same situation, but also they are more seriously affected because they differ from adults in their anatomical, physiological and psychological characteristics (IPEC, 2008, IPCS, 1986, Ashagrie, 1998). This reflects the reality that children are still growing and developing (Doorman, 2008), the inherent vulnerability of youth is due to their lack of experience, where 'the risk of physical damage due to work varies with age' (Forastieri, 2002: 19). Research regarding the intellectual, social and moral development of children shows that children younger than 10 to 12 years of age generally 'lack the cognitive abilities and judgmental skills necessary to make decisions about major events and are *generally* unable to think abstractly and have a limited sense of future time' (Forastieri, 2002: 313).

There is evidence that young workers have a higher risk of being injured compared to adult workers, often because they have a lack of work experience, limited awareness of existing or potential risks; and physical and emotional immaturity (Ehrlich, McClellan, Hemkamp, Islam and Ducatman, 2004:7 86). Work injuries

for children and young people tends to be higher than the general population for a variety of reasons, including the prevalence of poor and/or hazardous working conditions, lack of supervision as well as immaturity of children (Mason and Earle-Richardson, 2002, Vocaturu, Kunseler, Slovakova, Ruut, Cavoura, and Otorepec, 2007). In addition workers, many of whom are children, employed in informal work arrangements also have an above average level of injury and illness compared to workers employed in more formal working arrangements (Fassa, Facchini, Dall'Agno, and Christiani, 2000; Quinlan, Mayhew and Bohle, 2001).

Health hazards are often slow-acting, cumulative, irreversible and complicated by non-occupational factors (Forasrtieri, 2002: 57). Further, health can be looked at beyond a strictly medical paradigm to consider larger social, cultural, political and economic contexts in which health issues are centered. A large number of countries have adopted health and safety legislation and frequently exclude children and youth from working in a range of sectors and economic activities (such as work in underground in mines, manufacturing hazardous materials and under-sea work). However, a significant challenge in deciding the extent of the problem continues to be the lack of reliable data about the general working conditions and health of young people in work with a bulk of research concerning the worst forms of child labour.

To remedy this seeming lack of information, IPEC conducted national surveys in 26 countries in 2004. It found a high proportion of children covered by the study were either injured or became ill while working (39 per cent), with agriculture accounting for 70 per cent of all working injuries. This may be due to the large number of child labourers in the agricultural sector (nearly ten times higher than the number of child labourers in other sectors (International Labour Organisation, 2006, in Murray and Hurst, 2009), but also the hazardous nature of work on a farm. In addition, an earlier IPEC-SIMPCOC study in 1998 found children often had injuries in their workplaces. The most frequent types of injuries for young people were cuts, wounds and punctures, the bruises and abrasions. While more serious injuries occurred less frequently, 12 per cent of those engaged in economic activity were affected.

General trends indicate that experienced employees are less likely to be injured than inexperienced ones so there is supposed to be a positive correlation between tenure and lessened accident rates (see Cellier, Eyrolle, and Bertrand, 1995). However, the counter to this assertion is that those working a longer time may be given job of higher skill and heightened risk, meaning long-term work experience may not necessarily be a ‘benefit’ for children (Frone, 1998). Further, while such workers may primarily work in areas of ‘low risk’ such as the service and hospitality sectors, these jobs may have significant stressors in terms of conditions of work, hours worked, and location of work (Lo and Lamm, 2005). The World Health Organisation *Global Strategy on Occupational Health for All* and *Global Plan of Action on Workers’ Health 2008-2017* has identified child workers and young employees as high-risk groups of workers (WHO, 2007, 1995). This document recognises that almost every working environment involves varying health and safety hazards. That is not to say that all workplaces are inherently dangerous, more that those with less experience may lack the ability to conceptualise potential risks.

In New Zealand the conception about evaluation of risk forms the basis of Occupational Health and Safety (OSH) legislation. The premise of OSH is risk transfer; but while there is a significant volume of health and safety research in, little is specifically related to child workers. Under the Health and Safety in Employment (HSE) Act 1992, the basic tenet is that all workers, irrespective of age or occupation, must be covered by health and safety regulations. New Zealand’s Health and Safety in Employment Act categorises young workers into two broad categories: those 14 and under, and those 15 and older. It prohibits:

- the presence or employment of persons under 15 years of age in manufacturing, forestry, construction, or in any other area where the work taking place is likely to harm their health and safety
- persons under 15 years of age being employed to work with machinery or to drive or ride on any heavy vehicle or to lift any weight or perform any other task likely to injure their health

- employment of persons under 16 years of age between the hours of 2200 and 0600 (Ministry of Youth Affairs, 2000).

Often called -The World's Biggest Farm, New Zealand's primary export earnings are in agriculture, and more specifically dairying (The Treasury, 2009). Therefore, it stands to reason that many children work on farms as part of the family unit or for others (Parkinson, 2001). The agricultural industry is considered particularly hazardous due to 'farm machinery, unsafe transportation, pesticides, caustics and other chemicals in use, physically demanding work, poor sanitation, and other risks (Manheimer, 2006: 360). Given that these sectors are over-represented in the occupational fatality, injury and illness rates, the health and safety of New Zealand child workers is of great concern.

In an early work-related injury study concerning children under 15 covering 1985-1998, Lilley et al (2004) looked at childhood injuries from a health perspective, reporting poor health outcomes for children in New Zealand. Over the period studied there were 12 fatal work accidents for children (average of nearly one per year), along with a few hundred injuries. New Zealand children were also significantly represented in work-related fatal injury statistics (Lilley et al 2004: 1); often occurring when children accompany their parents to their places of work. The most common location of a fatality is on a farm where home and work activities overlap, and informal participation by children in farm work is commonplace.

The CARITAS children's work survey in 2003 also that children are often not adequately protected in New Zealand workplaces. While seeking anecdotal evidence as a base for their child advocacy role, the sheer volume of survey responses – over 5000 in total, showed that the welfare of working children in New Zealand was far worse than expected. Specific concerns highlighted were:

- Children working in age restricted employment, including those working with heavy machinery, with alcohol, or caring for other children.
- Health and safety of children, particularly those who reported injuries which had the potential to cause serious harm, including road accidents, broken

bones and burns.

- Children working unsupervised, particularly the younger children aged 11-12 who were more likely to work without adult supervision than older age groups.

In 2007 Pugh aimed to identify how many Taranaki secondary school students worked, in which industries, and what was their knowledge of health and safety. The findings from this report indicated that the types of hazards children face vary widely according to the occupation involved and the specific working conditions, indicating most young workers are vulnerable to the same range of hazards full-time employees face (Forastieri 2002). Findings also showed that young workers were rarely given employment information in either their schools or their workplace and therefore were often unaware of their rights and responsibilities (Chauby, Perisic, Perrault, Laryea-Adj, and Khan 2007, Pugh, 2007). This ‘information gap’ was recently acknowledged in government reporting to the United Nations. In paragraph 1.16 Govt 3rd and 4th periodic report, United Nations Convention on the Rights of the Child (2009), it was noted that:

‘..The research also found that children have a general lack of awareness about their employment rights and whether or not their employers are complying’.

To date the Department of Labour appears to have not placed any particular emphasis on monitoring children in workplaces, and there is little information available, including breaches of OSH regulations. The most recently available ACC statistics on work-related injuries (2006) show that around 300 children under 15 years old visited their general practitioner for a work injury. ACC entitlements or rehabilitation assistance, such as physiotherapy subsidies, are paid to around 10 children under 9; around 15 children in the 10-14 age bracket, and between 1000-2000 young people in the 15-19 age group.

It must be noted that, while these injury statistics indicate that there is cause for concern, there is a general paucity of injury data and what data that does exist is inconsistent and unreliable, especially so for children and child workers. In

addition, there is anecdotal speculation from within the NGO sector that with the precarious types of work children congregate in, they are more likely not to report their injuries, or are 'encouraged' not to file an accident compensation claim. If there is widespread under-reporting of accident compensation claims, in the informal labour market injuries may be attributed to non-work accidents as a way of avoiding increased ACC premiums. There is also a lack of detail; that is, there is often little or no information on the ethnicity of the injured child worker or under what circumstances the accident occurred.

Thus, ACC figures provide only a partial picture, covering those injuries that were officially reported or led to compensation claims. Not only are the injury statistics compiled on child workers a concern, it is also concerning that the current level of occupational health and safety protection for workers under 16 does not entirely conform to the principles and provisions of the United Nations Convention on the Rights of Children and related International Labour Organisation Conventions on occupational health and safety. For example, there continues to be insufficient regulation of hours of work and conditions: 'there is no law preventing an 11 year old doing 30 hours work each week as long as it is not in school hours, or working a 12 hour day on a Saturday' (Parkinson, 2001: 1). Moreover, the level of legal protection in employment for children varies considerably and is based entirely on the age of the worker – that is, adult workers are afforded protection while children are frequently omitted (Boyden et al, 1998).

In sum, there is still little available data in this area (Brooks, Davies, Gallagher, 1993). In terms of OSH enforcement there have been three prosecutions under OSH regulations since 2004 involving young people: all involved 14 year olds, two related to illegally operating machinery. However, a recent prosecution by the Department of Labour shows contradictions in existing legislation. A novice (adult) beekeeper sent out on a quad bike with little training and no helmet died. The company owning the farm were fined for failing to take all practicable steps to ensure the safety of an employee – a breach of their duty of care (New Zealand Press Association, 2010). Had this been a child of a farmer (as many quad bike deaths have been) it is unlikely the farmer would be prosecuted through the HSE

Act, even if the child was working on the farm and riding a powerful bike underage. Such limitations inherent in the current legislation show the lack of focus and attention towards children as a specific and vulnerable age group.

It becomes apparent that these gaps are reflective of the wider industrial relations environment, regulatory and public policy framework (Ludbrook, 2007). Further, ‘with many countries adopting a more deregulated approach to health and safety issues’ (Creighton, 1996) it seems unlikely that compliance and coverage will become more comprehensive in terms of child protection at the present time.⁴

4.7. Implications of Findings

All cultures share the view that the younger the children, the more vulnerable they are physically and psychologically and the less they are able to fend for themselves, and ‘age limits are a formal reflection of society’s judgment about the evolution of children’s capacities and responsibilities’ (UNICEF, 1997: 26). By recognising this inherent vulnerability legislatively, children are seen to warrant special protection in a variety of areas of their lives. These include (but are not limited to) compulsory schooling in most countries, limitations on driving, drinking, marriage, contractual accountability, and age-tiering for some types of work. However, for a group widely acknowledged as vulnerable and on the periphery of the labour market (often combined with poor working conditions), there is little organised discussion regarding how rights and power in the workforce is acquired and controlled (Nokov, 2000). Such knowledge would enable individuals to be enabled to seek ‘decent employment’ (Rosas and Rossignotti, 2005) and to speak up and be heard regarding improvement in their working lives.

Some stakeholders have lobbied for tighter restrictions placed on conditions of work (for example, restricting the number of hours worked), it would be useful to widen the lens to a more inclusive model. The conception of children could then

⁴ Of concern is the (admittedly) small number of child prostitutes in New Zealand. While it is not illegal for those under 18 years to be a prostitute, it is illegal to employ any person under the age of 18 for this activity (Prostitution Reform Act 2003). The age-setting of 18 ensures compliance with UNCROC and International Labour Organisation 182: *Worst Forms of Child Labour*, where ‘which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons’ (International Labour Organisation 182, Article 4).

be widened so they are seen not just as passive actors, but capable of making their own decisions within a protective framework (Moss and Petrie, 2002), appreciating ‘children as resilient as well as vulnerable, to be capable as well as inexperienced to be characterised by knowledge as well as ignorance, to have a variety of intelligences as well as learning needs, and to be active rather than passive agents in their development’ (Myers and Boydon, 1998, in Myers, 2001: 41). Therefore, decisions made about children need to be made in consultation with them so they can be involved in making their working lives safe and fair.

Historically, the single most important response to child labour has been the adoption of legislation to regulate the admission of children to employment and work and the conditions under which it is undertaken (Fyfe and Jankanish, 1997: 18). For that reason, the basis for any approach to children’s work is effective legislation. Moreover it may be that high levels of ‘intervention in the labour market may not only be politically desirable, but they may also be a source of economic strength’ (McBride and Williams, 2001: 286). Establishment of global governance structures facilitates policy transfer, and helps developing countries to modify legislation and modes of governance to work towards international compliance (at least in policy, if not practice). Much emphasis can be made on international institutions as a means of ensuring greater policy convergence toward a best practice model (O’Brien and Williams, 2004, Myers, 2001).

In terms of health and safety, regulatory agencies; the complexion of employment relations nationally and in an industry; the activities of trade unions, employer associations, tribunals and other institutions; and education and training can all affect OSH outcomes. Furthermore, it is generally accepted that poor health and safety outcomes lead to lessened productivity for reasons such as absenteeism, labour inspections, and damaged people and equipment (see Mylett and Markey, 2007). Whereas it is difficult to make a clear link to productivity as separate to other areas of organisational performance, it can cost an organisation and the wider community significantly if there is poor health and safety.

While it was surmised by the previous Government that ‘... our existing policy and legislative framework already provides effective age thresholds for

entry to work in general, and for safe work' (Govt 3rd and 4th periodic report, United Nations Convention on the Rights of the Child, 2009: 13), this statement overstates the protection current laws provide child workers, particularly with reference to those under the age of 16. In its report entitled *The State of the World's Children: Focus on Child Labour* (1997: 18), UNICEF argues that children routinely work in hazardous conditions in *all industrialised countries* and that most of the world's child labourers operate within the informal labour market, working predominately in small business, agricultural, and horticultural sectors. Nonetheless, given that working children and youth are more vulnerable to injury it is essential that employers are familiar with correct health and safety practices, workers' compensation procedures, and legislation as OHS outcomes are tied to contexts broader than the organisation. With many young people unaware of their rights and responsibilities in a work context, the tripartite of government, unions and business organisations need to coordinate their responses to ensure child workers are better protected. Core labour standards may have a role.

4.8. Core Labour standards: the way forward?

Core labour standards are fundamental principles that protect human rights in the workplace globally, defined as 'humane treatment of workers by firms and governments' (Drezner, 2001: 66). There is a growing body of literature on compliance with international treaty obligations, where the advantage of having far-reaching child labour legislation is that standards are set so it is clear what are acceptable conditions for working children (Parkinson, 2001, McBride and Williams, 2001). UNCROC, International Labour Organisation Conventions 138 (on the minimum age for employment) and 182 (on worst forms of child labour) together comprise the core global policy instruments arrayed against child labour (Hindman, 2009: xxix), and have the 'weight' of normative modelling and multilateral reach. They are also considered part of a larger human rights dialogue, where rights are considered:

- *inherent* - they belong to everyone because of their common humanity
- *inalienable* - people cannot give them up or be deprived of them by governments
- *universal* - they apply regardless of distinctions such as race, sex, language

or religion.

The Conventions set a baseline, supplemented by more detailed domestic regulatory frameworks. These may provide minima for pay and health and safety, as well as seeing a wider picture in terms of mental as well as physical protection. Nevertheless, there continues to be a question of whether ratification helps or hinders countries in industry development (Mizen, 2009, Barry and Reddy, 2005, Liebel, 2004). The little research conducted (Strang and Chang, 1993) concludes that ratification had a strong and positive effect in terms of labour standards and resulting welfare on 18 OECD countries. Given that OECD countries are the wealthiest and most powerful in terms of governance, it would be useful to explore the impact on developing countries in further detail.

Nevertheless, the relative weakness of the International Labour Organisation in terms of lack of enforcement or inspectorate capabilities leaves a question of what ensures compliance to labour standards in practice? In addition, within the International Labour Organisation framework there is a problem of the Article 3 ‘best principles’ guideline. Who gets to define this and according to what criterion? And where is the role for children in such a question? (Myers, 2004). Best standards recognise that adult and child interests diverge, and with divergent opinions there is often not the room for reasoned discussion. This is in part the role of the tripartite, discussed previously in *Section 4.5.1*. By encouraging discourse between stakeholders multiple perspectives are given resonance. However, the counter may also be the policy can become fragmented and incoherent when attempting to please a number of groups and result in ‘watered down’ policymaking.

Moreover, New Zealand is not totally compliant with the International Labour Organisation Declaration on Fundamental Principles and Rights at Work (1998) as it continues to maintain reservations on setting a minimum age for work, and Convention 87 Freedom of Association and Protection of the Right to Organise Convention, 1948. The Declaration covers four fundamental principles and rights at work. These are:

- freedom of association and the effective recognition of the right to collective bargaining
- elimination of all forms of forced or compulsory labour
- effective abolition of child labour
- elimination of discrimination in respect of employment and occupation

(International Labour Organisation, 2010).

From the liberal perspective favoured by business organisations, labour can be viewed as one of many domestic interest groups that make international cooperation difficult (Milner, 1997, Vogel, 1996). It is seen as preferable to ‘leave alone’ the market to self-manage and self-regulate as intervention will distort the effective and fair operation of the labour market (see **4.3.2. Economic Theory of Child Labour** for further discussion). However, labour can also be seen as a broader social force challenging the current international order (Cox, 1986) as it is the primary activity most individuals engage in, has huge impact on their lives, living standards and opportunities for progression.

This perspective is acknowledged by unions, acknowledging different rights should not be considered in isolation, since the enjoyment of one will often depend on the realisation of another (Human Rights Commission, 2009). But does the pressure towards neoliberal policy configurations mean convergence, but towards a deregulated market model? (McBride and Williams, 2001). Given falling union membership and disengagement by many vulnerable workers (children included), is the continuing role of tripartism a legitimate reality in representing all perspectives? Legislation is important, but insofar as it is useful regulation. It is important to remember that international conventions and declarations ‘remain pieces of paper; statements of good intentions which do not in themselves guarantee improvement in the life of even a single child’ (Lieten and White, 2001: 9). In addition, while the covenant coverage of the primary International Labour Organisation mechanisms is extensive, the weight of the Conventions is undermined by both compliance and enforcement mechanisms the International Labour Organisation lacks, with legal stipulations scarcely observed in any countries, Global North or South (Liebel, 2004).

Apparent is that weakness exists in the institutions of labour regulation, and the bulk of everyday regulation and practice falls to the domestic level of governance. Therefore, there is little point in New Zealand signing to multilateral legislation without the capacity for monitoring and enforcement, which is weak within the Department of Labour at this time. Nevertheless, it is also acknowledged that New Zealand's reputation as a 'good global citizen' would be weakened if it did not appear to take the global institutions of good governance seriously. In part, these difficulties arise because advocating for children's legal rights raises significant and difficult issues regarding family autonomy, state responsibility and the independence of children. From a political economy perspective the focus on the autonomy of children is particularly important; as it configures children within the labour market and having decision-making power in choices that affect them.

4.9. Chapter Summary

It is acknowledged that the prevalence of children's work is an under-researched topic in many industrialised countries, including New Zealand (Mizen, 2009, Turner, 2008). Throughout the literature it is noticeable that unless a book specifically focused on 'child labour' there is often little mention at all of the issue. In many books on political economy and labour standards, children are mentioned only in passing: an afterthought at best (see O'Brien and Williams, 2004: 198-223, Weston, 2005).

In addition the complexity of issues and conceptions of child labour present numerous methodological challenges, exacerbated by the lack of consensus on related definitions. Further, there are limitations in the breadth and depth of the literature, bulk of the literature disseminates from the developing world where there is lessened regulation and patterns of more work - both by hours worked and physicality. This ignores the New Zealand context as a country historically deriving influence and legislation from a British model and makes comparisons with developing countries largely irrelevant. Even comparison with Australia is fraught as there are differences such as their bicameral political system; meaning state-by-state legislation and enforcement.

Although a small number of empirical studies have been conducted on children's

work based in New Zealand (see CARITAS 2007, 2003, Pugh, 2007), still little is known about the experiences of New Zealand child workers and what is needed to improve their conditions. Therefore, identified through the literature are a number of questions that remain unanswered and are in need of further clarification:

‘What are the working experiences of New Zealand children?’

In addition, second level question are as follows:

- What is the true extent of child labour in New Zealand? Is this work beneficial or harmful for children?
- What are the concerns specific to child workers?
- Why does legislation (both global and domestic) continue to offer such limited protection for vulnerable and largely unheard workers?
- What are the government's policy objectives for regulation of children's work?
- Why have successive New Zealand governments been so ‘hands off’ in both regulation and discussion in this area?
- If New Zealand signed to all relevant International Labour Organisation and United Nations protocols would the situation would improve for New Zealand's working children?

The following chapter discusses and justifies the stages of research used in research stages. This will include methodological justifications as well as criticism of the methods chosen. It is essential that the selection of research methodology is chosen for reliability and validity and to ensure the research questions are answered, but also the ‘frame’ the issue in a New Zealand and broader context.

Chapter Five

Research Method

5.1. Introduction

Chapter Five presents and justifies the research methods chosen for this study. As discussed in Chapter Four, numerous complexities arise in the theoretical understanding and practical application of children's work; where the complexity of issues presents numerous methodological challenges. These are exacerbated by the lack of definitional consensus relating to children's work and interrelated subjects (see Ashagrie, 1993, Barwick, 2006, Bequele and Myers, 1995). Therefore it is essential that selection of research methodology is chosen for reliability, validity and replicability. In addition, the methods used should help to engender achievement of the research aims; while having flexibility within the methods of information gathering.

Although a small number of empirical studies have been conducted on children's work based in New Zealand (see CARITAS 2007; 2003, Pugh, 2007), regrettably little is known about the experiences of New Zealand's working children, and what is needed to improve their working conditions. Moreover, as discussed earlier, obtaining an accurate picture of the extent of work-related injuries and illnesses among child and young adult workers is problematic as there is a high level of accident under or misreporting. Therefore, the central research question must be: What are the working experiences of New Zealand children?

In addition, second level questions will further explore the issues identified from the literature in Chapter Four:

- What is the true extent of child labour in New Zealand? Is such work beneficial or harmful for children?
- What are the concerns specific to child workers?

- Why does legislation (both globally and domestically) continue to offer such limited protection for these vulnerable workers?
- What are the government's policy objectives for regulation of children's work?
- Why have successive New Zealand governments been so 'hands off' in both regulation and discussion about children's work?

Seeking to answer these questions will elucidate the stages needed used to guide the type of research design to employ, what data to collect, and from whom to appropriately capture sufficient depth and detail. Meyer (1998) identifies five preliminary steps when undertaking any exploratory research: 1) choose a topic, 2) review the literature, 3) determine the research question, 4) develop a hypothesis, and 5) operationalisation (how will the construct of research be used operationally?). Using Meyer's research framework as a guideline, the primary purpose of this chapter is to set out the methodological and research design applied in this study. In particular, justification of the chosen triangulated research method will be presented together with an outline of the research design, data collection process, parameters of research, and research procedures to be used. A summary of the timeframe and stages of the study will also be detailed. Finally, ethical considerations will be considered and discussed.

5.2. Researching Children's Work

The research conducted on children's work to date has tended to concentrate mainly on developing countries with comparatively little regulation (World Bank, 2000, Cruz, 1987, Liebel, 2004). Such narrow framing is problematic, as it is necessary to delineate societies by their cultural norms to review whether the information is relevant for comparison. Therefore, when attempting to relate these findings to a New Zealand context, some obvious differences manifest by country, including:

- culture
- economic situation

- political ideology
- primary industries
- education regulation
- role of children in society.

Analysing these characteristics will demonstrate significant differences between developing and industrialised countries. However, they can provide a useful frame through which to view and compare literature findings, as well as evaluating significant developments. General trends by industry, country, and political perspective may signal changes in the demographics and density of children's work that may be extrapolated to a New Zealand context. The research will therefore adopt a multidisciplinary perspective, as there is recognition that employment factors such as employment law, minimum wages, and the roles played by the different interests groups (employers, trade unions, and government agents) are important inclusions in understanding why child labour occurs and how to combat its worst aspects. In addition, multiple levels of analysis allows a more robust explanation of the complexities of child labour, while a micro to macro approach widens the lens from the child and its family, to the community, government, and international demands and responses.

Children's working lives in New Zealand pose many questions requiring answers in response to the literature reviewed in Chapter Four. With a wide subject area covering multiple outcomes, it is difficult to determine a research approach to ensure answers that are equally covered in sufficient depth (Rees, 1996). Therefore, the analysis will be comparative and exploratory, attempting to build a 'wide-picture' view of child workers in New Zealand by evaluating emerging information, rather than testing hypotheses (Boodhoo and Purmessur, 2009). A presumption of qualitative methodology is of a causal link between theory and research where theory is generated from research and empirical evidence (Neuman, 1994, Marshall and Rossman, 1999, Mason, 1996). However, the data collected

does not attempt to be ‘theory-building’ but to add to existing narrative and discourse, as the New Zealand-based research has exhibited little theoretical focus. Continuing this tradition, analysis will be accomplished by ‘assessing the topic within its field and what contribution to the literature it makes’ (Smallbone and Quinton, 2004: 156).

5.3. Research design

As previously stated, given the lack of New Zealand-based research, further exploration may provide greater clarity about children’s work. Moreover, there are a number of specific gaps in the extant research when attempting to apply international research findings to a New Zealand context. Firstly, most of the studies in this topic area tend to be located in specific industries and countries or regions, for example, textiles in India or child prostitutes in Asia. Second, it is difficult to measure the prevalence of child labour as there is lack of comparable data sets between countries (Liebel, 2004, International Labour Organisation, 2009a). In addition, as the work being done by children differs by countries and levels of development, often findings are country-specific and findings are not easily transferable.

Further research is needed to determine what is the reality for working children in New Zealand as currently policy discourse appears to be determined by presumptions that children are ‘adequately protected’. Whether there is actually widespread exploitation of working children is unknown, primarily due to the paucity of New Zealand research specific. As policymaking is supposed to be in response to such information, it is concerning that legislation is being made with such little research background. Nevertheless, it is acknowledged that research methods and theories are intertwined, and when research is conducted the researcher ‘buys into’ a particular worldview (Tolich and Davidson, 1999). Thus it is necessary for the researcher to explore appropriate types of research methods and to be able to justify why these methods were used. For this investigation it was critical to choose a methodology that would best generate the desired information.

Nevertheless, debates centered on research approaches often focus on the advantages and disadvantages of qualitative versus quantitative methodology as the ‘primary’ research dilemma (Bryman and Bell, 2003, Denzin, 1978). Quantitative research offers statistical representation and numerically presents information that ‘makes sense’ to most audiences (for example, estimating the percentage of children working in the world and what jobs they do). However, investigation can be minimal, in that no contextual background for the information is generally discussed (Easterby-Smith, Thorpe and Lowe, 1991). By contrast, qualitative analysis seeks to explain and contextualise information using the ‘collection, analysis, and interpretation of the data by observing human behaviour’ (Boodhoo and Purmessur, 2009: 1).

Nonetheless, while gathering a large volume of information with better depth there is criticism that qualitative research is too subjective and not directly quantifiable (Jean Lee, 1995). Therefore, social science research often uses multiple methods that seek to ‘balance’ the weaknesses of each, while allowing greater accuracy (Jick, 1979). In reality, the methodology chosen will be contingent on the situation and what the research aims to discover.

Precedent in research by multilateral institutions on child labour is typically characterised by quantitative surveying that seeks to estimate overall involvement in work or particular industries (see International Labour Organisation, 2006, 2003, World Bank, 2000). The available New Zealand research has tended to be quantitative in attempting to measure the number of children engaged in work. Incomplete information may also be drawn from available statistics (for example, ACC figures, census figures, hospital accident data) but there has been no government involvement in attempting to measure the number of child workers to date.

Undertaking research in the area of children’s work can be complicated for a number of reasons. Primarily, in New Zealand little surveying has been done in this area, so access to sampling populations or precedents to follow is extremely limited.

Secondly, incomplete government information exists, so large-scale and time-consuming surveying would need to be undertaken to have data approaching statistical validity (Collis and Hussey, 2003, Hammersley, 1992). The expense and speed of such surveying would limit this method to all but large organisations with considerable project funding: not research of this type. Finally, the type of information sought required informed opinions of specialists in the field, and reflection on working conditions by interview and survey respondents. This means the response validity was not required to be tested statistically; the goal being not to simply collate numbers but produce rich data that adds knowledge to the topic.

In addition, qualitative methodology is the most appropriate to capture children's working experiences as it reflects multiple 'realities' (Patton, 2002) and acknowledges major differences in analysis by rural/urban, socioeconomic groups, and age groups. The justification for a qualitative approach in this research setting is that 'information is gathered and ...studied through sustained contact with people in their natural environments, generating rich, descriptive data that helps us to understand their experiences and attitudes' (Rees, 1996: 375). Large-scale qualitative New Zealand research is well illustrated in the CARITAS reports *Protecting Children at Work: Children's Work Survey 2003* and *Delivering the Goods: A Survey of Child Delivery Workers 2007*). Therefore, for the nature and purpose of the information desired in this research, qualitative methodology is the primary methodology although some quantitative analysis will be used to explain statistical information gathered.

From the outset it is important to note that undertaking relevant research on children's work can be complicated as debates regarding the appropriate role for children in the workplace are largely absent. Narratives tend to focus on its worst and most shocking forms (for example, child prostitution, child soldiers, slavery), or to see work as a beneficial and generally positive experience. The reality probably lies somewhere between these two extremes, and research triangulation will seek to help provide a thorough analysis.

5.3.1. Triangulation

In research, triangulation incorporates multiple sources of evidence converging on the same set of findings (Yin, 1994, Guba and Lincoln, 1994). Adopting a triangulated approach ensure the objectives of the research are achieved and the findings are valid and reliable. Authors such as Denzin (1978: 291) attest to ‘The combination of methodologies in the study of the same phenomenon...‘ giving cross validation where two or more methods are congruent and may yield comparative data (Jick, 1979). In addition, the use of multiple methods allows access to multiple levels of reality, also capturing ‘...a more complete, holistic and contextual portrayal of the unit(s) under study‘ (Jick, 1979: 603). Experimental researchers use triangulation when less than ‘perfect‘ studies have to be carried out, for example, small sample sizes, or research located in a narrow field may mean questioning whether the findings are rich enough to be transferred to other contexts (LeCompte and Goetz, 1982, Jean Lee, 1992). Given the sampling limitations within this research, triangulation will help attest to the credibility and transferability of the chosen methods, while strengthening the overall analysis.

In this research the data collection (interviewing phases and surveying) is reliant on one researcher so may be prone to perceptual bias. Therefore it is essential that subjectivity and different perceptions are factored into this analysis (Bryman and Bell, 2003). Using a triangulated approach should counter the potential for bias to weaken the research validity, as it ‘is assumed that multiple and independent variables do not share the same weaknesses or potential for bias‘, (Rohner, 1977: 134), ‘... the assumption that every technique suffers from inherent weaknesses that can be corrected only by cross-checking with other techniques (Sieber, 1973: 1337).

For the purpose of this research, three major sources of evidence were used:

1. *Interviews:*

- recorded semi-structured interviews with key stakeholders
- recorded semi-structured interviews with young adults reflecting on their work as children.

2. *Surveys:*

- survey using qualitative and quantitative methodology to gather data
- survey sample of young adults reflecting on their working lives as children, with primary literature themes addressed.

3. *Documents:*

- multilateral organisations' reports and documents related to child labour
- government departments' documents relating to international and domestic regulation
- NGOs' research and discourse related to children's work
- historic information on children's work
- previous legislation related to children
- OHS and ACC statistics.

To summarise, using a variety of information sources should reduce the errors associated with one-on-one interviews and surveying, including poorly worded questions, the way the questions are asked by the interviewer, and also the way the information will be processed to have accurate and relevant results (Bryman and Bell, 2003). Greater generalisability (albeit limited in qualitative research based on small samples) and transferability of the data will help ensure the research is academically rigorous (Hammersley, 1992, Jean Lee, 1992). Therefore, an important element is that the research is of practical value and the data also stands up to multiple methods of evaluation and analysis. Detailed in the next section is a description of each research stage, evaluating its strengths and weaknesses.

5.4. Stages of Research

Stage I: Semi-structured Interviewing: Key Stakeholders

Cutcliffe (1997) argues that when using qualitative methodology it must be rigorous and undertaken in a logical and systemic way in order to have any legitimacy. Indeed, Phillips and Pugh (1987) equate the importance of knowledge about the methodology undertaken with background knowledge on the topic. Therefore,

interviewing necessitates the interviewer being an effective facilitator of discussion by creating a supportive environment, asking focused questions, and encouraging the discussion and expression of different opinions and viewpoints (Marshall and Rossman, 1999). The researcher must allow the discussion to flow freely while also intervening to bring out salient issues; especially when the participants do not do so (Bryman and Bell, 2003, Kahn and Cannell, 1957). The use of in-depth interviews allows for an opportunity to probe answers so that interviewees can explain or build on their responses. Where concerns have been broadly diagnosed it is useful to clarify issues and perspectives with flexibility in subjects discussed.

Moreover, since interviews involve personal interaction, the co-operation of the interviewee is essential. Topics and questions are offered to the interviewee but should be carefully designed to elicit the interviewee's ideas and opinions, as opposed to leading the interviewee towards preconceived choices (Windau, 2005). Flexibility of questioning makes this method non-directive and relatively informal (Saunders, Lewis and Thornhill, 2003). However, one of the weaknesses of qualitative interviewing is that since the interview data consists solely of conversation it can be subject to fabrications, exaggerations, and distortions that can characterise any conversation (Taylor and Bogdan, 1984). As interviews are situational, an interviewer must not assume that what an interviewee says in an interview is what that person may say or believe in other situations. An interviewee may be uncomfortable discussing all the interviewer hopes to explore and have reasons not to be forthcoming with the truth (Kahn and Cannell, 1957, Marshall and Rossman, 2006). Further, this tendency could manifest as respondents generally want to be seen favourably by others. Therefore the questions were designed not to be controversial or embarrassing for the interviewee, rather to gather varied opinions and/or recollections of experiences.

Stage II: Surveying

Following interviews with key stakeholders, to facilitate wide-ranging data collection the surveying stage employed a primarily quantitative methodology.

Statistical analysis of measurable responses followed, as well as thematic correlation of the ‘open-ended’ answers. It is important that questioning was focused to help contribute to thematic analysis, while perhaps also identifying weaknesses in data gathered. Guidance was taken from Busha and Harter’s (1980) suggestions when writing questionnaires:

- Use ‘plain English’, clear and concise writing, and avoid technical terms.
- Response methods were consistent, using and either/or response unless greater detail was asked for.
- Questions were sequential, asking for information and then personal experiences.
- Questions made as easy to answer as possible.

While some questions had answers requiring a yes/no type response, many required personal views and experiences, and space was left for individuals to fill in as they wished. While such responses were more difficult to correlate they provided greater depth and explanation, as well as pointing to areas of concern. In addition, results were used to inform the direction of questioning at Stage III of data collection (see below).

Stage III: Semi-structured Interviews: Reflection by Young Adults

This final research stage evolved from the issues presented in Stage I interviews with key stakeholders and survey findings from Stage II. As a result of these two previous research stages combined with literature review in Chapter Four, gaps in the literature were identified. Some of these issues are covered in this stage: recorded semi-structured interviews with young adults reflecting on their work as children.

In sum, while qualitative data is more difficult and time-consuming to synthesise sufficiently to obtain clear results, the research will gather an increased volume of information through detailed analysis of those participating in the research. However, a weakness of this form of analysis is that often measurable statistical values are not acknowledged with at any length in discussions of qualitative

research methods. This should be clearly acknowledged as a limit of the research, as a 'value' may be difficult to assign in detail. Therefore, the methodological approach for this study will be one that uses not only statistical data (for example, Statistics New Zealand's labour market statistics) but also makes use of international and national information data bases in addition to in-depth qualitative methodology.

5.5. Data collection

When collecting qualitative data it is crucial to link the research questions with the methods used. The pre-sampling stage involved an extensive review of the literature to identify the prescient issues. According to Cooper (1988: 105, in Huberman and Miles, 2002):

‘...a literature review uses as its database reports of primary or original scholarship... The types of scholarship may be empirical, theoretical, critical/analytic, or methodological in nature. Second a literature review seeks to describe, summarize, evaluate, clarify and/or integrate the content of primary reports‘.

Based on this criterion, a critique of the relevant literature and reports issued by multilateral organisations, government, and NGOs was undertaken. In particular, the review of the literature was undertaken in order to address definitional issues, such as the nature of 'child', 'labour', and 'work', as well as defining and establishing the scope of children's work internationally and domestically. The literature review and analysis of existing statistics also provided the starting point for ongoing research in this area by examining the status of New Zealand children in terms of:

1. the minimum working age
2. the minimum wage rates
3. occupational health and safety standards with reference to the UNCROC Optional Protocols and the International Labour Organisation Convention

This was followed by an investigation of the extent of the problem in New Zealand. To evaluate the existing situation entailed analysing existing labour and OHS statistics, then identifying which of the UN conventions and protocols have been ratified or not (for example, the non-ratification of International Labour Organisation Convention 138 regarding setting a minimum age for work), what is currently in place to protect New Zealand children from exploitation, and what should be done to improve protective mechanisms for New Zealand child and adolescent employees.

5.5.1 Sample and Stages of Data Collection

In accordance with a triangulated research approach, data were collected from three different sources over three stages, as outlined in Table 5.1. following.

Table 5.1. Research Stages

Research Stages	Stage I: One-on-one semi structured: key stakeholders	Stage II: Anonymous Surveying	Stage III: One-on-one semi-structured interviews
Participants	Variety of stakeholders with expertise in subject or representing an organisation's view	Anonymous surveying among AUT classes	Participants selected through snowball sampling method
Participant numbers	No predetermined number, aim to gather a multiplicity of views	300 questionnaires distributed, 249 returned. 159 fulfilled the research criteria	No pre-determined number: information-gathering to enrich analysis.
Sample	Sample chosen by expertise of opinion on subject.	AUT students agreeing to participate in anonymous surveying	Young adults. By using a 'fresh sample' it was envisaged other findings could emerge

Stage I: Key stakeholder interviews

The initial stage was designed to investigate at a micro level what was happening in compliance and legislation to protect New Zealand's working children. This consisted of face-to-face interviews with key stakeholders, identified through already published literature. Originally, approximately 15 interviewees were approached specifically because they have expertise or opinion in the area of child labour or hold positions that are directly responsible for children's welfare, as outlined in Table 5.2 below. Stakeholder interviewees represented government agencies, trade unions, and NGOs, who either spoke on behalf of their organisations (for example, government departments) or who voiced their personal opinion as a private citizen. However, in some cases, there was reluctance to be interviewed or refusal. Therefore, access to participants obviously had an impact on the findings

in terms of representativeness and variety of viewpoints. In some cases, follow-up interviews or correspondence was conducted to allow participants the opportunity to clarify their organisations and/or their personal opinion on child labour and interrelated subject areas.

Table 5.2. Key Stakeholders

Organisation	Interviewee
Department of Labour	Justin Strang, Policy Manager: Employment Relations Kate Wilkinson: Minister for Labour (discussion)
Children’s Commission	Children’s Commissioner Cindy Kiro First Children’s Commissioner Ian Hassall (opinion)
New Zealand Council of Trade Unions	Eileen Brown: policy analyst (written opinion)
Postal Workers Union	John Maynard, union representative
Business New Zealand	Paul MacKay, Manager: Employment Relations Policy (written opinion)
CARITAS	Lisa Beech, Research and advocacy officer
UNICEF	Barbara Lambourn, National Advocacy Manager (written opinion)

The questions contained in Stage I semi-structured interviews aimed to determine opinions on the following:

- government policy imperatives
- opinions and perceptions of children’s work
- economic and social impact
- best practice and regulation for children’s work
- information related to 1) minimum age 2) minimum wage 3) health and safety.

The semi-structured format has been used to ‘tease out’ further information and engender flexibility where the discussion goes. If other areas are discussed during the course of the interview, there is the opportunity to delve in to them to see if there is further relevant material (refer to **Appendix G** for Stage I interview

questioning format). This initial stage of research helped develop and refine the Stage II survey, as key issues regarding child workers were identified, adding contextual and background information that influenced the final questioning format.

Stage II: Student Survey

The second stage of the study consisted undertaking a survey of Auckland University of Technology (AUT) students. The construction of the survey was informed by Stage I interviewing and included questions on respondent's initial knowledge about the employment legislation and protection available to them, OSH issues, fairness and equity in the workplace, and whether the work done actually gained skills and benefits for the workers. The initial questionnaire was trialled and modified as a result of weaknesses identified in the questioning, relating to the country of origin of respondents, and in which countries work experiences occurred. These questions were amended for the actual surveying phase.

The sample was drawn from the AUT student population located in Auckland, where respondents were chosen in a non-random manner in order to capture data from a representative sample. This involved judgment sampling across a variety of faculties widely 'representative' of Auckland in terms of diversity. A university environment was ideal to 'capture' this cohort due to the variation between young students as well as pragmatic considerations in terms of gathering data. While it is recognised that universities are not necessarily representative of the general population, the faculties surveyed included vocational such as hospitality and sports and recreation, as well as more traditional academic courses. Therefore, the sample would be expected to have students of more diverse backgrounds than may be typical of the general university student population.

To capture recent experiences a young population was targeted. This information-gathering targeted a desired sample of respondents aged under 25, living in Auckland, and having worked before the age of 18 in New Zealand. Respondents were invited to reflect on their working experiences as children by completing a survey. Participation was voluntary and anonymous for all participants, and, while gender, age, and ethnicity were recorded (detailed in Table 5.2), there was nothing

explicitly identifiable in responses, as per approval from the AUT Ethics Committee. Asking for demographic information was so data could be analysed by these variables, allowing comparability and themes to emerge to be thematically analysed.

After originally distributing 300 survey questionnaires collected, 249 were returned (an 83 per cent response rate). Of the returned surveys, 90 were discounted as they did not fit the sampling criteria because respondents were:

- were over 25 as recent recollections were needed to ensure consistency and comparability within the sample. Using a wider range of ages would make comparative analysis more complicated.
- had not lived or worked in New Zealand as a child (under 18). This was primarily because of Auckland's large migrant population and AUT's foreign student numbers

Therefore, the number of usable surveys was 159 (n=159) (Refer to **Appendix H** for Stage II Survey).

Stage III: Face-to-face interviews with young workers

Stage III data collection involved interviewing young workers face-to-face remembering their working experiences as children, using a semi-structured interview schedule (Bryman and Bell 2003). The criteria by which the interviewees were chosen were:

- recent experience of work as a child
- ability to recall specific details of their experiences

It was critical that the interviewees were not known by the researcher as familiarity may have introduced a bias to the study. Snowball sampling was used as it proved to be the most effective way of reaching potential interviewees, where participants were asked to invite potential participants who fitted the criteria. It should be noted, though, that this method has potential inherent biases, especially

homogeneity of results due to potential similarity of candidates (Heckathorn, 2002, Meyer, 1998). However, as this is an exploratory study and the interview data represents a 'snapshot in time', generalising the finding to the wider population and robust theory-building is not possible (Marshall and Rossman, 1999). Nonetheless, variety in the sample in terms of gender, ethnicity, and work experiences meant the data gathered was rich and meaningful and gave greater depth of information than the surveying method (Stage II) was able to do, given the previously stated sampling limitations.

The questions contained in Stage III semi-structured interviews were designed to elicit additional information on the working experiences of children by young adults (those aged under 25). Questions included:

- the types of work engaged in as children (under 18 years)
- ages worked in jobs
- wages earned in these jobs
- memories of working experiences
- job description and tasks
- whether their work duties and tasks compromised their health and safety (mentally or physically) in any way (refer **Appendix I** for Stage III interview format).

5.6. Ethical considerations

It is important that any research is guided by ethical principles. Consideration of the impact of research in a wider context and to the individuals who agree to participate will help mitigate potential issues that can arise. In carrying out research, I was guided by Diener and Crandall's (1978) framework (cited in Bryman and Bell, 2003) to ensure no harm to participants, where:

- Participants give their informed consent to take part in the research and are fully informed about the procedures and risks involved.

- The privacy of participants will not be invaded or violated in any way.
- Participants will not be deceived about any area of the research ethical issues.

Consent to carry out research was applied for and granted through the AUT Ethics Committee. Using ‘Guidelines for Research’ (AUT, 2009) it was necessary to identify ethical concerns and potential risks for participants at all research stages. During the interviewing phases there were specific considerations related to privacy and dissemination of information. The Invitation to Participate, Participant Information Sheet, and Consent Form (see **Appendix E, F**) provide information about individuals’ rights during the interviewing process. All participants were able to choose to not answer a question, request that taping is stopped, or choose to terminate the interview if they are uncomfortable with the line of questioning.

Stage I interviews with key stakeholders meant individuals and/or their organisation's names would be identified in the finished thesis and any resulting publications. Participants would be asked to consent to both naming and taping of the interview, identified in the Invitation to Participate, Participant Information Sheet, and Consent Form.

Stage II survey participants have the surveying purpose explained on the questionnaire form. Answering the survey is stated as giving consent to participate. All respondents remain anonymous, even to the researcher, as no information gathered identifies the details of the respondents.

Stage III interviews young adults reflecting on their work experiences as children, and also requires consent for taping of the interview identified in the Invitation to Participate, Participant Information Sheet, and Consent Form. All participants at this stage are assured of confidentiality. Biographical information such as age, gender, ethnicity, and country of birth is recorded, and the interviewee’s identity is recorded on the consent form. However, this identifying information will not be made available to anyone other than my supervisor and me and will be securely stored as per AUT Ethical Guidelines. All participants at Stage III interviewing will

be anonymous, referred to in the finished thesis as ‘Respondent A etc...’

In addition to privacy concerns as a result of research participation, there is potential physical and psychological *risk of harm*. However, while it is extremely unlikely harm would occur, potential risks identified may include:

- being quoted out of context or incorrectly
- discussion in areas respondents are uncomfortable or disagree with.

Every attempt was made to mitigate these risks by explaining the format and context of interviews as well as the rights of interviewees. Explained in the Invitation to Participate, Participant Information Sheet, and Consent Form, all interviewees were able to ask for recording to stop or to end the interview at any time. They were also able to request a copy of the interview transcript or a copy of the finished thesis. Minimal risks were anticipated for all participants. Ethical considerations also shaped the direction of this research in terms of research design and participants chosen. While CARITAS (2007, 2003) and Pugh (2007) had successfully used children in their research, as research was conducted within a tertiary institution the ethical process and potential consequences were myriad. Undertaking empirical research on child labour is fraught with difficulties as clearly noted in Auckland University of Technology’s Ethics Guidelines for Research with Children as Participants (12) (2009):

‘Children are not small adults; they have their own unique set of interests...The particular vulnerability of children makes consideration of the ethical issues surrounding their involvement in research particularly important. To safeguard their interests and to protect them from harm, special consideration will be given to such ethical issues’.

After deliberation and discussion, it was decided there were sampling difficulties that could not be easily overcome, including:

- obtaining access to a school-aged sample
- choosing an appropriate age for the sample
- ethical requirement for obtaining parental consent for all survey respondents aged under 18

- explaining definitional issues
- ensuring the quality of resultant data.

Therefore, by choosing young adults reflecting on their earlier work as children, these issues were largely overcome. While a child population would be ideal, in terms of capturing current trends in sufficient depth, I would argue that using a young population is a reasonable compromise to the dilemma faced in terms of access of sampling and giving informed consent. These problems cannot be easily rectified in terms of ethical considerations or limitations in AUT's Ethical Guidelines and procedures. Further, young adults will be better able to answer a greater range of questions than children, given the benefit of maturity, job experience, and hindsight.

5.7. Data Analysis

With a triangulated approach, all three stages of data collection will need to be analysed. At the end of each data collection stage, the results were coded into broad themes based on the research objectives and interview questions, using interpretation of results into thematic areas (King, 2004). The themes from Stage I interviewing were used to guide the Stage II surveying format, with a combination of already identified general questions and those uncovered from the semi-structured interviews included. For Stage III interviewing, the Stage II survey was the primary influence to guide questioning. This final stage aimed to qualify the data collected at the previous stages; but also to see if new information would appear.

It is essential that when classifying that there is coherence in the grouped concepts (Basu and Vann, 2003). The interview transcripts and survey results were scanned for themes, which were then classified into sub-categories. Each broad theme was then subjected to a more detailed analysis, which led to the formation of more specific categories within each theme (King, 2004). This was done by categorising emerging data patterns, known as 'concepts' (Rose, 1982). Comparative analysis

was then used between the three data sets. Cross-checking for emerging themes between the data will reiterate the validity of results.

This type of coding is used to build grounded theory (Glaser and Strauss, 1967). Grounded theory is 'grounded' in the observations in/or data from which it was developed. A variety of data sources can be used to gain information, including qualitative and quantitative methods (Corbin and Strauss, 1990). With this type of analysis there is a need to be mindful in correlating and interpreting results, as it tends to be much easier to identify emerging themes with measurable than contextual answers. It is useful to question whether findings been similar across the different methods, and whether there is generalisability within and/or between different stakeholders and in surveying (Busha and Harter, 2000).

While the three sampling sizes are too small to be seen as statistically significant, the aim of the research was not to measure the incidence of children's work in New Zealand but rather to capture experiences of workers and also review policy imperatives and legislation in this area. Therefore, using grounded theory is an appropriate way to 'build' the emergent themes into cohesive findings that adds to the field of research.

5.7.1. Validity and Reliability

Empirical social science research, on which management research tends to draw for its research methodology and philosophical approach, stresses the importance of validity (Yin, 2003). The key test for validity is whether what was measured is what was intended to be measured when designing the research – a measurement of the research quality (Collis and Hussey, 2003, Mason, 1996). With a significant volume of information collected in this research, it is necessary to identify dependent and independent variables at all stages of data collection to improve the quality and utility of the resultant research. However, often research can 'branch off' into related topics as and when new themes become evident. Interview data tends to have a low level of reliability because of the inevitable influence of the interviewer upon the interaction with the interviewee. Therefore, triangulation was used to ensure reliability of this study, so information was

re-checked at different stages to ensure that the data collection and the analysis were internally consistent (Jick, 1979, Rohner, 1977, Patton, 2002).

All three stages of research were conditional on participants answering questions truthfully. However, as discussed earlier in the chapter this is not always the case, particularly when interviewees do not want to be judged. Another case can occur when a holder of information (for example, a government official) may be unwilling or unable to divulge information so may fabricate or prevaricate in answering. While there was no suspicion or evidence that any respondents were untruthful at any stage, it pays to be mindful of the potential for mistruth.

Useful to explore is expert sampling, where information is sought from those who have known experience or expertise in a subject area. While it is useful to elicit the views of those who have specific expertise, one pitfall of this kind of sampling is that only those with strong opinions may be motivated to participate. Also, experts' can be a misleading term. They are often composed of interest groups and/or government officials with incomplete or subjective/biased information on the subject. As they may have a particular opinion they wish to have confirmed, the information presented cannot be assumed to be without bias. Nevertheless, at all research stages participation was voluntary, and interviews were conducted at a time and place of the interviewee's choice. All survey forms (100 per cent of 159) were returned filled out correctly (that is, none ruined or partially completed). This meant at the analysis stage correlation of the answers was relatively straightforward.

Reliability of the resultant findings should also be considered, which can be seen as 'an assessment of whether the same findings would be obtained if the research were repeated, or conducted by someone else' (Smallbone and Quinton, 2004: 155). Guba and Lincoln (1994) expand the definition by querying whether the research represents a variety of viewpoints in a particular setting and if there is an understanding of social context. It could be assumed that if conditions were

repeated with a similar group then results should be comparable. However, with qualitative research so many variables can affect research findings: for example, the mood of the respondent (and indeed of the researcher) at the given time, discussion among peers while completing the survey and different cohorts may not yield the same (or even similar) results. Acknowledging that social context makes replication difficult does not mean that the research findings are less valid, rather that the limitation has been explicitly acknowledged (LeCompte and Goetz, 1982). These research findings may therefore be a 'snapshot in time' rather than theory-building.

The research results also manifest questions related to generalisability and whether findings of the selected sample are able to be generalised to a larger population (Smallbone and Quinton, 2004). It would therefore be necessary to have comparable information for all respondents in each phase of the research, which is partially ensured by the semi-structured format of interviews at Stage I and Stage III. However, it can mean that while the same primary research questions are the same, the development of discussion and information gathered may well be varied. While the Stage II surveying has uniformity of format, the open-ended questions mean that again the depth and detail of answers is variable. As with all qualitative research there is difficulty in interpreting whether the causal relations between variables are real, and whether results can be generalised beyond the research setting (Cooper and Schlinder, 2005, Easterby-Smith, Thorpe and Lowe, 1991). Therefore, it is essential to critically evaluate the methods used and how they contribute to and strengthen the initial analysis.

5.8. Chapter summary

When researching child labour a number of considerations influence the direction and focus of study, including the scope of the data collection, and best methodology. When choosing the most appropriate methodology, it is essential that a wide range of research variables are considered, including the depth of data needed for analysis, and whether the focus is statistical; or data gathering in greater depth. In this research a rich and in-depth body of information chronicling

experiences and opinions was needed, favouring a qualitative methodology.

The detail of data required will also influence the type of research design employed. In addition, identifying gaps in the research and the typology used as precedents in previous research can help recognise the most suitable design. As part of a qualitative methodological design there were three stages of data collection in addition to the literature review, using a standard triangulated approach to ensure credible data collection. While all methods of data collection have their own related weaknesses and ethical issues, these must be acknowledged and minimised by the use of rigorous procedures to ensure the information gathered is legitimate and relevant to the research aims. As the research progresses it may become evident that further investigation and discussion are needed of previously unexplored areas. This is able to be pursued with relative flexibility due to the semi-structured format of two of the three research phases.

The final stage in this research is analysis of data. In qualitative research with a large volume of data to collate, the coding of identified themes is used to form grounded theory. In addition, while 'grounding' the gathered data, analysis also identifies the research limitations and increases the research findings' accuracy. The following chapter will present the findings of the three stages of research. The findings are a combination of statistical data and more detailed answers, gathered through the two interviewing and surveying stages.

Chapter Six

Research Findings

6.1. Introduction

The purpose of this chapter is to present the findings from the data collected. As stated in the previous chapter, the data was collected in three stages:

- Interviews with key stakeholders regarding children's work in New Zealand, with a particular focus on policymaking and practice.
- Surveying young adults (25 and under, but over the age of 18) on their experiences as working children (under 18).
- In-depth interviews with five young adults (25 and under, but over the age of 18) on their experiences as working children (under 18).

The presentation of the data will follow the structure of the different stages of the data collection, that is, the key findings from the stakeholder interview data will be presented first, followed by the data from the survey of young adults, and finally the data from in-depth face-to-face interviews with young adults.

6.2. Interviews with Key Stakeholders: Findings

The first stage of interviewing sought to establish the extent of the issue in New Zealand given the lack of local research, and while key themes emerged from the literature there were still key gaps that needed further discussion. These included government policymaking imperatives, the economic and social impact of children's work in New Zealand, and the appropriate level of regulation for working children. In addition, further information was needed about the experiences of New Zealand's working children. Key stakeholders had either expertise in or an interest in children's work in New Zealand. To ensure that a range of views were obtained, the stakeholders selected for this study were representatives from the tripartite - employers, employees, and the state as well as representatives from NGOs. The organisations represented in this study are outlined in the table below:

Table 6.1. Interviews with Key Stakeholders

Organisations	Interviewees
Department of Labour	Justin Strang: Policy Manager: Employment Relations. Kate Wilkinson: Minister for Labour, discussion
Children’s Commission	Children’s Commissioner Cindy Kiro First Children’s Commissioner Ian Hassall, opinion
New Zealand Council for Trade Unions (NZCTU)	Eileen Brown, policy analyst. Written opinion
Postal Workers’ Union	John Maynard: Union Representative
Business New Zealand	Paul MacKay: Manager, Employment Relations Policy. Written opinion
CARITAS	Lisa Beech: Research and Advocacy officer
UNICEF	Barbara Lambourn: National Advocacy Manager. Written opinion

While the key findings will be discussed in greater detail in Chapter Seven, the following issues were apparent. These findings can be grouped around three main headings:

1. Policy Motivation

- Policy imperatives. There appeared to be a lack of clarity from successive government(s) as to their policy objectives in the area of children’s work.
- Impact of domestic and international legislation. An apparent ‘balancing act’ between policy autonomy and being a member state of labour regulatory bodies was evident.

- Government(s) commitment to research and policy to protect children. As there has been little New Zealand-based research or recent changes in policymaking, questions are asked regarding the overarching Government policy direction.
- Impetus to regulate. Based on the answers by key stakeholders, further discussion is needed about future regulatory commitment to or compliance with international conventions, but also potential domestic policy changes.

2. *Economic and Social Implications*

- The extent of children's work in New Zealand. It is evident that the lack of data collection and results mean the extent of the issue continues to be unknown, which has implications for current as well as future policy direction.
- Perceptions of children's work, where work for children is generally seen as harmless and a rite of passage. However, the little research available does not support this contention for a substantial number of children.
- Concerns relating to employment equity and fairness. There are indications that children may be used to minimise adult working conditions, and sector some positions as 'children's work', and hence poorly paid with little protection. In addition, there is inherent inequality where children continue to be paid less for doing the same job as adult workers.
- Health and safety of young workers. A significant number of young adults reported having an accident at work. However, the level of employer compliance with health and safety regulation can be extremely poor and/or illegal (evidenced in the Stage II surveying and Stage III interviewing findings).
- Policy best practice. Stakeholders were asked what they would see as being the best way to regulate and monitor children's work.
- Measurement of policy success. Discussion centered on the ambiguities of

measurement in this area, and what indicators would represent successful policy.

- Role for the unions. Some suggestions were made for greater union involvement with child workers, and in education programmes (refer to **Appendix G** for Stage I semi-structured interview questions).

6.3. Children’s Work Survey Results

As stated in Chapter Five, 300 survey questionnaires collected with 249 returned (an 83 per cent response rate). Of the initial returned surveys, 90 were discounted as they did not fit the sampling criteria. This left 159 useable survey responses.

6.3.1. Participant Characteristics

As Table 6.2 shows, the majority of respondents were under the age of 20, so it is presumed that the respondents had reasonably recent working experience while children. In addition, there were 54 male and 105 female participants (n=159), as Table 6.2 indicates, which is representative of university population in terms of female to male ratio (Education Counts, 2009).

Table 6.2. Age and Gender of Respondents

Age of respondents	Number of respondents (n=159)	Gender	
		Male (n=54)	Female (n=105)
18	43	15	28
19	58	19	39
20	23	12	11
21	12	5	7
22	7	0	7
23	12	1	11
24	0	0	0
25	4	2	2

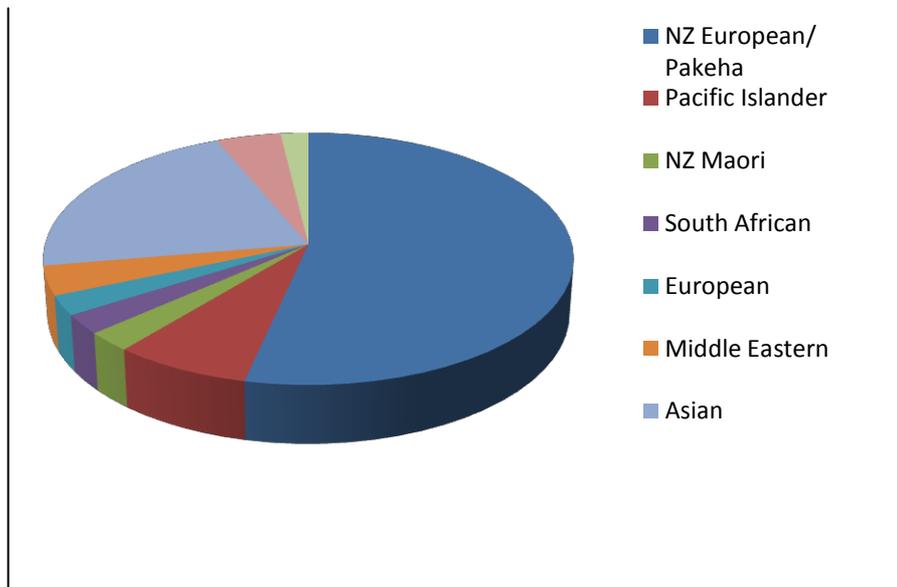
As the survey sample of 159 was reasonably small, it was necessary to try not to make broad generalisations based on self-identified ethnic cohorts. Therefore, the samples have been generalised into larger ethnic cohorts for ease of analysis, seen as

percentages in Table 6.3. below:

Table 6.3. Ethnicity of Respondents

Ethnicity	Number of survey respondents (n= 159)
New Zealand European Pakeha	85
Pacific Islander (including Tongan, Tahitian, Cook Island Maori, Fijian	12
NZ Maori	4
South African	4
European	4
Middle Eastern (including Persian, Egyptian, Middle Eastern identity	6
Asian (including Laos, Chinese, Thai, Korean, Taiwanese, Indian, Filipino	34
Multiple identities: 4 x Maori- European, European-Samoan- Malaysian, Maori- Chinese, European- NZ	7
Did not answer	3

Figure 6.1. Ethnicity of Respondents



Respondents were asked if they had always lived in New Zealand, 102 respondents answered yes, while 67 respondents (or 42.14 per cent) answered no, seen in Table 6.4. As discussed in the previous chapter, the sizable migrant population in Auckland means the proportions are not surprising. For those who settled in New Zealand later, the ages are listed below. A sizeable number had migrated below the age of ten, and a smaller number as older teenagers, the most common ages between 10-15 years (40.3 per cent of respondents). However, a majority of respondents were New Zealand-born (n= 92 or 57.86 per cent).

Table 6.4. Age of Respondents when Settling in New Zealand

Age when settled in New Zealand (years)	Number of respondents (n=67)
0-5	14
5-10	13
10-15	27
15-17	13

Unlike previous studies (in particular CARITAS, 2007, 2003), no survey respondents had been in paid employment before the age of ten, as outlined above in Table 6.4.

In fact, most of the respondents began paid work at the age of 15 years old. In addition, 119 respondents (or 74.8 per cent) replied that they had not worked for family or friends, which is inconsistent with the much of the literature on working children (Graham, 2009; Bunkle, 1990; Cigno and Rosati, 2005). One could speculate on the probable reasons, for example, socioeconomic background, survey sample, or ethnicity. However, any ‘links’ would be interpretive and ambiguous as more data would be required to draw definite conclusions.

Table 6.5. Age of first job outside the home

Age when started first job	Number of respondents (n= 159)
10	5
11	0
12	9
13	10
14	23
15	50
16	36
17	26

The question pertaining to how much the respondent earned in their first job was open-ended and did not have categories of amounts per hour or per shift, in order to capture a broad spectrum of data. There were a number of variations, with the lowest pay being \$13.50 per week, the highest \$200 for three hours. Those respondents that listed an hourly amount (107 out of 159) are listed in Table 6.6.

Table 6.6. Amount of the respondents' first pay

Pay per hour (NZ\$)	Numbers of respondents (n=118)
\$5.00-\$6.00	8
6-7	4
7-8	8
8-9	18
9-10	22
10-11	24
11-12	8
12-13	15
Can't remember	5
Minimum wage	6

The most common responses were \$9-10.00 per hour and \$10-11.00 per hour. Of interest was that respondents who identified as NZ/ European/ Pakeha, 90.2 per cent (or 74 out of 82 respondents) indicated that they kept their pay, while 75 per cent (or 39 out of 52 respondents) of non-European or Maori respondents - Pacific Islanders, Asian, and Middle Eastern respondents – gave their entire pay to their families. It would be reasonable to assume that the difference between cohorts is linked to socioeconomic status.

Table 6.7. Length of Time in First Job

Length of time in first job	Number of respondents (n=159)
Less than 3 months	20: the shortest being 12 hours! Five respondents did not give a length, saying it was a 'holiday or summer job'.
3 months	13
3-12 months	31
1 -2 years	30
2 - 3years	35
3 years	11
More than 3 years	16, ranging from 3 ½ years to 9 years
Did not answer	3

While 64 respondents (or 24.8 per cent) indicated that the length of time they stayed in their first job was under a year, the norm was for relatively long-term service. A sizeable number indicated they had stayed in their first job around two to three years (22 per cent or 35 respondents), challenging the notion that children's work is transient or short term. Eight respondents said they were still working in their first job, ranging in length of service from one year to nine years. Interestingly, respondents often held multiple jobs, often straddling different work categories, skill levels, and workplaces, as outlined in Tables 6.8 and 6.9 (for ease of analysis, the types of work are categorised).

Table 6.8. Types of Work Engaged In

Job category	Types of work
Manual labour	house painter, labourer, tiling, golf course maintenance, maintenance for a hire firm, light labouring, bulldozer operator
Agriculture/ horticulture	tomato packing, hothouse work, vet assistant, agricultural production, Stable hand, milking cows, strawberry picking, zoo, tree maintenance
Administration	receptionist, office administration, advertising accounts, data entry
Retail	gift shop, video shop, Lotto, clothing, electronics, checkout operator, fast food, travel bookings, cashier
Food	baker's apprentice, waitress, butchers assistant, barista, cook, kitchen hand
Instruction/ childcare	swimming instructor, dance tutor, babysitting, sports referee, coach, English teacher, camp counsellor, sailing instructor, day-care centre
Hospitality	bar waitress, bartender, pub work, movie guide events company, delivery driver
Health and beauty	dental assistant, lab assistant, caregiver, makeup artist, hairdresser, beautician, AVON representative
Other	family business (resort, race car production), engineering apprentice, cleaning, paper round, factory work, housecleaning, computer repairs, car groomer, busboy, shelf stacker, milk delivery

Almost all respondents stated that not only had they learnt a range of transferable skills or qualities (for example, how to be responsible and self-motivated) in their first jobs, but they also gained a great deal of confidence. Moreover, the interview

data show that the broad set of work-related skills obtained by the respondents had benefits outside their working environment (see Table 6.10). Indeed, an overwhelming number of respondents (over 91 per cent, or 146 out of 159 respondents) stated that their earlier working experience was a positive one.

**Table 6.9. Skills Gained from Working as a Child
(n= 159)**

Skill gained	Yes	No	Not answered
Decision-making	63	30	66
Ability to relate to others	78	20	61
Responsible behaviour	142	6	11
Self-esteem/ confidence	91	66	1, 1 had already
Self-motivation	68	47	33
Organisational skills	112	21	16
Problem solving	55	82	11
Communication skills	108	22	29
Goal setting	76	72	11
Self-discipline	134	19	6
Teamwork	136	13	10

Table 6.10. Some respondents felt they had gained other skills, which they listed¹

Skills gained	Number of respondents (n=22)
Time management	4
Leadership/management	2
Patience, down to earth and a reality check	2
Customer service, how to treat others, maturity and sympathy	5
Money handling	1
Responsibility with money, value of \$	3
Working with others, friendship	3
What didn't want to do/ own values	2

While the respondents saw the skills they gained from their first jobs as beneficial, there were recurring issues namely: a) the low rate of pay; b) lack of fairness and equity; d) poor management; e) boredom; and f) poor health and safety conditions. Of those who answered the question: ‘What other aspects of the job did or didn’t you like?’ (n=106), only six answered positively (2 with provisos where they liked the position but not the management). Therefore, 100 respondents (or 94.3 per cent of those that answered this question gave negative responses about their work.

Most disturbing was the fact that 18 of the respondents felt unsafe at their work (nearly one in five workers) and one third of those who felt unsafe (eight respondents) had suffered a workplace accident (see Table 6.11). The most common hazards listed were using dangerous equipment with little or no training or supervision, working alone often at night, sexual and verbal harassment, and being asked to undertake illegal and/or underage work.

¹ Some of these can be argued not to strictly be skills as they are positive attributes or knowledge the respondents felt had been gained, taught or learnt by working, so have been included.

Table 6.11. Health and Safety Issues

Did you ever feel unsafe in any of your workplaces? (n= 159)	Yes 24	No 135
Have you ever had an accident while working? (n= 159)	Yes 34	No 125

Respondents who had an accident were also asked to comment on their employers' level of compliance with health and safety regulations and, as Table 6.12 shows, almost 80 per cent of employers were non-compliant or partially compliant, consistent with previous research in New Zealand (see Rasmussen and Lamm, 1999, Lamm, 2010).

The level of employer compliance with the Health and Safety in Employment Act (1992) requirements particularly reporting and recording work-related incidents, injuries and illnesses, is categorised below:

- *Total compliance* equated to the employer recording the accident and ensuring the employee had appropriate medical treatment and compensation entitlement.
- *Partial compliance* was where the injured worker was taken to the local doctor but neither Accident Compensation Corporation nor the Department of Labour was notified of the injury. As ACC was not notified and the injury unrecorded, medical bills and workers compensation could not be claimed by the worker linked to the firm, or 'flagged' as coming from a particular workplace.
- *Non-compliant* were employers who chose to do nothing or little in spite of legal obligations of reporting and managing workplace accidents and injuries under the Health and Safety in Employment Act 1992.

6.12. Standard of Health and Safety Compliance

Standard of compliance	Number of respondents (n=34)
Total compliance	4 (11.8 per cent)
Partial compliance	23 (67.65 per cent)
Non-compliance	7 (20.59 percent)

Finally, space was provided in the questionnaire for the respondents to make any additional comments regarding their working experience and rights of working children and youth workers. While the analysis of these comments will be examined in more detail in the following chapter, the recurring themes were:

- the lack of workplace education and training given to young workers.
 - unfairness of wage rates.
 - unsafe work environments
 - policy suggestions for improving young people's working conditions
- (refer to **Appendix H** for Stage II survey form).

6.4. In-depth Interviews with Young Adults Reflecting on their Working Lives as Children.

The final stage of the triangulated study was in-depth, face-to-face interviews with five young adults. Selection of the interviewees was based on the 'snowball method' in which interviewees were recommended to the researcher by fellow students. The purpose of this stage of the study was to supplement the survey data with more detailed information about working experiences of youth. By using the semi-structured interview format, in-depth questions were able to be answered regarding concerns and trends that had been signposted in the literature, first interviewing, and surveying stages, and 'richer' data was gathered. The profile of the interviewees, as outlined in the tables below, shows that typically they began working at the age of 14 in the service sector, congruent with the survey answers

in Stage II. Pay rates varied from \$7.50 per hour to \$14 for delivering papers six days a week (refer **Appendix I** for Stage III semi-structured interview questions).

Table 6.13. Interview Participant Characteristics

Respondent A	New Zealand-born European male, aged 19
Respondent B	Singaporean-born Chinese female, aged 25
Respondent C	Fijian-born Indian male, aged 22
Respondent D	New Zealand-born European female, aged 20
Respondent E	New Zealand-born European male, aged 22.

Table 6.14. Age at First Job and Type of Job

Respondent A	Paper run
Respondent B	Waitressing in a café, babysitting.
Respondent C	Warehouse unloader
Respondent D	Supermarket checkout
Respondent E	Café working (filling sauce bottles and labelling)

The main features of their working experiences were:

- low pay rates. Pay rates were all below the minimum wage, as 4 out of 5 respondents began work before the age of 16.
- lack of pay parity. All respondents said they were paid a lower rate of pay than their work colleagues based on age.
- lack of progression. Age was also cited as a factor in lack of progression in pay rates and workplace responsibility.

- poor and/or hazardous working conditions. Concerns were raised regarding lack of health and safety training and awareness. In addition, some respondents had experienced hazardous working condition and/or accidents.
- lack of knowledge about their rights and obligations as employees. All respondents had no knowledge as a child worker about legislation pertaining to their employment rights or obligations, including health and safety legislation.

The concerns in this final interviewing phase were strikingly similar to the experiences of the survey respondents in Stage II. In addition, overseas (Barling and Kelloway, 1999, Black, 1995, Cole, 1991) and domestic research (see CARITAS 2007, 2003, Pugh, 2007) signposts the same dominant issues, regardless of country and industry.

6.4. Chapter Summary

This chapter has presented the findings of the three stages of data collection to gather information on children's work in New Zealand, following the research design outlined in Chapter Five. In the first research stage, information was gathered through interviews with key stakeholders regarding policy imperatives for regulating children's work, the social and economic impact of children working, and potential solutions. The main findings of Stage II surveying were the ages when work began, types of work, and pay received. In addition, length of time in the job and the skills gained were presented, along with accident rates and health and safety compliance by employers of young workers.

Consistent with the stated aims of this thesis outlines in Chapter One, the presentation of the findings were found through thematic analysis, related to the themes identified in the literature reviewed in Chapter Four. The key themes identified were:

- labour market policy convergence
- the role of international institutions

- core labour standards and their reach
- typical work roles for children.
- issues relating to 1) age; 2) wage; and 3) health and safety
- appropriate level of regulation.

Furthermore, while the variation in students manifested in diverse working experiences, common themes and concerns were identified relating to job types, equity issues, and workplace safety. The following chapter, Chapter Seven, will discuss the findings of the research in greater detail relating to the themes identified in the literature in Chapter Four.

Chapter Seven

Discussion of Research Findings

7.1. Introduction

Many of the debates concerning children's work revolve around the primacy of economic liberalism, deregulation and the 'free market', which has implications for policymaking internationally and domestically (O'Brien and Williams, 2008, Crouch and Streeck, 1997, Drezner, 2002, McKenzie and Lee, 1991). Determining the appropriate role and integration of multilateral labour and human rights standards into domestic legislation and policy is also integral to understanding children's work and how to combat its worst aspects. Within these policy debates is conflict between global policy convergence versus domestic policy imperatives, and the appropriate balance between. Such a balance will influence the type of legislative framework that a country chooses to adopt. It is also evident that compliance (or otherwise) with core labour standards affects a country's policy autonomy as well as its reputation on the global stage (Hindman and Smith, 1999, Barry and Reddy, 2005).

This chapter discusses the key findings from the interview and survey data in more detail and presents the main issues highlighted by the results. The difficulty in defining 'child labour' and determining the extent of children's work in New Zealand is examined. To be discussed are some of the factors that continue to drive the employment of children, namely the utility of work (is part-time employment beneficial for children or not?) and the political economy paradigm of children's work. The dominant capitalist worldview of a free market - where children's work is presumed to be a preparation for adult life as a worker - is also discussed.

Finally, issues around fairness, equity, and appropriate regulation to adequately protect New Zealand's working children are highlighted. These will be linked to the themes of:

- minimum age for work.
- minimum wage for work.
- health and safe

7.2. Definitional Issues and Investigation

Discussed in detail in Chapter Five, there continue to be definitional issues and a lack of research into what is actually going on in New Zealand regarding children's work. As a result, the findings in the literature are dependent both on what definition is adopted and also the measurement-method chosen. While there are similarities in New Zealand's industries to other western economies such as Australia and Great Britain (see Chapter Four for further discussion), a 'true picture' is difficult to quantify. Therefore, linking the literature to the research findings necessitates determining definitional and methodological limitations of the results being explored. For the purpose of this chapter, references to 'child labour' by respondents and in the literature have not been removed, so 'children's work' and 'child labour' may be used interchangeably, and presumed to mean the same thing, that is, children engaged in work.

Stakeholders were asked what their opinion was regarding true extent of children working in New Zealand. Most respondents correctly pointed out that there was a paucity of available data, although there was some reference to previous research:

'A 2003 Cabinet paper estimated 50 per cent of 11 year olds were working, and we thought that couldn't be true. And it was part of the incentive for going out and asking questions... We did come up with about that figure- 50 per cent. But it could have been higher if we asked the question about working for families' (Lisa Beech, personal interview, July 14, 2009).

This percentage is consistent with attempts to measure in other western states that are discussed in Chapter Four. However, as no census or surveying data is routinely collected New Zealand regulatory or enforcement authorities, these numbers are guesswork at best and may not reflect the true context in New Zealand. More information about the types of work children typically congregate in is available in the existing literature, as discussed below.

7.3. The Utility of Work

Social and economic issues shape the reasons for work in New Zealand creating a framework where certain types of jobs are seen as routine and suitable for children

(Mizen et al, 2003, Dalley, 1998, Graham, 2009). As discussed in Chapter Four, New Zealand is assumed to have undergone demographic transition where agriculture is not the primary mode of production¹, the worst forms of labour are no longer prevalent, and ‘industrialised societies are more progressed’ (Fernández-Armesto, 1995: 368). However children’s work ‘in any country covers a wide spectrum, ranging from forms of forced labour to self-determined and needs-orientated forms of work’ (Liebel, 2004: 5) and New Zealand is no different. While important to differentiate between beneficial and intolerable work, it is also necessary to recognise that much child labour falls into a grey area between these two extremes (UNICEF, 1997). An individual’s work experience may be influenced by a variety of factors including industry, location of work, hours of work, age of the employee, as well as type of work.

The findings in Chapter Six regarding the types of work children engage in were typical of a western liberal market economy (Lavalette, 1994; National Research, 1998). In contrast to developing countries where children typically work in the agricultural sector the work New Zealand children undertake is varied, evident in Stage II surveying (see Chapter Six, Table 6.8) and in Stage III interviewing (see Chapter Six, Table 6.14). The necessity of work to be seen as a contributing member of society supposes the view that work is beneficial for children. At all three research stages participants were asked their opinion of this. Answers from the NGO sector tended to say the general perception of work was positive, with some qualification:

‘The predominant view is that it’s beneficial. I think that most people look back on doing things like paper runs or working in the local dairy shop or helping out on the farm. There are many ways in which children do those small scale, or usually family-type businesses, we see children as doing those things. Almost like a rite of passage...’ (Cindy Kiro, personal interview, April 14, 2009).

¹ Interestingly, agriculture is still New Zealand’s primary export industry (The Treasury, 2009). However, the service industry is New Zealand’s number one industry in terms of density: 81per cent of workers (Callister and Didham, 2010).

‘Beneficial, in that it gives children a sense of responsibility and experience of work and income... Underlined by a concern that there are a number of things that aren’t happening. One is that children aren’t learning at school what are their rights as workers, the hazards at work, their entitlements. Secondly, they don’t have a sense that they are equal partners in a contract; they are regarded as minor, with no real rights and no confidence, that they do have rights. These are underlying concerns. But in general, small amounts in safe conditions when children are old enough; I see no real harm... I did a paper run for three years when I was in high school. I thought it was very useful’. (John Maynard, personal interview, July 17, 2009).

However, the Department of Labour’s representative was more reserved in its answer:

‘What our research tells us is that there’s a strong belief throughout the country about the benefits of work as part of the experiences children have, as part of their learning, underpinned with the assumption that takes place in a safe environment...’

Interviewer: Do you think that assumption is correct?

‘I don’t know. The evidence I’ve seen about children’s participation in work is fairly sketchy in pockets and certainly the material that CARITAS has brought forward highlights some things that are a bit sort of scary perhaps. But it’s hard, I don’t think anyone- is in a position to make a determinant about where things sit, where children sit... There is a broad public perception that work takes place and is in line with most people’s (past) experiences, which is generally a kind of positive one. I think there is a lack of awareness about children’s work’. (Justin Strang, personal interview, June 3, 2009).

Doubts concerning policymaking were elucidated by Lisa Beech (personal interview, July 14, 2009). She voiced concerns regarding how policy is made:

‘Sense that because it happened in our childhood it’s the only measure by which to judge. But the reality of 20 years or more may not be the reality children are experiencing now...Experience is not the best way to make policy’.

This was reiterated by Barbara Lambourn (personal correspondence, February 4, 2010)

‘Sense that a perception of children’s work, being mostly family or community-based, can be informally negotiated and not needing regulation. Little impetus to regulate until hard evidence of widespread exploitation or unreasonable treatment moves public opinion’.

The young people questioned in Stage II surveying (see Chapter 6, Table 6.9, and

Table 6.10) overwhelmingly thought that working was a positive experience for a variety of reasons (146 out of 159 respondents, or 91 per cent). These included being taught new skills, responsible behaviour, and learning the value of money:

- ‘It was positive being responsible at a young age; I learned life lessons and gained confidence’.
- ‘I think it was a positive experience, because it taught me how to be responsible. It made me more passionate about being independent. It also taught me many new skills and helped me develop my personality’.
- ‘Teaches discipline and work ethic’.

Some responses also touched upon the psychosocial aspects of work:

- ‘It was a positive experience because it provided me with an opportunity to understand how society functions better and experience new life experiences’.
- ‘Positive, gives you money to spend plus gives you an introduction to employment and lifestyle’.
- ‘Yes, it was a positive experience. It has taught me the value of money and how to expand my communication. Skills + taught me how to work in teams. Your first few jobs teach you responsibility, help you to develop as an individual, and help decision making skills of where you want to be’.

However, there were provisos in many of the answers, perhaps reflecting a more conflicted view of their early working lives:

- ‘Positive, even if I kinda (sic) felt pushed to get a job to be able to spend money and gain money’.
- ‘Positive, however I think it can distract you from school work’.
- ‘Positive: learnt value of \$\$, gained independence, good to have some work experience, pressure at school and work but learnt good time management’.
- ‘Blurred boundaries when in a family business!’

Only seven respondents said their work experience was negative, with complaints about hard work for little money and unfair treatment. Nevertheless, the Stage III interviewees were less certain that work was a positive experience, all five answering

with qualifiers:

- **Respondent A:** ‘Maybe... some things are good. But I was young. If I had children I wouldn’t let them be so young (to work)’.
- **Respondent B:** ‘I do to a certain extent. If it’s done well, with supervision and restrictions like minimum wage then it can be a very positive thing. I mean, people come out with all these skills- teamwork, self-discipline which is something that I learnt as well. Customer service skills, motivation, it (work) worked well. But if it’s not followed it can maybe have the opposite affect; teenagers not in a safe environment, having adverse effects’.
- **Respondent C:** ‘Was for me... I needed money, met some cool people. Nah, ok I guess, lots of times I couldn’t see my mates and work was hard’.
- **Respondent D:** ‘It gave me money to do stuff, buy things I couldn’t get otherwise. But I worked all weekend and was tired at school. It was too long hours, and boring’.
- **Respondent E:** ‘Working at *** (café) was a positive experience, working at *** (customs agency) was definitely not a pleasant experience... (pause). It’s a really hard question. The first thing that comes to my head would probably be negative, but that could be because I instantly picture a sweatshop somewhere... Kids getting paid 1c a day, that sort of thing. Is it a rite of passage? Maybe... I think if it’s done right, yes it’s a positive experience. Because of the skills you gain, because you get a value of money, an idea of the worth of what you do. It’s kind of empowering – you’re earning your own money’.

A contradiction became apparent with this line of questioning at all research stages. Stakeholders presumed that working would be a positive experience with ‘appropriate regulation’, young adults often reported poor working conditions, unfairness in their workplaces related to pay rates, progression, and health and safety breaches, and yet continued to say (with the benefit of hindsight) that working was beneficial. Yet given that there are major limitations in information and protection for children identified by all three groups involved in the research, is this really a valid contention? Further, when Stage II survey respondents were asked for further comments the responses were overwhelmingly negative (100 out of 106 or 94.3 per cent) concerning their working experiences. This inconsistency is puzzling, and suggests that while work is seen as positive in retrospect, the conditions experienced were more often than not poor.

Having ‘set the scene’ regarding the situation of working children in New Zealand and

the presumed positive aspects of work, there will be discussion in the next section of the theoretical approaches using the political economy of child labour.

7.4. The Political Economy of Child Labour

While the presumption of the public and policymakers alike is that work generally considered a positive experience, this contention is linked to the capitalist market economy where children's work is presumed to be a preparation for adult life as a worker (Raffe, 1998; Belchamber, 2004). As explained in Chapter Four, the issues relating to the political economy of children's work cross economic, social, and political perspectives. With a multidisciplinary approach, while there are multiple lens in which to 'view' interrelated issues there are myriad opinions, often with little agreement between them. However, it is important to analyse the literature relating to the research findings in Chapter Six. To be explained in the following section is labour market theory related to the three-stages of research findings.

7.4.1. The Economics of Child Labour

In their seminal article, *The Economics of Child Labour*, Basu and Van (1999) propose that the primary cause of child labour is parental poverty. In western industrialised economies, however, children tend to work not to support their families but to earn money for themselves, which, in the short term at least, is desirable even if it comes at a cost in terms of less free time or missing activities. It is often unclear which outcome will be better though, and need to contribute to the family income immediately may take priority over childhood activities. This difference was evident in the research findings, where only 8 survey respondents giving their pay entirely to their family while 39 kept some and gave some to their family (16 per cent). Of interest was of those respondents who identified as NZ European/ Pakeha, 90.2 per cent (or 74 out of 82 respondents) indicated that they kept their pay, while 75 per cent (or 39 out of 52 respondents) of non-European or Maori respondents – Pacific Islanders, Asian, and Middle Eastern respondents – gave part of or their entire pay to their families. It would be reasonable to assume that the difference between cohorts is linked to socioeconomic status, as well as the importance of and obligation to family.

There is also the opinion that children may distort pay structures by being given less money for the same types of positions as adults (Hassall, 2009, Business NZ, 2009, 2008, Forrest and Dennison, 1984). Stakeholders were asked whether they believed that in New Zealand's low-wage recessionary economy children working could be a tool to moderate wage demands or section particular jobs as children's work (and hence low-paid). Agreement was forthcoming from The Children's Commissioner and the Postal Workers' Union Representative:

'The recession will increase the exploitation of children. (Be)cause why would you pay more when you can get cheap labour? They'd probably be quite reliable too, I mean they'd have school hours, live locally, have another source of income... I would imagine in such terrible economic times people will try and get cheaper labour wherever they can' (Cindy Kiro, personal interview, April 14, 2009).

'I know of adult workers who have been told there rates are being cut and if they don't like it they'll be replaced... As pamphlet delivers tend to be younger than other sectors such as retail, the fact that there is no minimum wage rate means that they can be paid poorly' (John Maynard, personal interview, July 17, 2009).

The Department of Labour's response was more cautious; preferring to point to the impact of the recession and arguing that young people were adversely affected by falling employment anyway:

'... It seems a bit hard to judge what the level of that impact actually is. And we don't have that information. What counts as children's work when we ask about it. And that is a tricky line... It's a difficult line to draw, when it stops being part of family activity and becomes work...'

'A lot of these arguments were thrown up in discussion about the youth wage and minimum wage (in 2008)... I'm not aware of any evidence that points to dampening down of wages'.

'Young people and productivity- no one can argue we are productive with high unemployment. But New Zealand's productivity has been primarily by its high workforce participation, the number of people working has provided this productivity. The issues are less about labour engagement and more about capital investment - the recession presents challenges' (Justin Strang, personal interview, June 3, 2009).

As discussed in Chapter Four, while RTB theory is a judicious way to understand the pressures of developing economies in the process of industrialising, there appears to be little evidence supporting the contention that New Zealand is headed in that direction. While legislation could be argued to be incomplete in terms of protecting child workers, there is general protection for children through compulsory education age-based tiering of some positions (Education Act, 1989, Health and Safety in Employment Act, 1992). Moreover, with competition continuing to be an economic and political reality, New Zealand has moved out of manufacturing, with the contention from some sectors of the economy that the minimum wage rates for adults are too high for comparative advantage (see Business NZ, 2009; 2008). However, with the movement of industry to low-wage economies, there may be unintended support for child labour in the country of origin. As this thesis seeks to explore the working experiences of *New Zealand children* there will be no in-depth discussion of this concern. The following section will evaluate the main policy debates in this contentious area of the labour market.

7.5. Policy Debates

From the literature reviewed, it becomes evident that the role of children in society is determined by economic, social, and political factors that are often country-specific. For industrialised countries the change has been over time where child labour has been transformed from the norm to something that needs to be 'fixed'. However, the impact of employment may be good or bad and a variety of factors may influence this balance (Hobbs and McKechnie, 1997, Rasmussen, 2009). As discussed in Chapter Four, while children's work may be routine in New Zealand society, the government has an important and necessary role in making policy. This is also influenced by the global situation – that is, what other countries are doing, and what is considered the desired normative approach. Policies tend to converge, and it is premised that states will adopt the best practices of successful states (Waltz, 1999). Such global policy convergence has its roots in multilateral institutions such as the United Nations, World Bank, and the International Labour Organisation. Convergence is also encouraged through trade agreements where there may be stipulated labour conditions.

However, while convergence can be seen as a consequence of globalisation and increased interconnectedness there are real implications for policy autonomy within

states and continued internal and external pressures if one ‘doesn’t make the grade’ (Cox, 1986, Waltz, 1999). An example is New Zealand’s continued reservation to International Labour Organisation 138 *Minimum Age for Work*. New Zealand, as a member state must regularly report back on what steps are being made to comply with the Convention, and is criticised for its non-compliance. Discussed further below, the reporting pressure may mean that less progress has been made in focusing on other avenues that could protect children, such as domestic investigation and regulation investigation.

7.5.1. Policy Imperatives

With the overarching move to policy conformity typical of western liberal democracies, New Zealand labour policymaking has been influenced by both United Nations and International Labour Organisation compliance. This approach is significant for analysis as there are questions regarding the policy goals of successive governments when attempting to regulate children’s work, and the appropriate ‘balance’ between international ‘good citizenship’ and domestic autonomy. In the course of the research, there appeared to be a lack of clarity in policy direction communicated from successive government(s). This was commented on by NGOs when asked what they believed the government policy imperatives were. The assumption was of a *laissez faire* approach in the future²:

‘To be honest I don’t know what the new government’s policy visions and priorities are in respect to children in work. I know their general direction is to try and get less regulation so I am assuming they would want to adopt a more voluntary approach by employers who may employ children and young people. So I’m assuming that’s the direction they will take. But I haven’t seen any indication of them dealing with issues related to children or young person’s employment’ (Cindy Kiro, personal interview, April 14, 2009).

² The National Government were recently elected in November 2009, following a nine year rule by the Labour Party. Campaigning on a platform of lessened government intervention, they are expected to deregulate rather than increase legislative protection in many areas.

This approach is consistent with other market economies, supposing a global rise of generic agendas in education and social welfare (Teeple, 1995, Hulme, 2000) and a general trend towards reduced commitment and spending in areas that are not considered central to productivity and economic growth (Gregg and Machin, 2000; O'Brien and Williams, 2008). New Zealand's general policy direction could be seen to conform to this model. Justin Strang (personal interview, June 3, 2009) supposed 'Historically, the government is trying to balance the objectives of safety with participation. So, a strong cultural belief in the importance of children working, but that is taking place in a safe environment, and that it doesn't conflict with the government's education objectives'. However, with the recent change to a conservative National Government, there was an NGO opinion differing from this perhaps overly optimistic view:

'I think after the meeting with Kate Wilkinson she's not actually very interested in the issue at all. The driving factor, and it has been the case for the last few years – it's only when they (Government) front up to UNCROC, that's the time they've got some motivation to be addressing the issue at all. I think there is no political will from the current Government, and probably not really strongly from the Opposition for a minimum age for employment. There may be a stronger will for some improvement in children's working conditions (Lisa Beech, personal interview, July 14, 2009).

Could the prescient words of Thomas Hummarberg, former member of UNCROC (in Ludbrook, 2007:9) be a reality?

'Politicians, eager to be seen as child friendly, have often paid lip service to the wellbeing of children. But at the end of the day, children have usually been let down. In the power game other interests are stronger. Children have always been and still are the victims of hypocrisy'.

7.6. Legislative Framework

As discussed above, while there is evidence that New Zealand is converging with other International Labour Organisation and member states in policy and regulation, there has been a lack of progress by successive New Zealand governments in clarifying minimum age requirements under UNROC and removing the existing reservation to International Labour Organisation 138 and UN 32(2). The reason for this delay, outlined in the recent report *Implementation of the International Covenant on Economic, Social and Cultural Rights (Draft)* (2008), has been justified because 'it is both acceptable and

common practice for children to engage in work outside school hours' (Boyd and Fleming, 2000). This reiterates the commonly held view that children's work in New Zealand is '...socially desirable, since it prepares them for independence and greater responsibility in a way which complements their formal education' (Chetwin, 2002: 2).

While New Zealand is generally compliant with core labour standards (refer to Chapter Two), it is not wholly the International Labour Organisation *Declaration on Fundamental Principles and Rights at Work* (1998) as it continues to maintain reservations on setting a minimum age for work and International Labour Organisation Convention 87 Freedom of Association and Protection of the Right to Organise Convention, 1948. The *Reservations* relating to child labour and collective bargaining procedures are seen as important measures toward the elimination of child labour worldwide and working toward the International Labour Organisation's goal of 'Decent Work for All'. Successive governments have shown little commitment to engender change in this area, in spite of the Government report to UNCROC addressing child labour issued in November 2008, and the NGO initial *United Nations Universal Periodic Review Report* covering 2004 -2008 recently completed. It seems that there are influences in terms of the amount of work required for New Zealand to lift the Reservation, including:

1. a perception that the detailed requirements of the Convention, especially as interpreted by the Committee of Experts, were unduly prescriptive in certain respects;
2. the identification of perceived compliance problems in relation to types of industry involved (for example, agriculture), and various legislative and policy issues in terms of accommodating the older, adult workers (who represent the majority of the labour force) versus the younger workers (OIA, 2009).

While New Zealand continues to argue that a combination of compulsory schooling until 16 and regulation of the hours of work means it meets the standard of age specification, the International Labour Organisation Committee of Experts disagree (International Labour Organisation, 2009*b*; Myers, 2001). In terms of the tripartite

consultation process necessary to progress legislation within the International Labour Organisation, there is agreement by the three groups in New Zealand that they believe the current domestic regulatory regime is at least equivalent to adopting the International Labour Organisation age-setting of work, as described below:

‘Essentially NZ has no objection to ratifying and has approached the International Labour Organisation more than once over the past few years with that in mind. However, the International Labour Organisation has indicated that it sees the lack of a specified minimum age for working in NZ as an impediment to ratification. For our part we (government, Business NZ and NZCTU) believe that the existence of a minimum age for exiting compulsory education serves the same purpose and, therefore, for all practical purposes, we are compliant’ (Paul MacKay, personal correspondence, February 2, 2010).

In addition, there continues to be some cynicism in New Zealand and overseas as to whether there is gain in working toward compliance, citing numerous countries that sign up with no way of meeting the standard in terms of regulation or enforcement (for example The Democratic Republic of the Congo):

‘To put New Zealand’s failure to ratify International Labour Organisation 138 into perspective, most of the countries that have gone ahead and ratified International Labour Organisation 138 are not likely to be fully compliant with it anyway. International Labour Organisation 138 is not an easy convention to fully conform to because child labour is an activity that has always been difficult to regulate’ (Roth, 2008:1).

Nonetheless, the majority of International Labour Organisation member states (155 out of 181), including many countries to which New Zealand compares itself (like Ireland, Britain and most other OECD countries), have ratified International Labour Organisation 138. Major exceptions to this trend are Australia, Canada, and the United States (International Labour Organisation, 2010). Australia, like New Zealand, is working towards ratification of Reservations. But should New Zealand be ratifying this Convention? It could be argued there is little evidence of significant exploitation of children in New Zealand, and many types of work may be beneficial for children. And yet as the findings in this study show, there continues to a general complacency regarding the welfare of children and their health and safety while at work.

However, the official government(s) contention that children are adequately protected has meant there has been little change or progress in regulation affecting children in New Zealand for some time. This oversight was discussed in more detail, where the key stakeholders asked their opinion on the utility of the current legislation and regulatory framework:

‘This issue has been percolating along under successive governments. And we don’t know the scale of work, what occupations they work in. CARITAS has tried to gather some of that information, but it was small surveying, and we don’t know this can translate’ (Lisa Beech, personal interview, July 14, 2009).

Cindy Kiro felt:

‘(The legislation has) not enough teeth, and what teeth are there aren’t being used. I don’t see enough being done for people to say children are being adequately protected by the existing legislation. Example of kids working outside the recommended hours, working on restricted machinery... we could do better. We need a stronger legislative framework as well’ (personal interview, April 14, 2009).

Eileen Brown commented that the New Zealand Council for Trade Unions favoured additional protection for young people in employment and supported a minimum legal age for employment, while accepting:

‘There is a strong cultural and community practice in New Zealand of part time and casual work for many young people under 16. There are proxies however such as the Education Act to ensure children’s rights and requirements in regard to schooling and inappropriate age employment. Our suggestion is for a mandatory Code of Practice which sets out the rights of young people in employment and all the legislative requirements, e.g. schooling attendance, health and safety, employment rights’ (personal correspondence, January 21, 2010).

While the above opinions indicate weaknesses in the legislative framework, successive governments have appeared to lack the impetus to regulate. Stakeholders were asked their opinions why this may be, answers centering on the unpopularity of such a move, seen by the quotes below:

‘It’s quite simple really. Children and young people don’t vote. Unless somebody makes it an issue – and employers aren’t going to. I can’t imagine they’d be keen to see a further intrusion into what are likely to be fairly

unprotected work. Bear in mind too, the nature of that employment... the rights of passage idea. They will be working for family members. And how do you protect yourself against your parent as an employer? Complicated relationships arise' (Cindy Kiro, personal interview, April 14, 2009).

'There hasn't been a strong political lobby... For example, the half hour lunch break came from the miners in 1908 refusing to work when they only had 15 minutes (break). It takes political organisation, and perhaps... it hasn't reached a high enough profile in New Zealand because we don't have the numbers of children working in conditions like overseas. But there are examples where children are working nearly fulltime and then have to go to school, isolated examples that need to be addressed... You can see when you start drawing these things together there is a problem... but it really hasn't had a high enough profile. It needs systematic work to keep these issues followed' (John Maynard, personal interview, July 17, 2009).

Limitation of domestic legislation is also apparent given the poor conditions experienced by many respondents and the lack of knowledge by all interviewees of their rights and obligations in Stage III interviewing. While it could be answered that children have little need to know the Acts to be protected, available literature points to a strong trend of participation linked to better employment outcomes in terms of safety, but also organisational performance (see Lamm, 2010, Mylett and Markey, 2007, Walters, 2006).

7.7. Equity and Fairness

As explained in Chapter Four, children are able to exert little leverage on the conditions they are offered and occupy a position at the periphery of the labour market (refer Figure 4.3. Atkinson's Model, Tannock, 2001, Anderson and Lamm, 2009a). Therefore, they are directly affected by the reduction in the 'state's role in labour relations as well as the legal protections offered to workers individually and collectively' (Buchanan and Nicholls, 2003: 2), which has direct impact on their working lives. For a significant number (24.5 per cent or 37) of respondents, their first working experience had been working for family or friends of the family although 119 (74.8 per cent) had not. Those who had worked for family or family friends were overall more likely to record positive experiences and perceptions of fairness and safety. Further, respondents often received higher pay if they were employed by their relatives and were generally happier with their employment conditions.

At both Stages II and III of the research, unfairness of wage rates was a recurring theme. While there was a wide variation in pay rates at Stage II (see Chapter 6, Table 6.6), a sizeable portion of respondents (36.5 per cent or 58 people) said that their pay was definitely unfair, while a further 20 respondents saying that they didn't know what was fair at the time or unsure. Stage III interviewing findings were consistent with the surveying results. Only one respondent thought her pay was fair, but she said that she had 'No idea what was fair pay at the time' (**Respondent D**). The others thought their pay was unfair, given the benefit of hindsight. Some responses were:

- **Respondent B:** 'To be honest I had no idea what good pay was. So I just took it. But after a few weeks in the job when I saw what my other friends were getting working at like Foodtown, on checkout. And they were getting like, \$10.00 and I thought, wow that pay is pretty good... I needed the money, I didn't get an allowance'.
- **Respondent E:** 'Needed a job and they told me what I was on. Was better than my mate at the petrol station. Was only 14, got no choice in pay, didn't think to ask'.

Survey respondents who thought their pay was unfair were asked what they should have been paid and why. Some answers were:

- 'Yes and no. Pay was not that much so I was happy I had something. But doing 50-70 hour weeks for that much sounds really unfair'.
- '\$10 would have put me more an equal level with other staff' (earning \$5).
- 'Equal to the other workers' (agricultural).
- '\$12- the job was hard' (earning \$9)
- 'I used to work in ***** Hotel laundry while doing fulltime study. I was exposed to electricity as there was a lot of washing and ironing. For the amount of energy I used it would be fair to start on 18-20\$ NZ. Often I was by myself'.
- 'I think my minimum wages should be 15 because my first job was a cleaning job and it was so hard, it makes lots of physical problems' (earning \$11).
- 'By the hour, was really heavy and took ages in the weekends (heavier papers). Same as the others- I worked really hard and they made me do lots of stuff

because they couldn't be bothered and I was junior (to them)'.

- 'Maybe \$10.00. That was almost ten years ago. It wasn't much money then or now. I guess that was because that was what everyone else was getting... I mean my group of friends; they were all getting (around \$10.00). _
- 'There was one guy my age but he was paid the same amount as me, but he had been working a lot longer. The pay wasn't fair- it was a lot of work. Should have been paid about \$15 per hour. Definitely, they paid me that because I was young. Should have been paid more- others that I spoke to, other workers said that runners, professional runners would have been paid about that (\$15 per hour). We were doing more than just being runners'.

Interestingly, all suggestions made by survey respondents were for modest pay increases, well within the boundaries of low wage and/or industry standard in New Zealand. So, while these respondents felt they were paid unfairly, they were realistic about desired pay rates; where presumably respondents acknowledged the lower skill-set required for many of these positions and adjusted their expectations accordingly. In Stage III interviewing further question relating to relative pay rates of other staff was asked, and whether they knew other workers' pay. With an area of individual contracts and low union membership (particularly among young people), only one person knew what another staff member was earning, commenting 'I knew one guy was on \$15 and that seemed like heaps. But he could lift really heavy stuff... and he was like, old... maybe 25...' (**Respondent E**).

Being the first time the individuals had worked for payment, they were unsure about how to ~~negotiate~~ or discuss the issue of wages, or didn't question because they felt apprehensive about 'being seen as a moaner, a troublemaker' as one responded. When questioned whether they had a pay increase in their work, the common answer was that their wage only increased when they moved jobs – as they were now more qualified. None of the interviewees ever asked for a pay increase, citing inexperience and fear of losing their job as the primary reasons. Furthermore, while presuming older workers earned more, as there was no explanation of minimum wages for any of the five respondents from their employer, they assumed they were offered what they were worth', as defined by the employer. Examples of their responses illustrate this:

- **Respondent B:** ‘Didn’t consider talking to the boss about increasing my pay- I found it very intimidating’.
- **Respondent E:** ‘Café- pay didn’t go up in the three years. Briefly worked in the café as a waiter. Never thought about asking. At 14... I was quite intimidated by authority...’
- **Respondent E** spoke of the pressure not to claim overtime rates in his second job on the wharves: ‘Technically I was paid overtime but there was a culture of not taking it. I was encouraged not to claim. I think I did claim once, but then I realised it was not the thing to do. Taboo... At no point did I think that this pay was reasonable, but I saw it as a career opportunity, thought that my pay would probably go up quite quickly. It was quite nice to travel around, have some responsibility... there were other things I liked about the job’.

The absence of equal pay with the older workers and the fact that they had to wait until they were 18 years of age before they were classified as –an adult worker‖ were the main reasons respondents thought their pay was unfair. Many of the respondents felt that the reason for their poor motivation at work was the lack of equal pay and that they were not treated as ‘real workers’. Overall, most respondents felt that employers use young workers as cheap and disposable labour and argued that those occupations, such as manual work, newspaper delivery, which have a high concentration of young workers, should offer better pay and conditions. These opinions are consistent with research findings overseas and in New Zealand (see Black, 1995, Lavalette, 1994, Cole, 1991, Gasson et al, 2003).

7.8. Knowledge of Employment Rights

While there were no questions directly relating to knowledge of employment rights in Stage II surveying, Stage III in-depth interviews covered this area in more detail. There was mention of their lack of knowledge from all respondents, consistent with the concerns of some key stakeholders (particularly in the NGO sector). None of the respondents were aware of their rights and responsibilities as employees, such as holiday pay, or giving notice when sick. However, **Respondent B** did comment that her parents had instilled in her a work ethic, stating:

‘My parents educated me that you had to be responsible, if you had a job you had to go. My mentality was that if I don’t go to work I don’t get paid so I best turn up and get my money!’

Respondents were asked if they knew about legislation covering:

- 1) minimum age for work
- 2) minimum wage
- 3) health and safety.

All (100 per cent) answered no to all three subjects, although **Respondent C** on the factory site was given a hard hat and reflector vest (but at under 16 was breaking the law driving forklifts!). **Respondent E** found out the age-setting of the minimum wage when he was told that as he was under 16 he'd be getting 'below that'. Three respondents had a written employment contract while two did not. Although a small sample, it is consistent with Pugh's 2007 research, where only 49 per cent of respondents were covered by a written contract. Youth Law also reports 'the continuing proliferation of verbal, casual employment agreements (despite the provisions of the Employment Relations Act requiring otherwise)' (Hancock, 2009:1). Of the three who had written agreement, not one had not read their terms and conditions:

- **Respondent A:** 'Was only young, my mum read it I think'.
- **Respondent C:** 'They gave it, and I just signed it. Didn't know what to expect, look for'.
- **Respondent E:** 'Nah, just signed it'.

Criticism from some stakeholders in Stage I centered on the continued lack of information and research in this area to gather a 'true picture' of the situation of child workers, discussed in Chapter Four.

'(The Government is) not convinced there's a problem because there's not a lot of information telling them that there is. But having said that, when we've given them information they don't seem to want to act on that. Parents have told us they've called the Department of Labour and kind of been fobbed off-told to go away, that sort of thing... The government going off to the UN and saying they are satisfied that children are 'adequately protected' without knowing how many children are even working is that starting point of the question really' (Lisa Beech, personal interview, July 14, 2009).

The lack of education and training given to young workers was mentioned by a

number of stakeholders and also given as a suggestion to improve children's conditions, Beech also citing concerns relating to the lack of resources devoted to this area:

'It really worries me, that an agency like ours, who only has one person working on domestic issues, with less than 5 per cent of our research devoted to children's work – is actually one of the major resources... There are so many resources available for much less important things, it doesn't seem appropriate that so many resources are devoted to so many less important issues... And what really annoys me is when the Department of Labour refers people on to us (laugh) - they say to call CARITAS. I mean it actually belongs to them more than it belongs to the church really'

While the lack of knowledge from child workers and their families is concerning, it is hoped that this will be rectified (at least in part) by the upcoming launch of the Department of Labour Information Toolkit 'My First Job'. The draft website has been formulated and submissions from interested parties have been sought until mid-April 2010. The website is in two parts:

- Part I: the legislation governing employment, and links to Acts and websites
- Part II: information and research resources.

While only the consultation document is currently available, the format and information provided are reasonably complete and detailed. However, the next 'hurdle' will be making children aware of the information's availability, as well as being only accessible online. In the last section, the findings and literature relating to the three main themes this research sought to gather further information about will be discussed. Covered is:

- minimum age for work
- minimum wage for work
- health and safety.

7.9. Health and Safety of Child Workers

As evidenced by CARITAS' 2007 and 2003 studies, cited in Chapter 5, there are a number of issues requiring urgent attention. The 2003 survey *Protecting Children at Work: Children's Work Survey*, indicated that a large number of children were employed in jobs that were not compliant with employment legislation administered

by the Department of Labour, for example, working in alcohol outlets and babysitting while under age. In addition, the study's findings indicate that there were a number of accidents and injuries involving children in which the employer has been non-compliant. These findings are consistent with overseas literature, and also the findings of Stage II and Stage III of the research, to be discussed in the following section.

7.9.1 Safety in the Workplace

Stage II survey respondents were asked if they felt had ever felt unsafe in their workplace; with a non-defined and holistic view of what 'safety' meant so they were free to interpret. While the majority of respondents answered no (82 per cent or 131 respondents), 24 answered yes. One third or eight of these respondents had had a workplace injury (so this event may have influenced their response. Examples of poor, hazardous working conditions outlined in the survey responses included physical workplace hazards such as forklifts and using of dangerous equipment, being left in sole charge with little or no training or supervision, and sexual harassment. Also commented on was the high level of noncompliance and lack of enforcement of the regulations such as controlling the hours of work and the number of breaks to which young workers are entitled. A number of respondents recounted their experiences of unsafe workplace conditions, such as heavy lifting, the use of dangerous equipment, and being exposed to physical workplace hazards. For example:

‘I was a builder for a few years, and there were many times when I was working up on a roof or working with dangerous tools when I felt unsafe’
(Male, aged 22).

The survey also highlighted issues around physical safety of young workers, including a lack of supervision, as well as being harassed by fellow workers, which was particularly prevalent for women, as some of the responses illustrate:

- ‘Working late nights by myself in Queen St, weirdos would sometimes come in’
- ‘Working by myself out in Westgate. Dodgy people came in’
- ‘_’He (boss) slapped my ass and swore every five minutes’

- ‘Was targeted by a manager and verbally abused‘
- ‘Shoplifting, drunken men (different jobs‘)
- ‘Having to work late and find transport home‘
- ‘When our shop was robbed‘
- ‘My workmate would look at me and lean close. He made me feel uncomfortable but I was only 13- didn‘t know what to do‘
- ‘Carrying large amounts of cash in a crowded place‘.

There were also examples given of insufficient hazard protection in terms of serving alcohol in both bars and restaurants:

- ‘Having to serve alcohol to drunk people, in my religion [that has] no drinking. Also men trying to touch me and laughing’.
- ‘Some jobs I had to do I knew weren‘t safe’.
- ‘Dodgy bar and often left on my own- was very young at the time’.

While the survey sample is small, the findings point to some disturbing working conditions for youth in which they are placed in hazardous conditions with minimal supervision and training, contravening the Health and Safety in Employment Act 1993. This clearly indicates that employers are not identifying, managing and identifying hazards as they are required to do under the Act regulations. All of the five Stage III respondents said they had felt unsafe in their workplaces:

- **Respondent A:** ‘Sometimes dogs, when it was late in winter...‘
- **Respondent C:** ‘All the time in warehouse... Heavy stuff, people lifted them (boxes) to fast cos they want to get it done. But you think it‘s funny when you‘re a guy... maybe young so you don‘t know’.
- **Respondent E:** ‘I guess on the wharf is quite a scary place. There was large cranes driving around, and the wharfies always tell you stories about people getting their legs crushed...people dying, having to get the blood and stuff out from under the crane. Yeah, so I was probably a bit nervous at times. Health and safety? No, not really. I mean the first time I went down there, um, it was with another employee... he said to watch out for the cranes (laughs)’.

Stage II survey respondents were asked whether they had an accident while working and if so what their employer's response was. In total, over a fifth of the respondents recalled having an accident while working (34 workers). The findings regarding employer's responses were concerning. Employer responses typically fell into three categories: 1) total compliance 2) partial compliance 3) non-compliance.

Total compliance equated to the employer recording the accident, ensuring the employee had appropriate medical treatment and compensation. Of concern, only 11.8 per cent (or 4 workers) of respondents reported that their employer had fully complied. Partial compliance was the most common response (67.7 per cent or 23 workers) in which the injured worker was taken to the local doctor but neither ACC nor the Department of Labour was notified of the injury. As ACC was not notified and the injury unrecorded, medical bills and compensation could not be claimed by the worker. Of greatest concern is the 20.6 per cent (or 7 people) for whom, the employer chose to do very little, in spite of legal (and one could argue, moral) obligations. Some examples were:

- 'Recorded it BUT they just ignored my main accident and weren't concerned. BAD EMPLOYER!!'
- 'Cut hand on glass washing dishes. Boss sent me home. Had to get stitches and miss work for two weeks with no pay'.
- 'Wrote in an accident form when I forced her to fill one out. She laughed at the situation and I filled one out for myself'.
- 'Yelled at me and gave customer a new shirt and free drink as I got my blood on it'.
- 'I felt unwelcome back at the job as I claimed ACC'.
- 'Cut my hand in the slicer... It bled everywhere... felt really sick. Went to the supervisor and she bandaged (the injury). It kept bleeding so she sent me home. Had to go to after hours, doctor said was lucky I didn't sever the nerve. Had two weeks off- no pay'.
- 'I burnt myself, on hot water. I don't think it was a serious burn, but they told me, run it under cold water, see how it goes. I think they did say if you're not well just go home'.

Evident was that a number of work-related injuries went unreported to the appropriate

government agencies. Worrying, only two of the face-to-face interviewees were aware of how New Zealand's universal non-fault compensation scheme (ACC) operated or whether or not a claim had been lodged on their behalf when they were injured. Of the two who knew about ACC, one was aware because of being involved in sports, but didn't link the scheme to the workplace (**Respondent B**).

Respondent B became aware following being injured at work:

'I got hit with a tyre iron when I was working in my second job. And I had two weeks off work. And the second week I got ACC. The doctor explained it to me (not my boss). I don't think they (the employer) knew about it to be honest. It was quite an amateur operation really'.

It is apparent is that there are difficulties with gauging exactly how many work-related injuries are reported to ACC. As previously mentioned, ACC 2006 figures show that health and safety outcomes for young workers are worse compared to adult workers; both in terms of injury rates and the lack of protection in many workplaces.

7.10. Key Debates

While the findings of this study attempt to gauge the experiences of young workers working in New Zealand, there is still a great deal of ambiguity. It could be argued there is little evidence of significant exploitation of children in New Zealand, and many types of work may be beneficial for. Ratification of International Labour Organisation 138 may create the situation in which regulation may be 'out of step' with community values - always important for a government seeking re-election. Further, it is unlikely that the change of government will signal a change in policy in this area. So is there evidence that work is harmful to children's safety and health in New Zealand? At the heart of this debate is the fact that there are many different types of work, and it can largely be assumed that paper runs and working in shops are not harmful per se, based on the tasks carried out or the environment. However, when taking a wider view of health and safety, disturbing trends are identified. In this research these include (but are not limited to):

- sexual harassment
- work located in unsafe environment
- doing work without training or on dangerous machinery
- illegal working conditions having an impact on health and safety.

While poor work conditions for children may not be endemic, this is not necessarily related to legislation, but more to types of industry and the fact New Zealand has undergone demographic transition in its past – that is to say – there may be more luck than good planning in this equation. Little is known about the injury rates for workers under the age of 15, but young workers as a group are injured at a higher rate than older workers (see Barwick, 2006, European Environment and Health Information System, 2007, Windau and Meyer, 2005). Furthermore, incomplete information continues to hamper ACC official records on work-related accidents. Figures are kept by the Occupational Safety and Health Service of the Department of Labour (OSH), but they cover only reported accidents, which are unreported by many vulnerable worker groups (Quinlan et al, 2001, Wooler, 1995). Moreover, statistical information on injuries for children is not linked to occupational data, so most data relates to adults. In terms of compensation claims, while a child worker would be entitled to claim for medical costs, a part-time worker (most children) would not be permitted to claim for loss of earnings.

Therefore no advantage is gained for most if an injury is reported as work-related, particularly if pressure is put on by the employer not to seek recompense. In addition, young people are less likely to report workplace accidents on their own, or to seek assistance due to less awareness of rights and perhaps employer pressure (Roth, 2008). Nevertheless, as there is no data for the total number of children working, it is impossible to make any comparisons between injury rates of under 15 year olds and other age groups, or between New Zealand and other countries. Further, while the literature presented in Chapter Four includes discussion about the minimum wage (see Boyd and Flemming, 2007, Business New Zealand, 2009; 2008), in New Zealand there is no statutory minimum wage for employees under 16 years old. Consequently, no data is available measuring wages of those under 16 or outside the tax system: of

which a child may be one or both. Gaps in information mean such workers are invisible in the tax system and that there are often no records of ACC compensation deductions or levies.

In addition, as well as being largely invisible within the tax and accident compensation system child workers are discriminated against on the basis of age. While the Human Rights Commission argues that any minimum wage distinction between 16 and 17 year olds and the rest of the labour force is not justified, children under 16 years are not covered by the Human Rights Act (1993), an arbitrary aged-based discriminatory practice with human rights implications. Such policy conflict was acknowledged by some stakeholders when discussing the lack of protective mechanisms regarding wages for children:

‘Cindy Kiro said it very well at one of the Select Committee hearings we were at. She said any person who does the same job as another person should be entitled to the same wage’. Some jobs have such poor conditions that you couldn’t persuade an adult to do it... but a child...’ (Lisa Beech, personal interview, July 14, 2010).

The fairness and equity of such a standard has been discussed in Section 7.7. To reiterate: the validity of paying a 15 year old less than an 17 year old doing exactly the same job for no other reason than age, regardless of qualifications and capabilities, is difficult to justify. Essentially, the legislation as it stands tells citizens and the world that those under 16 are in some way less deserving of the same standard of protection as other citizens, in spite of being extremely vulnerable to a whole array of concerns inherent in working environments.

Setting the youth minimum wage must be considered in the context of the Government’s overall policy direction in relation to the implementation of UNCROC, and possible ratification of International Labour Organisation Convention 138. To ratify the Convention the government will need to work towards ensuring that New Zealand’s employment laws regulate that all workers, irrespective of age are paid equitably. Domestically policy makers must comply with sections 21 and 22 of the Human Rights Act, which, subject to an existing minimum wage exception in section

30, broadly prohibit discrimination (against persons over the age of 16) on the grounds of age in employment. 'Equal pay for work of equal value' is an underlying theme here as the justifications for children being paid less for doing the same work are weak.

Given the contentious and often conflicting viewpoints regarding the issues identified above, during the stakeholder interview phase there was discussion over 'policy best practice' in the area of regarding children's work. There is logic to this normative approach where 'best practice' identifies a set of universal rights and the duty to accept implant these rights falls on all states that are part of the International Labour Organisation. But to what extent does ratifying the Conventions translate into action in legislation, policy and practice? (International Labour Organisation, 2006). Signing to Conventions by New Zealand should signal strong domestic legislation and practice to eliminate children's work, or at the very least 'ring fence' it by mandating an entry age to begin work. Stakeholders were asked to comment on what they believed was an appropriate level of regulation for working children. All were realistic about some of the challenges evident:

'...pragmatic trade-off: more than what we have but not over the top. Conditions that make us compliant with the UN conventions. And if we don't have those, we're not compliant, then we're failing' (Cindy Kiro, personal interview, April 14, 2009).

'Education... I mean it's no use if people don't even know their protection, except looking good to an international committee... It's essential that education for people before they go into the workforce is to know what is the basic labour laws, how they ever came about, the history of labour laws, what your rights are. Even doing role plays, examining their rights, what is the work, how to people feel about it? Is it just and safe... People are not formed properly in the community if they don't know anything about what they will be doing for most of their lives, many of their waking hours'

'I would think there would need to be a commitment for an amount of money that was used to bring together young workers, their guardians, the contractors and some of the large industries... Getting the experience of those young people as part of the process- what do we need? Clothing? Age limits? Not just from the top down but the bottom up too'.

‘A module in the school curriculum, practical and modern to excite people’s interests. Many of their issues are the same as adults... Not just paternalistic regulation but greater involvement of young people in deciding their working conditions. Something has to happen...’ (John Maynard, personal interview, July 17, 2009).

Stakeholders were also realistic regarding the seeming ambiguities about practical implementation of reform in this area and successful regulation would be measured:

‘Any kind of reform would have to be accompanied by assessment of how you would test whether it was working- same as any new policy. Part of the consideration of that would be, well, if you want to do X how will we know that X is working? And it’s a fairly common path, in terms of policy advice’

Interviewer: But how do we know it’s working right now then? We have some regulation- what are the measurements to say whether it is or isn’t working?

‘Well you have two options... And I think you’re getting to how do you fill the black whole around some of this information? That’s a fairly common problem- not unique to children. And you have a couple of options – you can increase the reach of your rolling statistics, so you would increase the depth of the statistics you are collecting, or you do point in time’ information gathering’.

Interviewer: But none of that has been done by the Department of Labour so far in terms of measuring children’s work.

‘Well not in the year I’ve been in the Department- we haven’t commissioned anything’.

Interviewer: But doesn’t this lead to unmeasured policy and gaps in the information, incomplete information?

‘There are always gaps’ (Justin Strang, personal interview, June 3, 2009).

‘... Accident records, decrease would indicate improvement. Surveying children and employers’ (Cindy Kiro, personal interview, April 14, 2009).

‘Ironically, an increase in reported child work-related accidents and if the rates of Department of Labour prosecutions in that area increased. They’re going to have to get worse in terms of reporting. Long terms, a stronger relationship and greater information... A children’s union, representing child workers’. (Lisa Beech, personal interview, July 14, 2009).

‘They can organise themselves with the same rights as adult workers and effective union organisation. If their rights were recognised. There is a disincentive for employers to take responsibility. Starting with a Code of Practice and building it up-they can’t work under 12, they have to wear a high vis jacket, they must get a pay slip. Something to build on...’ (John Maynard, personal interview, July 17, 2009)

The Minister for Labour when asked for the appropriate level of legislation to protect working children, reframed the question to ask what was the ‘silver bullet solution’ (personal meeting, June 3, 2009). Unfortunately, the reality is not as simple as a one-size-fits-all approach, as the ‘problem’ deals with multiple contexts, age groups and workplaces. There was discussion in some interviews with suggestions about a greater role for the unions, as it is evident with increasing casualisation and decentralisation of bargaining the conditions children work under are not improving. However, the seeming lack of union focus (and one could argue, interest) towards children’s work is one of many areas where there may be insufficient capacity and/or impetus to focus on. As explained in further detail in Chapter Five, the Council of Trade Unions is involved as part of the tripartite in international reporting and compliance issues – for example, related to New Zealand setting a minimum wage for children. Conversely, there was some comment about a seeming lack of interest in child workers generally, in spite of being the future generation of workers⁴.

‘This would be a high priority for the Labour Party if it was a high priority for the unions. And it’s not. I find that quite ironic. Little investment in young workers and membership...’

‘I’m a bit disappointed that the unions... we put out our 2003 and 2007 report, and some of the recommendations that were in there about contract coverage, really clear health and safety coverage. I thought there were really big issues in there for unionists. And the CTU put out a press release welcoming our

⁴ However, there has been commitment from the CTU earlier this year to be involved in an informal information-sharing and potentially lobby group. This group will involve a number of interested parties, primarily involved in child protection roles and NGOs (Eileen Brown, personal communication, January 21, 2010).

report and saying it provided the case for Working for Families. So they were looking in terms of income but they weren't looking at what responsibility they might have to this group of workers' (Lisa Beech, personal interview, July 14, 2009). Talk centered on the need for a union more specifically focused on children, rather than a youth union like Unite, and separate from larger union organisation.

'Grassroots empowerment model- Unite closest but not for children. Traditional style will not work- need greater focus on the child. And when people say working is a good experience. Why is it a good experience if you're not learning to stand up for yourself? If the skills you're learning are how to be exploited, how to be put down, how to work in unsafe conditions- is this a good experience for life... Just to be sent out to have a few accidents or be bitten by a dog, it's not ideal' (John Maynard, personal interview, July 17, 2009).

While a strong policy suggestion, there appears to be little general union engagement with child workers at this time, perhaps reflecting the difficulty of organising young workers. Research shows that there has been a steady decline in the rate of trade union membership since the 1980s (see Perrpard, 2007, Rasmussen, 2009), therefore it was not surprising that over 97 per cent (155 out of 159) respondents were not members of a trade union while working as a child. In the Stage III interviewing, no one had been a union member, and all said that they were not told by employers they could join one or approached in their workplaces. Only two respondents said they knew what a union was:

- **Respondent B:** 'Awareness there were unions, never approached by one, I wasn't aware I could join one or that one even existed with the work I did.'
- **Respondent E:** 'I knew what they were; they marched and protested on the street. But didn't know it could be for me...'

Such responses indicates the role for unions in this area is open for extensive development, and in the case of Unite the organising model has been used successfully in campaigns such as 'Supersize my Pay'. However, given that the service sector is bereft of any union coverage and this is where young workers congregate - as do workers in general (Callister and Didham, 2010, International Labour Organisation,

2008a) - there appears to be a continued lack of interest and presence. However, decades of research and reports from the 1890 New Zealand Sweating Commission onward show that effective and strong inspectorates and trade unions are essential ingredients for achieving employer compliance with employment law, including occupational health and safety regulations (Lamm, 2010, Walters, 2006). The difficulty is how to reconcile these weaknesses within a deregulated regulatory framework and little government commitment?

Those interviewed were asked whether there was a role for stronger legislation. The Department of Labour favoured a relationship-type approach with the various parties in the employment relationship:

‘I advise government and then government makes the decisions. The safety of children or any person in the workplace is about the interaction between the people; the employer, the worker, and in the case of children: a caregiver or responsible person. Those are the key players in the situation. Policy and legislation has a role to play, but it’s limited by choices that people make in a given situation’. (Justin Strang, personal interview, June 3, 2009)

And here lies another contradiction - strong frameworks and enforcement are known to ensure greater compliance than *laissez faire* regulation (Lamm, 2010, Myrstad, 1999, Youth Law, 2010). So why this approach would be seen to be correct? Assuming employers will adopt best practice without guidelines or legislation to compel them to assumes a rather optimistic picture of human nature. Haworth (2004:190) believes:

‘The ERA is the most significant measure in a broad reform strategy linking employment relations outcomes with a broader vision of social equity... It encompasses deep divisions about the economic model that New Zealand should follow, and how employment relations should contribute to the achievement of economic goals’.

If this is the case, then why has so little focus been on using the Act to strengthen the protection of working children? The question was then extended, questioning whether any policy ‘solution’ will really address the problem in terms of addressing the safety of children, the hours children work, and the appropriate role so work doesn’t undermine their education. Again there was talk of pragmatic policy responses:

‘Not necessarily the best solution’, but pragmatism... Started off believing a minimum age was appropriate, wasted a lot of time on whether it should be 14 or 15 at CARITAS. The next year we aware down to 13, I think we’re down to ten now. Employers really shouldn’t be profiting from the labour of children under the age of 10... We need to be asking why are so many children working at such young ages?’

‘There are good and bad working experiences for children. And the good can be very good- I don’t want to overstate the problem. I think the issue is that children themselves are not able to make the call- is this experience going to be a good one or a bad one? And we shouldn’t be asking 11 or 12 year olds to judge- is this a safe working environment?’ (Lisa Beech, personal interview, July 14, 2009).

‘We don’t know what the extent of the problem is. We have a snapshot (CARITAS), which looks a bit worrying... but is there the political will? The fact that there is such a huge information gap says a lot about the political will I think. And the government’s desire not to go there is one that’s understandable... It opens a whole can of worms they can do without’ (Cindy Kiro, personal interview, 14 April, 2009).

An apparent contradiction remains between perceptions New Zealanders hold about child labour and the actual types of work our children are undertaking. The consensus view seems to be that work that falls within the legal limits and does not interfere with children’s health and development or prejudice their schooling can be a positive experience (Inter-Parliamentary Union/International Labour Organisation, 2002: 15, Mizen et al, 2001). In New Zealand the worst forms of child labour, while not prevalent, do exist. Further, while we see paper routes and fruit picking as socially acceptable forms of child labour, it is hard to distinguish these jobs from other forms of work. ‘The reality of child labour is more complex. Powerful forces sustain it, including many employers, vested interest groups, and economists proposing that the market must be free at all costs’ (UNICEF, 1997: 17).

Many roles that children are engaged in will continue to simply avoid regulation, no matter how well intended or developed it may be. How does regulation reach young children working on a farm their parent’s sharemilk, or young prostitutes working the street? Given that previous research findings have signposted issues and areas for concern (in particular CARITAS) further discussion is needed between all the stakeholders: the government, unions, and employers’ organisations, and most

importantly the children themselves. It is inappropriate and unhelpful to regulate without input from those on the 'frontline' who are most aware of how their working conditions and safety could be improved.

So what to do? The regulatory model evident in western practise concerning children's work is often under-constructed and vague. This is concerning as children are not adults, and as vulnerable workers are deserving of greater protection in their working lives. Some non-compliance may be due to lack of enforcement capability. On one level, there is an expectation that increased regulation will hold accountable employers (and, the expectation would be, parents) that employ children for whatever reason. However, on the other hand, business organisations say that employers in New Zealand (of which the majority are in SMEs: currently 180,000 registered for the purposes of ACC and over 200,000 total) resent the level of bureaucracy. It may also be that the casualised work types that children are employed in will bypass regulation regardless, so discussion may well be futile.

In addition, with higher unemployment, the positions that had traditionally been youth areas of work, such as hospitality and service have begun to employ greater numbers of adult workers, often well-qualified immigrants. Anecdotal evidence has situations of large numbers of applications for positions that were previously not considered desirable so were often left to young workers. For example, 2,500 people lined up all day in January 2010 to apply for 150 jobs in a new Countdown supermarket in South Auckland, the queue stretching right around the block for most of the day (Fenton, 2010). This may mean theorising children's work in New Zealand as a tool to moderate wage increases and maximise profit, linked with labour market theory in Chapter Four. In a tight labour market where power is balanced in the employer's favour, there may well be evidence of a 'swing' toward RTB theory.

7.11. Chapter Summary

The purpose of this chapter was to further discuss the key research findings identified in Chapter Six, and link emerging themes to the literature. While many issues become evident when interviewing and surveying, overriding themes became apparent when

the extant literature was evaluated and compared. Although a majority of the research is located overseas, issues relating to age, wage rates, and health and safety of young workers is the focus of domestic policymaking and practical regulation and enforcement. Therefore, the discussion over policy imperatives that has threaded through this chapter is important in terms of understanding the subject and also ways in which related issues can be best approached. At the core of the findings was the presumed utility of work. In addition to earning money, there are psychosocial advantages in working as a child, evident from the data collection overwhelmingly favouring children being able to continue to work.

However, the proviso that the work isn't harmful is difficult to ensure and is be linked to social, political and economic factors. These interrelated but sometimes conflicting frames are evident in debates regarding domestic and international labour market policy and the role of core labour standards. Finally, issues relating to fairness and equity were discussed by those involved in the research stages. While some discussion was based on setting a seemingly arbitrary age for full employment protection of 16, other discourse centered on practical ideas to improve information-gathering and increased protection for children in their working lives.

Chapter Eight concludes this thesis by summarising the important themes emergent from the linking of the literature and findings, as well as discussion of the topic significance, limitations and recommendations for further research.

Chapter Eight: Conclusion

8.1. Introduction

As stated at the beginning of this thesis, the intention of this research was to further investigate the working experiences of New Zealand children, given the lack in New Zealand of available data through which to inform policy and regulation in this important area. While the UN Convention on the Rights of the Child has provided the legal basis ‘for necessary and essential reference in the realisation of children’s rights’ (Cabanillas, 2002:2), there continues to be areas where New Zealand is lacking:

- Failure to legislate a minimum age for work, as per International Labour Organisation Convention 138.
- Offering no wage protection to those aged under 16.
- Maintaining employment conditions for children that have the potential to cause mental and physical harm.

Therefore, the central research question necessary to answer during the course of this thesis was: What are the working experiences of New Zealand children? In addition, second level questions are as follows:

- What is the true extent of child labour in New Zealand? Is this work beneficial or harmful for children?
- What are the concerns specific to child workers?
- Why does legislation (both global and domestic) continue to offer such limited protection for vulnerable and largely unheard workers?
- What are the government's policy objectives for regulation of children’s work?
- Why have successive New Zealand governments been so ‘hands off’ in both regulation and discussion in this area?
- If New Zealand signed to all relevant International Labour Organisation and United Nations protocols would the situation would improve for New Zealand’s working children?

Questions were designed to gather information relating to the political, economic and social concerns specific to children and their work as opposed to other work groups (for example, older workers or women). Further, the three research stages aimed to further investigate whether the working experiences of children in New Zealand mirrored overseas and local data regarding types of and conditions of work. The role of policymaking and multilateral institutions to improve conditions for working children was also explored. While exploratory research by nature that did not seek to be theory-building, the findings mirrored broader themes that had been identified in the extant literature (for example, see CARITAS 2007; 2003, Black 1995, Windau and Meyer, 2005).

Thus, the purpose of this final chapter is to summarise key findings of the three research stages and address the problems associated with conducting qualitative research relating to children's work. Suggestions for areas requiring further investigation will be presented, along with the key themes of the study and the final conclusion.

8.2. Research Problem

The lack of New Zealand-based empirical or theoretical evaluation influenced both the data-collection methods and the types of questions asked in the emerging research. In gathering data relating to children's work experiences in New Zealand, there were a number of research problems at various research stages, including needing to identify and collect a suitable research sample. Determining the data collections methods and identifying the relevant survey sample, students were used for pragmatic considerations relating to sample collection and sampling size. While the sample may not necessarily represent all children's working experiences, there was a diversity of responses that indicated rich and varied experiences as working children. By combining the information gathered with the findings identified in Stage I stakeholder interviewing, the data was further tested and cross-analysed to identify key findings and common themes. Using thematic analysis allows the findings to be evaluated in terms of their importance and prevalence (Bryman and Bell, 2003, Mason, 1996).

In addition, the desired data sought to identify, analyse, and explain trends, rather than presenting statistical measurements. As data is not routinely collected about this sector, statistical measurements in isolation would not add to the quality of data in this area (refer Accident Compensation Corporation, 2006, Statistics NZ, 2009). Moreover, it was acknowledged early in the research phase the logistical issues inherent in conducting large-scale research in terms of access to the desired cohort, as well as timeframe and funding considerations. Before presenting the findings the rationale, significance and limitations of this work will be elucidated.

8.3. Rationale, Significance and Limitations of the Research

Asking a broad research question with further qualifiers in the secondary questioning phase was used as the purpose was to elaborate and deepen the initial analysis through the three research stages. Given the lack of recent research regarding the issues outlined in previous chapters, one research aim was to increasing the body of information that is available, while providing good theoretically-informed research for policy discussions. It is hoped this exploratory research could engender greater awareness of the issues of children's work in New Zealand, and provide a good thematic basis for influencing discourse around policymaking in this area.

8.3.1. Research Limitations

By following a triangulated qualitative research method, different methods and stages of data are presumed to mitigate the weaknesses inherent in any sort of data collection. However in the three research stages there were a variety of problems, summarised below:

Access: Particularly at Stage I, concerns arose over being able to get the desired stakeholders or respondents. There were a number of respondents approached who were either unable to or refused to discuss the topic. In addition, the clarity and length of responses of stakeholders varied - from being given a wide variety of information to minimal responses. For ease of response, some organisations or their representatives (particularly those outside Auckland) chose to respond through a written set of questions. While this presented little problem in terms of gathering

Desired information the answers presented could not be ‘probed’ for further information or clarification.

The ability to access a large enough cohort for the findings to have meaning became evident early in the data collection process. Ethical concerns relating to surveying children, combined with limited avenues in which to find such a sample meant that surveying of children was discounted (see discussion in Chapter Four: Methodology). Students were chosen for pragmatic reasons including ability to sample and sampling size. While the cohort cannot be said to represent all young people, there was a wide variety of ethnicities, experiences, and opinion.

Methods used: In the surveying phase, the format of the survey had impact. While attempting not to make the questions leading, there may have been an over-emphasis in the Stage II survey on the positive side to work as opposed to ‘the dark side’. A number of psychology articles have focused on answers that people give to subjects relating to ‘satisfaction’ or when positive options are presented in surveys, finding that people are more likely to answer positively if those are the way the answers are framed (see Argyle, 1987, Myers, 1993).

While not discounting that work can be a positive experience for many people, responses the analysis assumes that people can accurately gauge the skills they learnt and are answering truthfully. However, in qualitative research answers cannot be free from ‘error’, as there is no defined measurement for a commonality of scale. Therefore the interpretation individuals give to questions will be how they define the questions, so any answers must be analysed pragmatically. It may also be necessary to evaluate whether the data collected is the data being sought, or whether the research has moved tangentially. Divergent results may widen analysis and subsequent knowledge.

It became apparent there were also discrepancies in findings when compared with other international surveys (International Labour Organisation/IPEC, 1996, Hilton, 2003). However, cause and effect could not always be easily correlated: as when there is convergence, confidence in results can grow considerably (Jick, 1979). Of

particular note were contradictions in the survey responses, perhaps reflecting the diversity of socio-economic status and race of the respondents, and industries in which they were employed. On one hand, some respondents found their working experiences extremely positive and gained many skills and a new network, while on the other hand some felt exploited by their employers and vulnerable in their workplace. Still others contradicted themselves when answering the survey questions. For example, they would state that their pay was fair and reasonable at the beginning only to complain that they were paid unfairly later in the questionnaire. The question is why do many respondents find it difficult to reconcile their working experiences?

Finally, there are a number of limitations with this research and other studies on young workers, particularly around obtaining a sufficient sample size and the lack of sophisticated answers. However, this issue is not necessarily confined to studying young workers, but is a perennial problem with undertaking research of marginalised workers. Also, the lack of longitudinal dimension to this research means it captures a ‘moment in time’. Monitoring over a time period could have the potential to link work experience with educational outcomes and jobs obtained which has been largely ignored in New Zealand research to date. Therefore, the presumption that work builds positive traits related to work ethic is anecdotal only as there little research in this field, and the strongest link currently identified with future work outcomes is parents’ involvement in the workforce (see Shelly, in Raffe, 1998).

8.3.2. Differing Perspectives of Children’s Work

In this exploratory analysis of children’s work it was expected there would be a number of differences in opinion affected by diversity of perspective and experience. Particularly within the tripartite relationship of government, union and employers there are mutual obligations and challenges to reconcile multiple perspectives with tangible policy outcomes while furthering group interests. Much of practical implementation of policy begins at a community level already, but those most affected (the children themselves) are largely left out of research and discussion in New Zealand. This must change if policy is to be relevant and have ‘buy in’ by participants, but to change entrenched attitudes and beliefs regarding the role of

children will be difficult.

8.3.3. What this thesis does not cover

With research of this kind it may well be that the findings bring more questions than answers related to what is not addressed within the research in addition to what is. While the scope of evaluation could be massive; the research questions attempt to ‘ring fence’ the breadth and depth of the research, given its apparent time and logistical constraints. While there is potential cross-over between subject areas, for the purposes of this research clarity was needed on what was addressed. Some potential sources of data omitted were:

- Unpaid work, indicated in the survey question. While there has been previous research on children’s housework in New Zealand (Smith, in Holm Ansley, 1992), paid work is what this study is concerned with. While not minimising the importance of unpaid work as contributing to a family and individual development, International Labour Organisation and United Nations legislation concerns regulation of the conditions of paid work, not household chores.
- Gendered work. Acknowledged differences are apparent in the type of work male and female children do, however the aim of this thesis is not to conduct a gendered analysis of work, rather to find out work experiences of ‘children’. However, the research findings may unintentionally represent a ‘female narrative’ as two thirds of the respondents were female. Moreover, while the data sought to capture a wide range of ethnicities, the largest cohort is New Zealand-European. Although typical of a university environment (see Education Counts, 2009), a variety of ethnicities are also represented. This research pointed to larger trends; and further analysis could be completed from a gendered or racial perspective.
- Labour standards related to trade will also not be covered in any depth in this thesis. While there is encouragement within trade agreements relating to labour standards and the stated intention to ‘improve dialogue and conduct cooperative activities on labour matters...’ (New Zealand Ministry of Foreign Affairs and

Trade, 2008), recognition of a country's autonomy to choose its own standards and legislation is manifest. In addition, as the context for this research is New Zealand children's experiences, this focus falls outside the research parameters.

- The role of education is not entered into in any detail in this thesis, as the presumption is that children's primary activity is school (at least until the age of 16). While there is a large quantity of literature related to youth education and training; much of the literature focuses on school leavers, in particular in the 19 - 24 age group. This analysis falls outside the boundaries of the research.

8.3.4. Key Research Findings

Presented in Chapter Seven, key findings were organised thematically:

- The extent of children's work in New Zealand. The lack of government data collection meant the extent of the issue continues to be unknown, which has implications for current as well as future policy direction
- Perceptions of children's work, where work for children is seen as harmless and a rite of passage. However, the research available does not support this contention for a substantial number of working children.
- Concerns relating to employment equity and fairness. There are indications that children may be used in minimise adult working conditions, and sector some positions as 'children's work': hence poorly paid with little protection. In addition, there is an inherent inequality where children continue to be paid less for doing the same job.
- Health and safety of young workers. A significant number of young adults reported having an accident at work. Further, the level of employer compliance with health and safety regulation relating to recording and reporting of accidents was extremely poor. Some discussion of policy and practical solutions pertaining to better protecting children occurred at all three research stages, involving multiple and diverse actors. While it was acknowledged that there was continued ambiguity in what policy success

would look like and how it would be measured, there were honest attempts by many involved to attempt to picture what more complete protection of children would actually be like - both through a public policy perspective, but also the accompanying practical implementation and measurement.

- Policy imperatives. There appeared to be a lack of clarity from successive government(s) as to their policy objectives for children's work.
- Policy best practice. Stakeholders were asked what they would see as being the best way to regulate and monitor children's work, with constructive suggestions coming from many.
- Measurement of policy success. Discussion centered on the ambiguities of measurement in this area, and what indicators would represent successful policy.
- Role for the unions. Some suggestions were made for greater union involvement with child workers and in education programmes.
- Impact of domestic and international legislation. An apparent 'balancing act' between policy autonomy and being a member state of international labour regulatory bodies was evident.
- Government(s) commitment to research and policy to protect children. As there has been little New Zealand-based research or recent changes in policymaking, questions are unanswered regarding the overarching Government policy direction.
- Impetus to regulate. Based on the answers by key stakeholders, further discussion is needed about future regulatory commitment to or compliance with international conventions, but also potential domestic policy changes.

Therefore, the dominant themes of this thesis are: the political economy of children's work, domestic and international policy debate about the appropriate regulatory role of global and domestic institutions, the legislative framework, fairness and equity of

employment and occupational health and safety. Many of these debates concern rights and power in the workforce and how labour market power is organised and controlled. This entails viewing the wider industrial relations environment through a public policy and regulatory framework. However, this thesis does not seek to be a comparative one, and while various countries are mentioned the primary focus is on the situation of New Zealand child workers.

8.4. Recommendations and areas for further research

There is a continued ambivalence about working children's lives that hampers attempts at real and sustained dialogue to ensure work is beneficial, not harmful. Instead the current situation is that of fragmented policies, little coherence and concerns from many stakeholders. To follow are a mixture of recommendations falling between policy suggestions and practical discussion. While similar suggestions have been presented successive governments with reasonable regularity it is important to reiterate these suggestions, as there has been little evidence of any policy or practical response to date.

8.4.1. Policy Suggestions

While acknowledging the perspectives that inform policymaking are varied and often conflicting, if the Government accepts children's work as a legitimate aspect of the socialisation of children and young people, it is obliged to ensure that where young people participate in paid work, they are so far as possible, protected from exploitation (Hindman and Smith, 1999, Human Rights Commission, 2000). Therefore, a number of policy suggestions can be made to increase fair and equitable treatment of child workers, including:

- The Human Rights Act is amended to remove unfair discrimination against those under 16 years of age, as currently it allows for discrimination simply on an arbitrarily decided age.
- It would be appropriate for the Government to commit toward an appropriate timeframe for introduction of a minimum age for work and work towards

removing its reservation of Article 32(2) of UNCROC and International Labour Organisation 138. Further discourse is needed to establish what age would be considered appropriate, given the variety of positions children hold and the array of potential risks. An arbitrary ‘cut off’ of 10 or 11 has been suggested by CARITAS (2003; 2007), which could at least provide a ‘starting point’ for discussion.

- That the Government ensures that the New Zealand’s employment laws are compatible with International Labour Organisation Convention 138, ensuring that all workers irrespective of age are paid equitably. At an international level setting the youth minimum wage must be considered in the context of the Government’s overall policy direction in relation to the implementation of UNCROC and possible ratification of International Labour Organisation 138. At a domestic level, policy makers are obliged to consider compliance with sections 21 and 22 of the Human Rights Act, which (subject to an existing minimum wage exception in section 30) broadly prohibits discrimination (against persons over the age of 16) on the grounds of age in employment (Human Rights Commission, 2000:2).

There is also a need to increase the level of regulatory protection concerning the number of hours children can work and their exposure to hazardous working conditions, coupled with appropriate enforcement mechanisms so that employers and/or employees are deterred from non-compliance. This would include looking to regulate further maximum hours of work, as there is currently no legislative protection in this area. Under the Health and Safety in Employment Act, 1992, the basic tenet is that all workers, irrespective of age or occupation, must be covered by health and safety regulations. With respect to New Zealand’s child workers, research shows this is not always the case.

While adoption of International Labour Organisation standards is useful in establishing health and safety and minimum age standards for children at work, it is noted the limited monitoring and enforcement power that the International Labour

Organisation has in individual countries. Moreover, during the course of this research it became obvious that impetus simply is not there at this time for the Government to commit to stipulating a minimum age for employment. Some stakeholders mentioned in Chapter Seven discussion that they believed the continued reporting requirements to the United Nations and International Labour Organisation has meant that the Department of Labour has taken 'its eye off the ball' in furthering the domestic protection of working children. Perhaps the focus on international compliance overlooks or ignores the issues domestically - particularly in regard to health and safety concerns and children's lack of knowledge of their rights, consistent with Pugh's (2007) findings. Practical suggestions to help address these issues will be presented in the following section.

8.4.2. Practical suggestions

While government has the role of policy introduction, other stakeholders have valuable roles to play in defining priorities so that action is specific and measurable. Therefore, partnerships between key stakeholders need to come into existence: NGOs, government departments, academic researchers and practical organisations such as unions and employer organisations need to discuss expectations and concerns in this area. Within this approach, regulation may be more helpfully followed at industry level through industry developed standards of practice (Lamm, 2010; Walters, 2006). Some suggestions are:

- Developing effective methods to monitor and measure children's participation in work and their experiences
- Discussion between groups to develop a targeted range of interventions could address and alleviate potential damage for child workers. However, the current lack of research undermines this approach. While the Department of Labour has a new National Monitoring Series covering Youth in the New Zealand Labour Market, the age group is from 15-24 (Department of Labour, 2009c). It may be more appropriate to further break down the ages within the sample to

get findings with a clear link to age-based cohorts.

- Increasing the inspectorate capacity. The extremely low number of labour and OSH inspectors working on a retroactive report basis means the capacity to enforce legislation is constrained at best. Labour inspectors with further and more effective reach are needed, perhaps specifically concentrating on working children.
- Target groups of children to discuss appropriate regulation of hazardous industries children work in to mitigate risk for children engaged in this type of work.
- Education for children. While this looks set to become reality in some sectors with the launch of the Department of Labour toolkit ‘My First Job’, there were suggestions from the stakeholder that use of school time to teach education modules could be a good solution. Given that work is our primary activity in most people’s lives it is important that knowledge of rights and responsibilities is imparted at an early age.

More complete data collection should also be undertaken at multiple points of contact, where information-sharing between groups would build a comprehensive picture from which to guide policy. This may include schools, places of work, IRD forms, census information; and from unions and employers. In addition, there needs to be active participation by children themselves. Too often, children have decisions made for them, where outcomes may be less than desirable but child workers have had few ways of changing this in terms of legislation or voter power. Regulation should acknowledge children as some of society’s most vulnerable members; while discourse should centre on ways to protect, while still allowing children to experience the numerous benefits work may bring. It is not sufficient to say parents represent their children’s needs (Easton, 2009). This begets the question of where does family responsibility end and the state’s begin? (Heneghan, 1996).

This study has also highlights the need for further research into industry comparisons of the working conditions and pay of young workers in sectors that rely heavily on young workers, such as agricultural sector, the small business sector and the mailbox paper delivery industry. There is also evidence that within these industries and sectors there is an expectation that young workers will 'help out' on the farm or in the family business either unpaid or low paid (Pugh 2007). However, lack of documented evidence regarding the informal economy (of which youth workers form a large part) continues to be a hindrance in research information and analysis (Blaiklock et al, 2002, Bequele and Myers, 1995). The research presented also raises a further number of questions, for example, to what extent do young workers gain tangible, transferable skills, or is the work low skilled and tedious? What is the appropriate level of legislation and protection for young workers?

Finally, it is evident that more research is required in the following areas:

- What is the true extent of children working in New Zealand?
- To what extent is this work beneficial or harmful to their development?
- What is the appropriate level of regulation in order that children can work in safe and useful conditions?

8.5. Chapter Summaries

This thesis is made up of eight chapters: Chapter One (Introduction), Chapter Two (Background to Children's Work), Chapter Three (The History of Working Children), Chapter Four (Debates and the Literature), Chapter Five (Methodology), Chapter Six (Research Findings), Chapter Seven (Discussion) and Chapter Eight (Conclusion).

Chapter One is the introductory chapter, providing a brief outline of the structure of this thesis, guiding the reader by summarising the contents of each chapter. The First Chapter presents a justification for the research topic chosen and outlined how the research was approached. The chapter also summarised the primary and secondary research questions this study intends to answer.

Chapter Two outlines the significance of children's work and multilateral responses and domestic, as well as describing the situation of working children internationally

and in New Zealand. In addition, the chapter highlights the definitional issues regarding ‘child labour‘ and other related terms, and the problems inherent in determining the extent of the issue. Finally, an overview of the international and domestic legislation protecting children is presented.

Chapters Three and Four provides background to and literature review of children’s work. Chapter Three provided a contextual background and commences with a historic perspective of western ‘development‘ including New Zealand, from pre-industrialisation to the present, identifying key dates and events that signalled the protection (or otherwise) of children.

Chapter Four reviews the literature specific to the topic and identifies key themes and debates influencing the focus of the research. This review of the literature makes use of research located in multiple disciplines, including political science, economics, and the social sciences. Each discipline has its own theoretical basis in which to ‘view‘ child labour, and while acknowledging all theories have strengths and weaknesses it is necessary to ‘mine‘ the data to gather a complete idea of what is actually occurring and potential consequences. The chapter concludes with highlighting the gaps in the literature and framing the research questions.

Based on the review of the literature and gaps identified in the research, Chapter Five explains and justifies the methodological approach adopted in this study. Therefore, it is necessary to adopt a rationale for the data collection methods chosen that will be best suited to answering the research questions. The chapter also describes the qualitative research stages following a triangulated approach, where face-to-face interviews with key stakeholders and youth were undertaken and a survey of young people was conducted. Further discussion concerning the validity, generalisability, and ethical considerations is presented.

Chapters Six and Seven present the key findings and an analytical discussion of the results from the research method defended in Chapter Six. In particular, Chapter Six sets out the main findings of the three stages of research, namely 1) the face-to-face interviews with the stakeholders; 2) the results of the survey; and, 3) summary of the

interview data, thus illustrating how each stage influenced the research direction. Chapter Seven discusses the research findings in greater detail, relating the findings to the relevant literature and research questions. In particular, emergent key themes from the data analysis from the three research stages is be presented.

8.6. Chapter Conclusion

In this chapter the significant findings emanating from the research were presented. Then limitations of the study in terms of the scope and methodological issues were discussed, along with recommendations for further research. From the data collected and discussed in this thesis, a partial picture with some concerning trends has become apparent. Findings and analysis in terms of children's work experiences, types of work, and also health and safety knowledge is presented. Such findings undermines the government's contention that children are 'adequately protected' by existing policy and practice.

While the paucity of data gathered limits empirically-based discussion in this area, the existing studies have substantially similar themes to the findings in this thesis concerning children's working experiences. There was continued presence of exploitative and/or illegal conditions for a sizeable number in both the surveying and interviewing research stages. It must be stressed that this research does not seek to criticise work that is age-appropriate or tasks that are not hazardous and do not negatively impact on child workers. Nevertheless, at present this information is simply not known and paucity of information forms a poor basis for policymaking affecting some of New Zealand's most vulnerable citizens. Parts of New Zealand's employment and supporting legislation enshrine a presumption of inequality, where children are not given the same rights or protection as adults. New Zealand employment law discriminates against young workers as there continues to be:

- no minimum age for work
- lower wage rates for those under 16 than the adult minimum wage

It seems that while New Zealand has a reputation as a good global citizen seen to

punch above their weight in a number of areas involving human rights, in our own backyard we are largely prepared to ignore or minimise what is occurring. Perhaps when so much of children's work crosses the private and public sphere, 'families and family life are too close to home for governmental, union, business or academic comfort' (Swain, in Spoonley, Pearson and Shirley, 1990).

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11. *Prostitution Reform Act 2003* (New Zealand).
12. *The Education Act 1989* (New Zealand).
13. *United Nations Convention on the Rights of the Child (UNCROC) 1989*.

Research Participants

Research Stage I: Interviews with Key Stakeholders

- **Business NZ**

Paul MacKay, Manager, Employment Relations Policy (personal correspondence)

- **CARITAS**

Lisa Beech, research and advocacy officer and author of *Protecting Children at Work: Children's Work Survey, 2003* and *Delivering the Goods: A Survey of Child Delivery Workers, 2007* (personal interview, July 14, 2009).

- **Children's Commission**

Children's Commissioner Cindy Kiro (personal interview, April 14, 2009)
First Children's Commissioner Ian Hassall, opinion

- **Council for Trade Unions**

Eileen Brown, policy analyst (personal correspondence)

- **Department of Labour**

Policy Manager, Employment Relations: Justin Strang (personal interview, June 3, 2009) Minister for Labour, Kate Wilkinson (personal meeting, June 3, 2009).

- **Postal Workers Union**

John Maynard (personal interview, July 17, 2009)

- **UNICEF**

Barbara Lambourn, National Advocacy Manager (personal correspondence)

Research Stage III: Interviews with young adults reflecting on their working experiences

Respondent A	New Zealand-born European male, aged 19
Respondent B	Singaporean-born Chinese female, aged 25
Respondent C	Fijian-born Indian male, aged 22
Respondent D	New Zealand-born European female, aged 20
Respondent E	New Zealand-born European male, aged 22.

Appendix A:

United Nations Convention on the Rights of the Child (UNCROC) summary

The Convention is an international statement of the civil, political, economic, social and cultural rights of children. The UN General Assembly adopted the Convention and opened for signature on 20 November 1989 (the 30th anniversary of the Declaration of the Rights of the Child).

There are 54 statements (called Articles) in the Convention covering four broad areas. These areas are survival rights, development rights, protection rights and participation rights.

Summary Table UNCROC Article	Summary of rights/ principles
1	UNCROC applies to everyone under 18 years of age
2	The right to protection from discrimination on any grounds*
3	The best interests of the child should be the primary consideration
4	The Government should make UNCROC rights a reality
5	Children have the right to be given guidance by parents and family
6	The rights to life, survival and development
7	The right to a name and a nationality
8	The right to an identity
9	The right for children to live with their parents unless it is not in their best interests
10	The right for children and parents to be reunited even if they are living in separate countries
11	Children should not be kidnapped
12	The right for children to have an opinion and for that opinion to be heard in all contexts
13	The right to freedom of expression across all media unless it breaches the rights of others
14	The right to freedom of thought and religion with parental guidance
15	The right to freedom of association, unless it breaches the rights of others
16	The right to privacy
17	The right to free access to all media but to be protected from harmful material
18	The right to be brought up by one's parents, if possible
19	The right to protection from harm or maltreatment
20	The right to special protection and support for children who cannot live with their parents
21	The right to the best care when adopted or fostered
22	The right to special protection and support for refugees
23	The right to special care and education for children who are mentally or physically disabled

24	The right to the best health possible and access to the best medical care and information possible
25	The right for children living away from home to have their living arrangements checked regularly
26	The right to help from the Government for those who are poor or in need
27	The right to a sufficient standard of living: food, clothes and a place to live
28	The right to education
29	The right to the kind of education that develops one's personality and abilities and encourages a respect for people's rights and values and the environment
30	The right to the kind of education that develops one's personality and abilities and encourages a respect for people's rights and values and the environment
31	The right for indigenous children and children in minority groups defined by race, religion or language to enjoy their own culture, practise their own religion, and use their own language
32	The right to recreation
33	The right to protection from work that is bad for one's health or education
34	The right to be protected from dangerous drugs
35	The right to be protected from sexual abuse
36	The right to protection from kidnapping and sale
37	The right to protection from any other kind of exploitation
38	The right not be punished in a cruel, degrading or hurtful way
39	The right to protection in times of war; under-15-year-olds should not be eligible to join an army or participate in battle
40	The right to help and support for children who have been abused or maltreated
41	The right to a range of protections for children accused of breaking the law
42	The right to any further compatible rights offered to children above and beyond UNCROC
43	Information about UNCROC should be widely disseminated by the Government

Articles 43 - 54 detail the processes by which States' UNCROC commitments are entered into, reported on and administered

*General principles of UNCROC as determined by the UN Committee on the Rights of the Child

(ACYA, 2005, UNICEF, 2009).

Appendix B: International Labour Organisation 138

Minimum Age Convention, 1973

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-eighth Session on 6 June 1973, and

Having decided upon the adoption of certain proposals with regard to minimum age for admission to employment, which is the fourth item on the agenda of the session, and

Noting the terms of the Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, the Minimum Age (Trimmers and Stokers) Convention, 1921, the Minimum Age (Non-Industrial Employment) Convention, 1932, the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, and the Minimum Age (Underground Work) Convention, 1965, and

Considering that the time has come to establish a general instrument on the subject, which would gradually replace the existing ones applicable to limited economic sectors, with a view to achieving the total abolition of child labour, and

Having determined that these proposals shall take the form of an international Convention, adopts the twenty-sixth day of June of the year one thousand nine hundred and seventy-three, the following Convention, which may be cited as the Minimum Age Convention, 1973:

Article 1

1. Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.

Article 2

2. (1) Each Member which ratifies this Convention shall specify, in a declaration appended to its ratification, a minimum age for admission to employment or work within its territory and on means of transport registered in its territory; subject to Articles 4 to 8 of this Convention, no one under that age shall be admitted to employment or work in any occupation.

2. (2) Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour Office, by further declarations, that it specifies a minimum age higher than that previously specified.

2. (3) The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not

be less than 15 years.

2. (4) Notwithstanding the provisions of paragraph 3 of this Article, a Member whose economy and educational facilities are insufficiently developed may, after consultation with the organizations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years.

2. (5) Each Member which has specified a minimum age of 14 years in pursuance of the provisions of the preceding paragraph shall include in its reports on the application of this Convention submitted under article 22 of the constitution of the International Labour Organisation, a statement--

- a. that its reason for doing so subsists; or
- b. that it renounces its right to avail itself of the provisions in question as from a stated date.

Article 3

3. (1) The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years.

3. (2) The types of employment or work to which paragraph 1 of this Article applies shall be determined by national laws or regulations or by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist.

3. (3) Notwithstanding the provisions of paragraph 1 of this Article, national laws or regulations or the competent authority may, after consultation with the organisations of employers and workers concerned, where such exist, authorise employment or work as from the age of 16 years on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity.

Article 4

4. (1) In so far as necessary, the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, may exclude from the application of this Convention limited categories of employment or work in respect of which special and substantial problems of application arise.

4. (2) Each Member which ratifies this Convention shall list in its first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation any categories which may have been excluded in pursuance of paragraph 1 of this Article, giving the reasons for such exclusion, and shall state in subsequent reports the position of its law and practice in respect of the categories excluded and the extent to which effect has been given or is proposed to be given to the Convention in respect of such categories.

4. (3) Employment or work covered by Article 3 of this Convention shall not be excluded from the application of the Convention in pursuance of this Article.

Article 5

5. (1) A Member whose economy and administrative facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially limit the scope of application of this Convention.

5. (2) Each Member which avails itself of the provisions of paragraph 1 of this Article shall specify, in a declaration appended to its ratification, the branches of economic activity or types of undertakings to which it will apply the provisions of the Convention.

5. (3) The provisions of the Convention shall be applicable as a minimum to the following: mining and quarrying; manufacturing; construction; electricity, gas and water; sanitary services; transport, storage and communication; and plantations and other agricultural undertakings mainly producing for commercial purposes, but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers.

5. (4) Any Member which has limited the scope of application of this Convention in pursuance of this Article:

- a. shall indicate in its reports under article 22 of the Constitution of the International Labour Organisation the general position as regards the employment or work of young persons and children in the branches of activity which are excluded from the scope of application of this Convention and any progress which may have been made towards wider application of the provisions of the Convention;
- b. may at any time formally extend the scope of application by a declaration addressed to the Director-General of the International Labour Office.

Article 6

6. This Convention does not apply to work done by children and young persons in schools for general, vocational or technical education or in other training institutions, or to work done by persons at least 14 years of age in undertakings, where such work is carried out in accordance with conditions prescribed by the competent authority, after consultation with the organizations of employers and workers concerned, where such exist, and is an integral part of:

- a. a course of education or training for which a school or training institution is primarily responsible;
- b. a programme of training mainly or entirely in an undertaking, which programme has been approved by the competent authority; or
- c. a programme of guidance or orientation designed to facilitate the choice of an occupation or of a line of training.

Article 7

7. (1) National laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is:

- a. not likely to be harmful to their health or development; and
- b. not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.

7. (2) National laws or regulations may also permit the employment or work of persons who are at least 15 years of age but have not yet completed their compulsory schooling on work which meets the requirements set forth in sub-paragraphs (a) and (b) of paragraph 1 of this Article.

7. (3) The competent authority shall determine the activities in which employment or work may be permitted under paragraphs 1 and 2 of this Article and shall prescribe the number of hours during which and the conditions in which such employment or work may be undertaken.

7. (4) Notwithstanding the provisions of paragraphs 1 and 2 of this Article, a Member which has availed itself of the provisions of paragraph 4 of Article 2 may, for as long as it continues to do so, substitute the ages 12 and 14 for the ages 13 and 15 in paragraph 1 and the age 14 for the age 15 in paragraph 2 of this Article.

Article 8

8. (1) After consultation with the organisations of employers and workers concerned, where such exist, the competent authority may, by permits granted in individual cases, allow exceptions to the prohibition of employment or work provided for in Article 2 of this Convention, for such purposes as participation in artistic performances.

8. (2) Permits so granted shall limit the number of hours during which and prescribe the conditions in which employment or work is allowed.

Article 9

9. (1) All necessary measures, including the provision of appropriate penalties, shall be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention.

9. (2) National laws or regulations or the competent authority shall define the persons responsible for compliance with the provisions giving effect to the Convention.

9. (3) National laws or regulations or the competent authority shall prescribe the registers or other documents which shall be kept and made available by the employer; such registers or documents shall contain the names and ages or dates of birth, duly certified wherever possible, of persons whom he employs or who work for him and who are less than 18 years of age (International Labour Organisation, 2006).

Appendix C:

Convention 182 Worst Forms of Child Labour Convention, 1999

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 87th Session on 1 June 1999, and

Considering the need to adopt new instruments for the prohibition and elimination of the worst forms of child labour, as the main priority for national and international action, including international cooperation and assistance, to complement the Convention and the Recommendation concerning Minimum Age for Admission to Employment, 1973, which remain fundamental instruments on child labour, and

Considering that the effective elimination of the worst forms of child labour requires immediate and comprehensive action, taking into account the importance of free basic education and the need to remove the children concerned from all such work and to provide for their rehabilitation and social integration while addressing the needs of their families, and Recalling the resolution concerning the elimination of child labour adopted by the International Labour Conference at its 83rd Session in 1996, and

Recognizing that child labour is to a great extent caused by poverty and that the long-term solution lies in sustained economic growth leading to social progress, in particular poverty alleviation and universal education, and

Recalling the Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989, and

Recalling the International Labour Organisation Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted by the International Labour Conference at its 86th Session in 1998, and Recalling that some of the worst forms of child labour are covered by other international instruments, in particular the Forced Labour Convention, 1930, and the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956, and

Having decided upon the adoption of certain proposals with regard to child labour, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention; adopts this seventeenth day of June of the year one thousand nine hundred and ninety-nine the following Convention, which may be cited as the Worst Forms of Child Labour Convention, 1999.

Article 1

Each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.

Article 2

For the purposes of this Convention, the term *child* shall apply to all persons under the age of 18.

Article 3

For the purposes of this Convention, the term *the worst forms of child labour* comprises:

- a. all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- b. the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- c. the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- d. work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Article 4

- a. The types of work referred to under Article 3(d) shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, taking into consideration relevant international standards, in particular Paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation, 1999.
- b. The competent authority, after consultation with the organizations of employers and workers concerned, shall identify where the types of work so determined exist.

- c. The list of the types of work determined under paragraph 1 of this Article shall be periodically examined and revised as necessary, in consultation with the organizations of employers and workers concerned.

Article 5

Each Member shall, after consultation with employers' and workers' organizations, establish or designate appropriate mechanisms to monitor the implementation of the provisions giving effect to this Convention.

Article 6

1. Each Member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour.
2. Such programmes of action shall be designed and implemented in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of other concerned groups as appropriate.

Article 7

1. Each Member shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to this Convention including the provision and application of penal sanctions or, as appropriate, other sanctions.
2. Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to:
 - a. prevent the engagement of children in the worst forms of child labour;
 - b. provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration;
 - c. ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour;
 - d. identify and reach out to children at special risk; and
 - e. take account of the special situation of girls.
3. Each Member shall designate the competent authority responsible for the implementation of the provisions giving effect to this Convention.

Article 8

Members shall take appropriate steps to assist one another in giving effect to the provisions of this Convention through enhanced international cooperation and/or assistance including support for social and economic development, poverty eradication programmes and universal education.

FINAL Article 9

The formal ratifications of this Convention shall be communicated to the Director General of the International Labour Office for registration.

Article 10

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.
2. It shall come into force 12 months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.

Article 11

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 12

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and acts of denunciation communicated by the Members of the Organization.
2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention shall

come into force.

Article 13

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations, for registration in accordance with article 102 of the Charter of the United Nations, full particulars of all ratifications and acts of denunciation registered by the Director-General in accordance with the provisions of the preceding Articles.

Article 14

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 15

1. the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides --
 - a. the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 11 above, if and when the new revising Convention shall have come into force;
 - b. as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 16 The English and French versions of the text of this Convention are equally authoritative.

Appendix D:

Illustrative set of economic and non-economic activities

Economically active Not economically active Employed (in terms of definition of
–employed persons))

Wage jobs

- full time or part time
 - permanent or temporary – casual or piecework
- Including *paid* child minding and other *paid* domestic work.
Can be paid in cash or kind (e.g. food or accommodation).

Business activities

- large or small, agricultural or non-agricultural – small shop/kiosk/street stall
- preparation/selling juice, soft drinks – taxi operator
- shoe cleaning/sewing business

Any activities on own or family farms for the purpose of production for sale or for home consumption including

- planting crops – harvesting crops
- keeping birds and other pests from crops – weeding
- transportation of goods from the fields for storage or for sale
- fetching water and firewood for domestic use

Fishing, collecting shells, or seaweed for sale or home consumption.

Processing of agricultural or natural products for sale or home consumption

- mats, hats from natural or grown fibres – furniture from natural timber
- butter/cheese/etc. from milk – oil from oil seeds/fruit
- preparation of charcoal

House or farm building/construction

- fence/enclosure/storage construction – road/irrigation construction
 - house construction/additions
- plus unemployed (persons not employed,
and who are seeking work and are available for work if offered)

Neither employed nor unemployed

Persons doing the following activities and are neither employed nor unemployed

- Full-time students only

All types of housework including

- unpaid child minding own/other children – education/training of own children at home – housecleaning and decorating exclusively for own household
- cooking/preparing meals for own – household

– caring for the sick and aged (unpaid) – repairs (minor) to own dwelling, etc. – repair of own domestic equipment and – vehicles

Persons in the following status who are neither employed nor unemployed in the period

- retired – disabled
- living off investment, rental or pension income (no current activity to earn it)
- idle

Beggars/persons seeking donations for charities; the money paid to persons in these two categories does not count as their –income, in the sense of remuneration for an –economic activity (work done); however, when these two categories of persons are engaged on a wage payment (in cash or kind, full time or part time) by someone to make collections, then, to the extent the work is done for wage payment, their *services* are to be deemed as economic activities, and they would be considered as employed

(International Labour Organisation-IPEC-SIMPOC 2007: 9).

Appendix E:

Participant Information Sheet



Date Information Sheet Produced:

20 May 2009

Project Title

The working lives and experiences of New Zealand children

An Invitation

My name is Danaë Anderson and I am a student of the Master of Philosophy at AUT University. I invite you to participate in this research on child workers in New Zealand. This research will form the basis of my MPhil thesis. Your participation in this research is voluntary and you may withdraw from this research at any time, without adverse consequences.

What is the purpose of this research?

This research forms the basis of my Master of Philosophy 0 degree. The research seeks to explore children's work in New Zealand in terms of: 1) the minimum working age; 2) the minimum wage rates; and 3) occupational health and safety standards.

It is anticipated this research will also produce a joint-authored conference paper(s) and article(s) as well as identifying the scope of further research in this area.

How was I chosen for this invitation?

You have been invited to participate in an interview on the subject of children's work in New Zealand because either you or someone who knows you has indicated that you have participated in paid work as a child and/or youth (under the age of 18).

What will happen in this research?

Given your experience working in paid work as a child and/or youth, I would like to interview you as part of my research project. The research will involve about an hour your time, on an occasion that is convenient to you. The nature of the questions will require you to reflect on your memories and perceptions of the work you undertook children's, and your opinions about these experiences.

With your agreement I would like to audio-tape the interview. You may decline to be audio-taped prior to the interview and you may also ask for the audio-taping to be stopped at any time, without providing a reason. If you choose to withdraw from the research the tape will be destroyed. All information given as a result of this interview will be transcribed and analysed by myself. A copy of the transcript will be provided to

each participant to amend or correct within two weeks of the interview taking place. After that time the information will be available as a finished Master's thesis.

What are the discomforts and risks?

Minimal discomfort or risk is anticipated for any participant. However, the interview may address topics that you disagree with or are concerned about.

How will these discomforts and risks be alleviated?

You may at any time decline to answer any of the questions in the interview, ask the researcher to stop audio-taping or terminate the interview. You also have the right to withdraw any information that you provide, without giving any reason. Confidentiality is assured, as any information that you provide will not be used to identify you at any stage and all interviewees will be referred to using general naming, e.g. Respondent A.

What are the benefits?

This research will add to knowledge about children and their working lives in New Zealand. Because there are varied and often discordant views about the role of children's work in New Zealand society, participants may enjoy being able to present their experiences and opinions in this contentious subject area. With the paucity of research in this area to date, the information gathered will help to increase useful data and advise policy.

How will my privacy be protected?

The only people with access to the actual interview data (i.e. the audio tape or transcription of the audio tape) will be my supervisor (Associate Professor Felicity Lamm) and I. The interview data will be used for the purpose of this research, the writing of my Master's thesis and any academic publications that may arise from this research. The data will be kept in a secure location for 6 years and will then be destroyed.

What are the costs of participating in this research?

The only cost of participating in this research is the time you have given to the interview.

What opportunity do I have to consider this invitation?

You will be invited to participate by email, and given a week to consider this invitation to be interviewed. At the end of this week, the researcher will contact you by email to see if you wish to proceed with the interview.

How do I agree to participate in this research?

Accompanying this Information Sheet is a research Consent Form. I will ask you to sign this form before our interview takes place.

Will I receive feedback on the results of this research?

You will be given the opportunity to review and edit transcripts of their recordings if requested for one month following the interview. You will be provided with a copy of the finished research if you wish.

What do I do if I have concerns about this research?

Any concerns regarding the nature of this project should be notified in the first instance to the Project Supervisor, Dr Felicity Lamm, felicity.lamm@aut.ac.nz, phone 921 9999

Concerns regarding the conduct of the research should be notified to the Executive Secretary, AUTEK, Madeline Banda, madeline.banda@aut.ac.nz, 921 9999 ext 8044.

Whom do I contact for further information about this research?

Researcher Contact Details:

Danaë Anderson, Faculty of Business, AUT University, Private 92006, Auckland.

Project Supervisor Contact Details:

Dr Felicity Lamm, felicity.lamm@aut.ac.nz, phone 09 921 9999

*Approved by the Auckland University of Technology Ethics Committee on: AUTEK
Reference number: 09/20*

Appendix F:

Consent Form



Project title: The Working Lives and Experiences of New Zealand Children

Project Supervisor: Dr Felicity Lamm

Researcher: Danaë Anderson

- I have read and understood the information provided about this research project in the Information Sheet dated 22 June 2009.
- I have had an opportunity to ask questions and to have them answered.
- I understand that notes will be taken during the interviews and that they will also be audio-taped and transcribed.
- I understand that I may withdraw myself or any information that I have provided for this project at any time prior to completion of data collection, without being disadvantaged in any way.
- If I withdraw, I understand that all relevant information including tapes and transcripts, or parts thereof, will be destroyed.
- I agree to take part in this research.
- I agree that me or my organisation's name can be identified in the finished thesis and any resulting publications.
- I wish to receive a copy of the report from the research (please tick one):
 - Yes
 - No

Participant's signature:

.....

Participant's name:

.....

Participant's Contact Details (if appropriate):

.....

.....

.....

.....

Date:

*Approved by the Auckland University of Technology Ethics
Committee on AUTEK Reference number 09/20*

Appendix G:

Stage I Interview Topics Guide

Children's work in New Zealand has a number of differing contexts in which it can be viewed. Currently, my questioning falls broadly into three subject headings: *Economic and Social, Policy Motivation, and Solutions*.

- With the semi-structured interview format, I anticipate following broad themes that will lead to other areas of discussion that may not be included in my interview topics.

Biographical information

Which organisation do you represent, and what is your/their role in children's wellbeing?

Policy motivation

- What do you think the government's policy objectives for regulation of children's work are?
- Do you think there is a general perception of beneficial or harmful effects of children's work?
- What is your perception of the current legislation or regulation affecting children's work?
- What do you think could be/ should be best practice in this area to minimise harm for New Zealand's working children?
- Will any policy 'solution' really address the problem; in terms of addressing the safety of children, the hours children work and the appropriate role so work doesn't undermine their education?
- And if there is a problem, why do you think the government has been so 'hands off' in both regulation and discussion in this area?
- Do you think the lack of regulation by successive governments indicate a lack of commitment by the government for addressing the issues in this area?

Economic and social impact

- What is the true extent of child labour in New Zealand?
- Do you think that children have a real (although unmeasured) impact on New Zealand's labour market economy, in the same way that unpaid work is not captured in economic analysis?
- What about the human rights implications for not legislating a minimum wage for those under 16, arguably some of the more vulnerable workers?

- In a low-wage economy such as New Zealand, do you think children working could be argued to be a tool to moderate wage demands or section particular jobs as children's work (and hence low-paid).
- Do you think this demarcation of roles has positive or negative effects on New Zealand, in areas such as educating and up-skilling the workforce?

Solutions

- What do you believe is an appropriate level of regulation so that children can work in safe and useful conditions?
- Are you concerned with the seeming ambiguities about practical implementation of reform in this area: how will regulation be measured?
- Do you think there is any impetus to regulate in this area, given the public's perception as work as being 'a largely positive experience' for children? Is regulation 'out of step' with the community?
- Is regulation of labour conditions the solution or should governments and civil society opt for a radical ban? If New Zealand signed to the optional protocols do you think the situation would improve for New Zealand's working children?

Appendix H:

Work Survey



Project title: The Working Lives and Experiences of New Zealand Children

Project Supervisor: Dr Felicity Lamm

Researcher: Danaë Anderson

This questionnaire has been developed to build a body of information on children's work experiences. For the purposes of this research children are defined as those under 18 years of age.

Completing this form will be taken as giving your consent. Please write your answers or circle as appropriate.

Privacy

The researcher guarantees that any information shared in this survey will be used in such a way that respondents will be anonymous.

1. How old are you? _____
 2. Gender : Male Female
 3. Ethnicity: _____
 4. Have you always lived in New Zealand? Yes No
 5. If not, how old were you when you settled in New Zealand? _____
How old were you when you got your first job outside the home? (i.e. paid work, not doing household chores?) _____
 6. Did you work for a relative? _____
 7. How much were you were paid for this work? _____
 9. Do you think this pay was fair? Yes No
- If no, how much do you think you should have been paid and why? _____

10. When you were paid did you:
Keep it yourself Yes No
Give it to a family member Yes No

Keep some and give some to a family member Yes No
11. How long did you stay in your first job? ____

12. What other jobs did you have as a child (up to 18 years old)? (Please list)

13. What skills do you believe you gained in these positions?

- | | |
|------------------------------------------------------|----------------------------------------------------|
| <input type="checkbox"/> Decision making | Yes <input type="radio"/> No <input type="radio"/> |
| <input type="checkbox"/> Ability to relate to others | Yes <input type="radio"/> No <input type="radio"/> |
| <input type="checkbox"/> Responsible behaviour | Yes <input type="radio"/> No <input type="radio"/> |
| <input type="checkbox"/> Self esteem/ confidence | Yes <input type="radio"/> No <input type="radio"/> |
| <input type="checkbox"/> Self motivation | Yes <input type="radio"/> No <input type="radio"/> |
| <input type="checkbox"/> Organisational skills | Yes <input type="radio"/> No <input type="radio"/> |
| <input type="checkbox"/> Problem solving | Yes <input type="radio"/> No <input type="radio"/> |
| <input type="checkbox"/> Communication skills | Yes <input type="radio"/> No <input type="radio"/> |
| <input type="checkbox"/> Goal setting | Yes <input type="radio"/> No <input type="radio"/> |
| <input type="checkbox"/> Self-discipline | Yes <input type="radio"/> No <input type="radio"/> |
| <input type="checkbox"/> Teamwork | Yes <input type="radio"/> No <input type="radio"/> |
| <input type="checkbox"/> Other: please state _____ | |

14. What other aspects of your job did or didn't you like?

15. Did you ever feel unsafe in any of your workplaces? Yes No

If so, why?

16. Have you ever had an accident while working? Yes No
What did your employer do when you had the accident?

17. Were you a member of a union? Yes No

If yes, which union _____

18. Overall, would you say that working as a child was a positive or negative experience for you?

19. Do you have any additional comments regarding children and young people's working experiences and the rights of child and young workers?

Thank you for your responses

Approved by the Auckland University of Technology Ethics Committee on 23 July 2009

AUTEC Reference number: 09/20

Appendix I:

Stage III Interview Topics Guide

Children's work in New Zealand has a number of differing contexts in which it can be viewed. - With the semi-structured interview format, I anticipate following broad themes that will lead to other areas of discussion that may not be included in my interview topics.

Biographical information

How old are you?

What ethnicity are you?

Were you born in New Zealand? If not, at what age did you come to New Zealand to live?

Working experiences

How old were you when you got your first job outside the home? (i.e. paid work, not doing household chores?)

What sort of job was it?

Were you working for a family member? How much were you were paid?

Did you think this pay was fair?

If no, how much more do you think you should have been paid and why?

Did you know what other staff members were paid for doing a similar job? If so, what did you think of this?

What did you do with the money you earned?

Skills

How long did you stay in your first job? How many hours on average did you work?

What other jobs did you have as a child (up to 18 years old)? What are the main skills you gained from this work?

How have these skills benefited you? (i.e. generally, value of money, to gain better positions etc...)

Rights

Did you have a written employment contract?

If so, did you read this contract?

Were you aware of your rights and responsibilities as an employee?

Did you know about legislation covering:

- 1) Minimum age for work
- 2) Minimum wage
- 3) Health and safety

Were you a member of a union?

If so, which union?

If not, were you aware of what unions do and that you could join one?

Workplace safety

Did you ever feel unsafe in your workplace? If so, why?

Have you ever had an accident while working? If so, what did your employer do? Were you aware of the ACC system?

Opinions

The New Zealand public generally view work as being 'a positive experience' for children. Do you agree?

Do you have any suggestions of ways to improve children's working lives?

Appendix J:

Comment on Draft 3rd and 4th Periodic Report to the United Nations Committee on the Rights of the Child

Danaë Anderson and Dr Felicity Lamm, New Zealand Work and Labour Market Institute Auckland University of Technology

Background

New Zealand is party to a small number of International Labour Organisation Conventions that have yet to be ratified. In 2003, the NZ government made a further commitment to revisit child labour issues concerning minimum wages and working age as well as occupational health and safety in 2008-2009: Convention 155: Convention on occupational health, and Convention 138: Concerning the minimum age for admission to employment. With the Government report to the United Nations Convention on the Rights of the Child (UNCROC) on child labour due at the end of 2008, issues surrounding New Zealand's young workers require further investigation. It is concerning how little is known about youth workers in the labour market, and what is needed to improve conditions for working children.

- *Defining Child and Youth:* The terms that are used to define 'child' are contentious and inconsistent. International conventions define children as aged 18 and under, for example the United Nations Convention on the Rights of the Child defines a child as "every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier (Convention on the Rights of the Child, 1989, p.6), a definition acceptable to the International Labour Organisation. As discussion focuses around UN Part 138 ratification; it would be appropriate to use UN and International Labour Organisation definitions, while acknowledging and discussing the difficulties and inconsistencies in use.

The International Labour Organisation does not have an explicit focus on adolescents as a category, and there is also no officially used definition of adolescents. However, the International Labour Organisation does focus on the adolescent age group (10-19 years) in relation to the categories of child labour and youth activities, mainly youth employment. The International Labour Organisation follows the UN definition of youth as the age group between 15 -24 years, but it also recognises that the operation definition varies according to the cultural and institutional factors in each country. It is worth noting that these definitions are further complicated by attempts to define 'child labour' or children's work; which have myriad of alternative definitions. Terms such as "child", "adult" and "labour" resist universal definition because of cultural and societal differences from one country to another. Some international organisations and social scientists delineate between 'child work' (not objectionable) and 'child labour' (objectionable) (Chauby, Perisic, Perrault, Laryea-Adji, & Khan, 2007). However, it is important that discussion does not become embroiled in semantics, so for the purposes of discussion the United Nations and International Labour Organisation definition will

be adhered to; as dialogue will be centred on ratification of UN Part 138 by New Zealand.

- *Profile of child workers*: The quality and breadth of information on child workers in New Zealand is extremely poor, with most research emanating from non-government sources (Caspi, Moffitt, Wright & Silva, 1998; Gasson, Gasson, Linzey, & Powell-Chalmers, 2003;), and activist organisations (Child Poverty Action Group 2003, 2004, 2005, 2008; Action for Child and Youth Aotearoa Incorporated, 2003; Catholic Justice, Peace and Development Agency, 2003, 2007).

That is, there are few, if any government data sets that capture information on child workers. Nonetheless, based on overseas data, it is possible to report that child workers can be found in family run businesses, such as primary sector (agriculture, horticulture, etc), as well as the retail and hospitality industry sectors. They also constitute a substantial part of the informal labour market –... often working for very low wages and at times in dangerous and/or illegal working conditions (Caritas, 2003: 11). The sectors which child workers congregate typically have little or no trade union presence. Further, child workers are predominately employed on casual, part-time or temporary basis, and few would be protected under either an individual or collective agreement. This is acknowledged in article 1.15 (page 15), where ‘research has found that children have a general lack of awareness about (and potentially non-compliance with) their employment rights’. The Children’s Employment Work Programme seeks to redress these issues, but there are still significant areas of concern in which little progress has been made; in spite of talk of ‘ongoing dialogue’ (page 15).

- Minimum age of access to employment- (Article 32(2))

There are a number of UN conventions that relate directly to child labour. The rationale behind these conventions is the protection of children and in particular, minimising their exposure to long hours of work, in hazardous environments. While it is acknowledged that the New Zealand government has ratified a number of UN conventions pertaining to the welfare of children, it currently has a reservation on International Labour Organisation Convention 138: Minimum Age Convention (1973) relates to the UN’s Convention on the Rights of Children (UNROC) Article 32(2) requiring:

‘States Parties shall...

- a) Provide for a minimum age or minimum wages for admission to employment;*
- b) Provide for appropriate regulation of the hours and condition of employment;*
- c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article’*

(United Nations, 1999).

The United Nations Committee on the Rights of the Child criticised New Zealand’s lack of policy on minimum age in 2000. Since then the government has made some

commitment to clarifying minimum age requirements under UNROC, and addressing the steps that could be taken to removing the existing reservation. In 2003 the United Nations specifically recommended to New Zealand that it 'expedite the ongoing process of reviewing and strengthening legislations protecting all under 18 year olds who are employed (Bradford, 2007, p. 2).

It is stated in *Implementation of the International Covenant on Economic, Social and Cultural Rights (Draft)* (2008: 88), that 'New Zealand has not ratified this Convention and has adopted a similar position to that with respect Article 32 of UNCROC. That is, New Zealand cannot comply with the Convention because it is both acceptable and common practice for children to engage in work outside school hours'. This reiterates the commonly held view that children's work in New Zealand as '...socially desirable, since it prepares them for independence and greater responsibility in a way which complements their formal education' (Chetwin, 2002: 2).

There is a public perception in New Zealand that such employment practices occur mainly in so-called 'under-developed' countries. A distinction is made between types of labour overseas and types of work New Zealand children are undertaking, stereotyped as 'paper routes and fruit picking' (Day, 2004). This 'idealised' (McKechnie, 1999) definition of children's work does not necessarily acknowledge the reality of what is actually happening, as 'we have a strong culture of allowing and supporting our children to work, even from a very young age' (The Green Party, 2007: 1).

In their report entitled *The State of the World's Children: Focus on Child Labour* (1997, p.18), UNICEF argue that this is a misconception as children routinely work in hazardous conditions in all industrialised countries and that most of the world's child labourers are to be found in the informal sector; that is, at working on farms, in the family business or in the home. Not all work is objectionable, but "Children's work needs to be seen as happening along a continuum, with destructive or exploitative work at one end and beneficial work - promoting or enhancing children's development without interfering with their schooling, recreation and rest - at the other. And between these two poles are vast areas of work that need not negatively affect a child's development" (UNICEF, 1997: 12).

In the last two decades there has been a considerable increase in part-time work by children in New Zealand (Statistics New Zealand, 2001). It is apparent that without statutory protections such as minimum wages and working conditions, young workers risk marginalisation (Human Rights Commission, 2000: 1). Initial research indicates that there is some evidence that child labour does exist in New Zealand, although information is not routinely collected about this sector of the labour market (Roth, 2008). For example, in a survey of nearly 5000 children in 2003, Catholic Justice, Peace and Development Agency, (Caritas) reported that some children were being forced to work to support their families, often for very low wages and at times in dangerous and/or illegal working conditions. They concluded that:

- Children were working in age restricted employment, including those working

with heavy machinery, with alcohol, or caring for other children.

- There were concerning issues of the health and safety of children, particularly those who reported injuries which had the potential to cause serious harm, including road accidents, broken bones and burns.
- Children were often working unsupervised; particularly the younger children aged 11-12 who were more likely to work without adult supervision than older age groups.
- There was lack of contracts and union coverage of children's work.

However, there is no legislation specifically covering the wages or conditions of children under the age of 16 years. In addition, there is insufficient regulation of hours of their hours of work and conditions: 'there is no law preventing an 11 year old doing 30 hours work each week as long as it is not in school hours, or working a 12 hour day on a Saturday' (Parkinson, 2001: 1). This segment of the labour market is extremely vulnerable to exploitation for two reasons: their rights are not upheld with supporting legislation; and they are an 'invisible' segment that is largely ignored in statistic reporting and analysis.

Health and Safety of Children

While it is stated that '... our existing policy and legislative framework already provides effective age thresholds for entry to work in general, and for safe work', (Govt 3rd & 4th periodic report, United Nations Convention on the Rights of the Child, draft: 13) this statement overstates the protection these laws give to child workers; particularly with reference to those under the age of 16.

Child labourers are susceptible to all the dangers faced by adult workers when placed in the same situation, but they are more seriously affected because they differ from adults in their anatomical, physiological and psychological characteristics (IPEC, 2008). Young workers run a higher risk of work injuries arising from lack of experience, limited awareness of existing or potential risks or immaturity (ENHIS, 2007).

Greater analysis of childhood occupational injuries is needed, as many children become vulnerable to injury when they enter the workforce, even on a part time basis (Ehrlich, McClellan, Hemkamp, Islam & Ducatman, 2004: 786). Data on the level of work-related injury and illness amongst children is inconsistent and woefully inadequate, due to the widespread practice of under-reporting of accident compensation claims, and in the informal labour market where injuries may be attributed to other variables. Again, Accident Compensation Figures provide only a partial picture, covering those accidents that were officially reported or led to compensation claims.

Summary

The Convention on the Rights of the Child has provided the legal basis 'for necessary and essential reference in the realisation of those rights' (Cabanillas, 2002: 2). However, parts of New Zealand's employment and supporting legislation enshrine a presumption of inequality, where children are not given the same rights or protection

as adults. Therefore, if the Government accepts child labour as a legitimate aspect of the socialisation of children and young people, it is obliged to ensure that where young people participate in paid work, they are so far as possible, protected from exploitation. (HRC, 2000: 4). Ratification of Part 138 and continued discourse regarding the appropriate level of regulation of the labour market will elucidate and strengthen New Zealand's commitment in this area.

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Appendix K:

Comments on Article 22 of the Constitution of the International Labour Organisation

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Article 1 General comment

In spite of successive governments' contention that New Zealand's working children are 'adequately protected', there is insufficient evidence that the current protection afforded is enough. Little research has been done to back this contention, and the few studies done (CARITAS, 2003 & 2007) have pointed to some concerning areas in health and safety of children undertaking work. While it could be surmised by the Government that '*... our existing policy and legislative framework already provides effective age thresholds for entry to work in general, and for safe work*', (Govt 3rd & 4th periodic report, United Nations Convention on the Rights of the Child: 13), this statement overstates the protection current laws provide child workers, particularly with reference to those under the age of 16.

In its report entitled *The State of the World's Children: Focus on Child Labour* (1997: 18), UNICEF argues that children routinely work in hazardous conditions in all industrialised countries. Most of the world's child labourers operate within the informal labour market, working predominately in small business, agricultural, and horticultural sectors. Given that these sectors have a significant presence in the New Zealand economy and that these sectors are over-represented in the occupational fatality, injury and illness rates, the health and safety of children workers is of great concern.

Statistics on work-related injuries (2006) show that around 300 children under 15 years old visited their general practitioner for a work injury. ACC entitlements or rehabilitation assistance, such as physiotherapy subsidies, are paid to around 10 children under 9; around 15 children in the 10-14 age bracket, and between 1000-2000 young people in the 15-19 age group (ACC, 2006). New Zealand children are also significantly represented in the work-related fatal injury statistics (Lilley, Feyer, Langley & Wren, 2004: 1). These injuries often occur when children accompany their parents to their places of work. The most common location of a fatality is on a farm where home and work activities overlap, and informal participation by children in farm work is commonplace (Lilley *et al*, 2004).

It must be noted that, while these injury statistics indicate that there is cause for concern, there is a general paucity of injury data and what data exists is inconsistent and unreliable, especially for children and child workers. Moreover, there is widespread under-reporting of accident compensation claims, particularly in the informal labour market where injuries may be attributed to non-work accidents as a way of avoiding increased ACC premiums. There is also a lack of detail; that is, there is often little or no information on the ethnicity of the injured child worker or under what circumstances the accident occurred. Thus, ACC figures provide only a partial picture, covering those injuries that were officially reported or led to compensation claims. Not only are the injury statistics compiled on child workers a concern, it is also concerning that the current level of occupational health and safety

protection for workers under 16 does not entirely conform to the principles and provisions of the UN Convention on the Rights of Children and related International Labour Organisation Conventions on occupational health and safety.

Under the Health and Safety in Employment Act 1992, the basic tenet is that all workers, irrespective of age or occupation, must be covered by health and safety regulations. With respect to New Zealand's child workers, this is not always the case. Health and safety regulations have not afforded child contractors¹ the same protection as children working as employees, although this will change on the 1 April 2009 (Caritas, 2008). However, there is still insufficient regulation of hours of work and conditions: *there is no law preventing an 11 year old doing 30 hours work each week as long as it is not in school hours, or working a 12 hour day on a Saturday*' (Parkinson, 2001: 1). Moreover, the level of legal protection in employment for children varies considerably and is based entirely on the age of the worker – that is, adult workers are afforded protection while children are frequently omitted (Boyden *et al*, 1998).

Awareness Raising and Education

While there have been a number of campaigns regarding increasing information for child workers, there is little data to indicate success (or otherwise). Provisional recent research (Anderson & Lamm, 2009) has indicated a disturbing lack of knowledge from youth about their employment rights, workplace injuries unclaimed under the ACC system, and harassment of young female workers.

Children's employment work programme

This states that 'Work is currently underway to ensure that young people experience fair and productive work in safe and healthy workplaces'. However, just what the Government conceives as fair and productive is open for contention as there is minimal research in this area (and the little research is produced by non-government agencies). Article 22 states that there is monitoring of young people's participation in employment, but is not specific about how this is done. During a meeting with the Minister for Labour and representatives of ACYA and CARITAS in June 2009, there was concern that young people's employment could be better protected. Department of Labour workplace inspectors specifically focused on monitoring, and reporting children's employment conditions was suggested to the Minister but little interest was shown. Therefore, it seems that this statement is overly optimistic, and if 'monitoring' is being done, the measurements and outcomes need to be clarified.

PROHIBITION AND ENFORCEMENT

Prostitution Reform Act

The Prostitution Reform Act (PRA 2003) decriminalised prostitution. Child prostitution has received little attention, in New Zealand or elsewhere, until the past decade, and there is still a paucity of research. Significant barriers to systematic research and understanding of the issues are the invisibility of under-age prostitutes, problems defining what constitutes under-age prostitution, and the lack of services for the children affected. Workers in services for youth at risk are aware of significant and increasing numbers of young people selling sex, commonly for survival, and research with adult sex workers indicates that significant proportions commence sex work as children (Dillon, 2008).

However, an unintended consequence of lessened monitoring has been lessened policing of prostitution, in areas such as Hunter's Corner in South Auckland. The Prostitutes Collective (2008) has claimed that there has been a rise in the number of underage prostitutes since decriminalisation.

Minimum Employment Code

There are a number of consequences in having no minimum wage for employees under 16 years of age. The minimum wage for employees aged 16 years and over rose to \$12 an hour before tax on 1 April, 2008. There is no longer a minimum wage for youth (16-17 years) as of 1 April 2008, changing to the new entrants minimum wage of \$9.60 an hour before tax (Department of Labour, 2008). While the Human Rights Commission argues that any minimum wage distinction between 16 and 17 year olds and the rest of the labour force is not justified, children under 16 years are not covered by the Human Rights Act (1993). The validity of paying a 17 year old 60% of the income of an 18 year old for no other reason than age, regardless of qualifications and capabilities, is difficult to justify in terms of the Human Rights Act. To have no legislation covering those under 16 is cause for concern and fails to acknowledge those under 16 have any rights in the employment relationship.

At a broad level, setting the youth minimum wage must be considered in the context of the Government's overall policy direction in relation to the implementation of UNCROC, and possible ratification of International Labour Organisation Convention No. 138 on the Minimum Age for Admission to Employment. As a signatory to the Convention, the government will need to work towards ensuring that New Zealand's employment laws are compatible with International Labour Organisation Convention 138, regulating that all workers irrespective of age are paid equitably. At a domestic level, policy makers are obliged to consider compliance with sections 21 and 22 of the Human Rights Act, which, (subject to an existing minimum wage exception in section 30) broadly prohibit discrimination (against persons over the age of 16) on the grounds of age in employment (HRC, 2000: 2).

It is recommended that the Human Rights Act is amended to remove unfair discrimination against those under 16 years of age as currently it allows for discrimination simply on the basis of age. 'Equal pay for work of equal value' is an underlying theme here as the justifications for children being paid less for doing the same work are weak.²

Responses to comments made by the Committee of Experts on the Application of Conventions and Recommendations, submitted in 2008

Article 5: Monitoring mechanisms

There is a need for greater monitoring and reporting on the nature of hazardous work and its implications. However, it would be useful if the DoL were to specify exactly

¹ Caritas has undertaken two surveys of children's working conditions, and expressed concern in both 2004 and 2007 that children working as contractors were not as well protected as children who were directly employed. Increased protection will hopefully reduce accident and injury rates for child workers (de Jong, 2008).

what this monitoring will entail, and how the findings will be communicated to interested parties.

Children's employment work programme

The New Zealand Government states that progress has been made. However, the measurements are non-specific: 'raising awareness', 'progress' and 'monitoring' are difficult to quantify and evaluate.

Conclusion:

There has often been a tendency to focus on visible forms of work but these can obscure the other ways in which children are employed. New Zealand's employment legislation has inherent inequalities in that children are not given the same rights or protection as adults, and the rights of the child are often not given resonance or are minimised in New Zealand discourse. This occurs because child labour is generalised as a developing country's problem. Implicit in this view is that legally restricted employment will have little chance of harming children (Hobbs & McKechnie, 1997).

However, New Zealand employment law continues to discriminate against young workers in a variety of ways:

- There is no minimum age for work.
- The youth minimum wage is lower than the adult minimum wage.
- Children under 16 have no minimum wage rate.