

## EXPLORING LEGAL AND NON-LEGAL APPROACHES TO ELIMINATING CHILD LABOR IN THE COCOA INDUSTRY IN GHANA

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**Abstract:** The problem of child labor in cocoa-producing countries like Ghana and Ivory Coast has been projected into the international limelight due to coverage by notable international media organizations like CNN, BBC, and Al Jazeera. The incidence of child labor in the cocoa industry raises legal and ethical issues in the production and manufacturing processes that feed into international trade. This paper explores the international legal framework on child labor under the Minimum Age Convention and the consistency of Ghanaian domestic law with the Convention. It further discusses empirical data collected from Anyinam, a cocoa farming community in the Eastern Region of Ghana and the sustainability programme of Federated Commodities Ltd. (FEDCO), as a private sector responsible business initiative aimed at addressing the problem of child labor from a holistic approach.

**Keywords:** Child labor; cocoa industry; sustainability.

### 1. Introduction

Child labor has become an issue of international concern. As the global economy has sought to see rapid economic growth by building a solid labor force, children under 15 years have become involved in various processes of manufacturing products that feed into the international trade system (Charnovitz, 1996; Freeman, 1996; Edmonds and Pavcnik 2005)). This has often occurred to the detriment of the education, health, and future development of children (D'Alessandro and Fioroni, 2006). The stresses and strains of child labor, especially hazardous jobs, may impede healthy

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Ansong, A., Agomor, K.S., (2024)

*Exploring Legal and Non-legal Approaches to Eliminating Child Labor in the Cocoa Industry in Ghana*

development in adolescents. The workplace environment and level of exploitation or hazards may mediate the effects on self-concept (D'Alessandro and Fioroni, 2006). Various studies on child labor in Ghana have proffered reasons for its persistence. Studies such as the Ghana Child Labor Survey (2003) and the Rapid Assessments on Girl Child Labor in Agriculture, Domestic Work and Sexual Exploitation (2003), indicate that public awareness and appreciation of the problem of child labor in Ghana is quite limited. The limited awareness of child labor is further buttressed by practices, especially in farming communities where involving children in farm work is viewed as a cultural norm (Asuming-Brempong, et al. 2007; Adonteng-Kissi 2018). Other studies have indicated that poverty is one of the main push factors in the incidence of child labor (Rafiq and Mohy-ud-Din 2018). The 2022 Cocoa Barometer Report, for example, observes that the 'cocoa problem' hinges on the twin branches of environmental protection and human rights and "both stand on a tree trunk of farmer poverty" which "is exacerbated by the current cost-of-living crisis" (Fountain and Huetz-Adams, 2022, p.6).

Child labor studies in Ghana show that the practice is endemic in the agricultural sector of which the cocoa industry plays the most important role as one of the major contributors to the country's gross domestic product (Ghana Statistical Service, 2014; Ghana Statistical Service, 2019). International concerns about child labor and its linkages to international trade have shone a spotlight on this phenomenon in cocoa-producing countries like Ghana (BBC n.d.; CNN 2020; Al Jazeera n.d.). Ghana has made some credible efforts to eliminate the worst forms of child labor, especially in the cocoa industry (Asuming-Brempong, et al. 2007; Ansong 2020). The Ghana Cocoa Board (COCOBOD) has, for example, collaborated with the private sector to develop a framework to address child labor in the cocoa industry even though the problem has not been eliminated (Asuming-Brempong, et al. 2007; Ansong 2020).

The above-stated studies on child labor in Ghana have shown, among others, that limited public perceptions, socio-cultural practices, and economic hardships account for the prevalence of the phenomenon especially in cocoa farming communities in Ghana. This paper seeks to add to the existing research by presenting a study of the perspectives of cocoa farmers regarding the reasons for the occurrence of child labor in their community. The study also presents an exposition of the international and national legal framework on child labor and an analysis of the efficacy of state-level 'hard law' and private sector 'soft law' approaches to addressing the problem. The term 'hard law' is used to denote mandatory or obligatory legal rules while 'soft law' denotes non-obligatory rules or measures aimed at steering behavior towards a preferred end (Guzman and Meyer, 2010).

The paper is segmented into six sections with the introduction being the first section. Section two discusses the international and domestic legal framework on child labor.

Ansong, A., Agomor, K.S., (2024)

*Exploring Legal and Non-legal Approaches to Eliminating Child Labor in the Cocoa Industry in Ghana*

The discussion aims at reviewing international rules on child labor and ascertaining the consistency of Ghanaian law with international rules. The paper thus takes a legal approach to defining the subject of child labor to ensure certainty. Resort to Ghanaian law as the other component in defining child labor also prevents perceptions of adopting foreign standards and imposing these on a developing country like Ghana. Furthermore, the international rules that will be discussed are treaties that Ghana has ratified.

The discussion on the international and domestic law on child labor is followed in section three with a presentation of field research conducted in the cocoa farming community of Anyinam in the Eastern Region of Ghana in February 2023 and the methodology used. Section four presents a discussion and analysis of data collected in the field research and section five evaluates the efficacy of the private sector responsible business initiative of Federated Commodities Ltd. (FEDCO) as a soft law approach to addressing the problem of child labor. The paper concludes in section six with a summary of the findings of the study and policy recommendations on how to combine hard law and soft law approaches in addressing the problem of child labor in the cocoa industry in Ghana.

## 2. Review of International and Domestic Law on Child Labor

The definition of what constitutes child labor is a foundational element of any discussion on this topic. This is especially pertinent due to the, sometimes, conflicting conceptualisations of the phenomenon drawn along developed and developing country lines and the attendant claims of imposition of Western cultural values on the developing world (Bhagwati, 2004; Hilowitz et al., 2004). In order not to be drawn into the developed-developing country 'conflict' of conceptualizing child labor, this paper adopts a legal definition of child labor based on provisions in the Minimum Age Convention, (1973) and Ghanaian law. The analyses aim at conducting an exposition on how the Minimum Age Convention defines child labor and the consistency of Ghanaian law with the provisions in the Convention. As Ghana has ratified the Minimum Age Convention, this shows an expression of Ghana's consent to the stated treaty and the resulting commitment to adhere to the obligations assumed under international law (Vienna Convention on the Law of Treaties, 1969, Article 34).

### 2.1 Defining Child Labor under the Minimum Age Convention

Article 2(3) of the Minimum Age Convention states that the minimum age for admission to employment "shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years". Despite the provision in Article 2(3), Article 2(4) allows a state whose economy and educational

Ansong, A., Agomor, K.S., (2024)

*Exploring Legal and Non-legal Approaches to Eliminating Child Labor in the Cocoa Industry in Ghana*

facilities are insufficiently developed to “initially specify a minimum age of 14 years” (Minimum Age Convention, 1973). This, however, is supposed to be done after consultation with the organization of employers and workers where such exist. The framing of Article 2(4) shows that a minimum age of 14 years is supposed to be a temporary exception to the 15 years set in Article 2(3) (Minimum Age Convention, 1973). Thus, a state availing itself of the exception in Article 2(4) is to ‘initially specify’ and not permanently specify the minimum age as 14 years (Minimum Age Convention, 1973). This position is further buttressed by Article 2(5) which provides that:

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 Labor Organization 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 (Minimum Age Convention, 1973).

Under Article 6 of the Minimum Age Convention, 14-year-old children can engage in work that is part of a vocational or technical education in a school or training institution. The provisions in Article 6 therefore recognize the fact that some forms of vocational and technical education of children will involve a practical component that may be work-based. Consequently, to the extent that work-based programmes of vocational or technical education are recognized by the relevant state authorities and are aimed at facilitating the choice of an occupation in the future, this will be consistent with the Minimum Age Convention and thus not come under the nomenclature of child labor.

Having established the age threshold of what constitutes child labor under the Minimum Age Convention, further light is shed on this phenomenon by the International Programme on the Elimination of Child Labor (IPEC), a department of the International Labor Organization (ILO). According to IPEC (n.d.), child labor constitutes work that denies children of their childhood, potential and dignity and is detrimental to their physical and mental well-being and growth. Child labor is also an impediment to children’s education resulting in either cessation of schooling or the onerous burden of combining schooling with work (IPEC, n.d.).

## 2.2 Defining Child Labor under Ghanaian Law

The domestic law in Ghana regarding child labor can be found in the 1992 Constitution of Ghana and pieces of legislation passed by Parliament, notably the Children’s Act, of 1998. The broad foundational provisions on the protection of the rights of children in Ghana are contained in the 1992 Constitution of Ghana. Article 28(1) of the Constitution of Ghana provides that:

Parliament shall enact such laws as are necessary to ensure that:

- (a) every child has the right to the same measure of special care, assistance and maintenance as is necessary for its development from its natural parents, except where those parents have effectively surrendered their rights and responsibilities in respect of the child in accordance with law;
- (b) every child, whether or not born in wedlock, shall be entitled to reasonable provision out of the estate of its parents;
- (c) parents undertake their natural right and obligation of care, maintenance and upbringing of their children in co-operation with such institution as Parliament may, by law, prescribe in such manner that in all cases the interest of the children are paramount;
- (d) children and young persons receive special protection against exposure to physical and moral hazards; and
- (e) the protection and advancement of the family as the unit of society are safeguarded in the promotion of the interests of children

Article 28(2) specifically addresses the issue of child labor by providing that: "Every child has the right to be protected from engaging in work that constitutes a threat to his health, education or development" (Constitution of Ghana, 1992).

In 1998, the Parliament of Ghana passed The Children's Act, 1998 (Act 560). Sub-part I of Part V of the Children's Act is exclusively devoted to provisions on child labor.

The Children's Act 1998 sets two minimum age categories for engaging a child in work in Ghana. Firstly, Section 89 provides that the "minimum age for admission of a child to employment shall be fifteen years" (Children's Act, 1998). The stated provision shows the consistency of Ghana's law with international obligations under Article 2(3) of the Minimum Age Convention. Secondly, the 1998 Act provides under Section 90 that the minimum age for engaging a child in light work is 13 years. The distinction between the 15-year minimum age in Section 89 and the 13-year minimum age in Section 90 lies in the definition of light work provided in Section 90(2). Per Section 90(2), light work "constitutes work which is not likely to be harmful to the health or development of the child and does not affect the child's attendance at school or the capacity of the child to benefit from school work" (Children's Act, 1998). This shows a legal distinction between child work and child labor. Child work comes under the provisions in Section 90(2) and is not prohibited, as long as the requirements in the stated provisions are adhered to (Children's Act, 1998). Child labor, on the other hand, comes under a breach of the 15-year minimum age stipulated in Section 89 (Children's Act, 1998).

Section 91 of the Children's Act (1998) provides for another minimum age for employment in hazardous work which is pegged at 18 years. Of note is the fact that, in setting the minimum age for employment in hazardous work at 18, Section 91

Ansong, A., Agomor, K.S., (2024)

*Exploring Legal and Non-legal Approaches to Eliminating Child Labor in the Cocoa Industry in Ghana*

refers to a person instead of a 'child' (Children's Act, 1998). This connotes that the age of majority in the Children's Act (1998) is set at 18 years and thus forms the minimum age at which a person can be engaged in hazardous work. Per subsections 2 and 3 of Section 91, hazardous work includes going to sea, mining and quarrying, portage of heavy loads, manufacturing industries where chemicals are produced or used, work in places where machines are used, and work in places such as bars, hotels and places of entertainment where a person may be exposed to immoral behavior (Children's Act 1998). Consequently, it is illegal to engage a child in hazardous work.

It is important to note, however, that in addition to the prohibitions in Section 91 of the 1998 Act, the provisions discussed above that set the minimum age for light work at 13 and admission to employment at 15, also come with some notable restrictions (Children's Act 1998). For example, whether one uses the 13-year or 15-year minimum age requirement, per Section 87 of the Children's Act (1998), it is illegal to engage a child in exploitative labor. Work that deprives a child of his or her health, education, or development constitutes exploitative labor per Section 87(2) of the Children's Act (1998). Furthermore, Section 88 makes it illegal to engage a child in night work. Section 88(2) defines night work as constituting work between the hours of eight o'clock in the evening and six o'clock in the morning (Children's Act 1998). Thus, what constitutes child labor under Ghanaian law is not necessarily the age of the child so far as the child is 15 years or older. It is the kind or time of work that matters. As long as the kind or time of work falls within the stated prohibitions, it will legally constitute child labor (Children's Act 1998). This also shows that the mere presence of a 13-year-old child on a cocoa farm, for example, during the weekend or school vacation will not constitute child labor if the child is engaged in light work.

To ensure compliance with the above-stated provisions, Section 93(1) of the Children's Act 1998 requires an employer in an industrial undertaking to "keep a register of the children employed by him and of the dates of their births if known or of their apparent ages if their dates of birth are not known". Section 93(2) further provides that:

"An industrial undertaking is an undertaking other than one in commerce or agriculture and includes (a) mines, quarries and other works for the extraction of minerals from the earth; (b) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adopted for sale, broken up or demolished, or in which materials are transformed including undertakings engaged in ship building or in the generation, transformation or transmission of electricity or motive power of any kind; (c) undertakings engaged in the transport of passengers or goods by road or

rail including the handling of goods at docks, quays, wharves, warehouses and airports." (Children's Act, 1998, Section 93(2)).

The prohibitions against specific forms of child labor would be of no effect if there were no enforcement provisions aimed at ensuring compliance with the law. The Children's Act 1998 thus makes provisions for enforcement measures and penalties for breach of the prohibitions against child labor. There are two main enforcement mechanisms provided for the formal and informal sectors of work.

For the formal sector, Section 95(1) of the Children's Act 1998 empowers district labor officers to carry out any inquiries they may consider necessary to satisfy themselves that the provisions in the Act regarding the engagement of children in employment in the formal sector are being strictly observed. District labor officers are also empowered to interrogate any person and if they are reasonably satisfied that the provisions on child labor have been breached, they "shall report the matter to the police who shall investigate the matter and take the appropriate steps to prosecute the offender" (Children's Act 1998, Section 95(2)). District labor officers work under the Labor Department of the Ministry of Employment and Labor Relations.

Of note in the above-described enforcement measures for the formal sector is the fact that, Section 95(1) of the Children's Act (1998) uses the word 'may' in the interrogation powers given to district labor officers – "A district labor officer shall carry out any enquiry he may consider necessary." This connotes a certain level of discretion in the decision of a district labor officer to conduct investigations into child labor. On the other hand, once a finding based on reasonable satisfaction of breach of the law has been made by the district labor officer, then "he shall report the matter to the police" (Children's Act 1998, Section 95(3)). The use of the obligatory word 'shall', shows that once there is a reasonable satisfaction of breach, the required step of reporting the matter to the police is not discretionary (Children's Act 1998, Section 95(3)). It is obligatory. The police are also legally obliged to investigate and prosecute offenders once the district labor officer has discharged his/her obligation of reporting the matter.

For the informal sector, Section 96(1) of the Children's Act (1998) entrusts the enforcement competence to the Social Services Sub-Committee of a District Assembly and the Social Welfare and Community Development Department of a District Assembly (hereinafter Department). The District Assemblies, Municipal Assemblies and Metropolitan Assemblies form the highest political authorities in the local government structure of Ghana. Thus, the enforcement competence given to the Social Services Sub-Committee and the Department work within the structures of their relevant District, Municipal, or Metropolitan Assemblies in the local government system of Ghana.

Ansong, A., Agomor, K.S., (2024)

*Exploring Legal and Non-legal Approaches to Eliminating Child Labor in the Cocoa Industry in Ghana*

The Social Services Sub-Committee and the Department have the power to interrogate any person (Children's Act 1998, Section 96(2)). If they are reasonably satisfied that the prohibitions against child labor have been breached, they "shall report the matter to the police who shall investigate the matter and take the appropriate steps to prosecute the offender" (Children's Act 1998, Section 96(3)). Just like the powers given to district labor officers in Section 95 of the Children's Act, the interrogation powers of the Social Services Sub-Committee and the Department are discretionary. The responsibility to report findings based on reasonable satisfaction of breaches of the said prohibitions is, however, obligatory. Subsections 4 and 5 of Section 96 provide for a different procedure of enforcement in situations where the offender is a family member of the child. They provide that:

"(4) Where the offender is a family member of the child whose rights are being infringed under this Sub-Part, the Social Services Sub-Committee or the Department shall request a probation officer or social welfare officer to prepare a social inquiry report on the matter.

(5) The social inquiry report prepared under subsection (4) of this section shall be considered by the police before any action is taken against the offender." (Children's Act 1998, Section 96(4)(5)).

### 3. Field Study at Ayinam: A Cocoa Farming Community in the Eastern Region of Ghana

Despite the conformity of Ghana's laws with international law, the incidence of child labor in general, and specifically in the cocoa industry, persists. As discussed above, the Children's Act 1998 makes credibly robust provisions for enforcement measures against child labor. Thus, the persistence of the problem shows that addressing it solely from a 'hard law' angle will not yield the result intended by legislation. In order to gain a firsthand understanding of why the problem of child labor persists in cocoa farming communities in Ghana, the current study engaged in field research at Anyinam in February 2023. Anyinam is a town in the Eastern Region of Ghana. Cocoa farming is one of the main occupations in Anyinam. To ascertain the effectiveness of 'soft law' approaches to solving the problem of child labor, the research also investigated the sustainability programme of Federated Commodities Ltd. (FEDCO). FEDCO is a licensed cocoa-buying company in Ghana with a presence in Anyinam.

#### 3.1 Methodology

The field study at Anyinam employed a qualitative research approach in carrying out the investigation. Creswell (2012) argues that a qualitative research approach is suitable for studying a phenomenon, including obtaining data in the form of verbal conversion from a relatively small number of individuals to capture their views on a



Ansong, A., Agomor, K.S., (2024)

*Exploring Legal and Non-legal Approaches to Eliminating Child Labor in the Cocoa Industry in Ghana*

phenomenon. The study sourced primary data through Focus Group Discussions (FGDs), interviews and observation. The FGD offers insights regarding how individuals view situations and ensure depth in understanding a phenomenon that is being studied (Nagle and Williams, 2013). The FGD method was employed because the study's objective was to understand the problem of child labor from the perspectives and experiences of the FGD participants. Morgan (1997) contends that group interaction and dynamics among participants during FGDs encourage participants to make connections to several concepts that may not ordinarily happen during individual interviews or other forms of surveys. The FGD method allowed the study to capture precise statements of participants during the data collection process. It also helped some participants to recollect similar incidents when other participant shared their experience.

Two separate FGDs were organized for cocoa farmers at Anyinam. One FGD was made up of five participants and the second had six participants. One group consisted of farmers who work with FEDCO and had signed up for its sustainability programme. The other group was made up of cocoa farmers who do not work with FEDCO and had not signed up to its sustainability programme. This made it possible for the study to compare and appreciate the practices and experiences of the two groups within the same socio-cultural setting.

The 11 FDG participants were selected by FEDCO officials with the help of the local government Assembly Member of the area. The purposive sampling approach was employed for this study because it offered the researchers the opportunity to select participants who were 'information-rich'. The advantage of this method, as opposed to random sampling, is that it minimizes the chances of selecting a participant with no insights about child labor. The disadvantage, however, is that there is a potential for selection bias. Participants could get overprotective and answer questions to support their entrenched biases.

In addition to the FDGs, two cocoa farmers, two FEDCO officials and six children working in the cocoa industry were interviewed one on one. The interviews helped gained deeper appreciation of the motivations, benefits, effects and challenges of child labor in cocoa farms in the study area. The study utilized a semi-structured interview guide to maintain the focus of the conversation on the relevant topics being covered. All the interviews were recorded using an audio recorder. The length of each interview varied from 30 to 40 minutes.

The researchers also visited cocoa farms, to observe and interview farmers. The sample size for the study is illustrated in the table below.

**Table 1: Sample Distribution**

| Item | Methods   | Sample  |
|------|---|---------|
| 1    | Focus Group Discussion                                    | 11      |
| 2    | Interviews of FEDCO officials                             | 2       |
| 3    | Interviews of cocoa farmers                               | 2       |
| 4    | Interviews of children working in the cocoa industry      | 6       |
| 5    | Observation of famers on FEDCO sustainability programme   | 2 farms |
| 6    | Observation farmers not on FEDCO sustainability programme | 2 farms |
|      | Totals  | 21      |

Source: Own processing.

#### 4. Discussion and Analysis of Data Collected

This section of the study presents a discussion on the findings from the field data provided by cocoa farmers, children under 15 years working in the cocoa industry and FEDCO officials at Anyinam. The study identified the nature of child labor on cocoa farms at Anyinam as follows: weeding on the farm; spraying of chemicals; being on the farm during school hours; climbing of trees; harvesting of cocoa with sharp objects; working after 8 pm and before 6 am; working on the farm without the presence of an adult supervisor; breaking of cocoa pods with sharp tools; and felling of trees. The study focused on the factors that contribute to these prevailing child labor issues in the cocoa industry at Anyinam. The factors include socio-cultural, economic, and legal and institutional factors.

##### 4.1 Socio-Cultural Factors

Socio-cultural factors encompass the social and cultural forces that mold individuals, communities, and societies. These factors consist of diverse elements such as social norms, values, beliefs, customs, traditions, language, religion, and cultural practices (Abdullah et al., 2022). They exert a substantial influence on human behavior, attitudes, and interactions within specific societies or communities. Socio-cultural factors have the potential to affect multiple aspects of life, including education, health, relationships, decision-making, and overall social dynamics (Abdullah et al, 2022).

While investigating the factors contributing to the prevalence of child labor in the cocoa industry in Ghana, the main research question posed was: "What, in your opinion, is the underlying cause of persistent child labor at Anyinam?" This question aimed to identify the factors that play a role in the existence of child labor in the cocoa industry at Anyinam from the perspectives of the research participants. After analyzing the responses provided by the interviewees and FGD participants the following socio-cultural factors were identified.

#### 4.1.1 Traditional Practices

It was worthy of note that most of the responses showed how normal it was for children in the Anyinam community to work alongside their families in agricultural activities including cocoa farming.

A farmer stated:

“I want to train my children in the same occupation so that they can continue to do it as their primary occupation before looking for any other work.”

One participant indicated that:

“This is the training I was given, and we have survived till now. So, my children will also go through the same traditional process. Do you know how I suffered at my parents’ hands?”

Another participant remarked “do you want to tell me not to ask my children to work on my cocoa farm? You cannot tell me not to use my own child on my farm.”

These responses from the farmers reflect the profound influence of deeply ingrained traditional practices and norms, which view children participating in their parents’ work as a form of apprenticeship. Based on parents’ own experiences as children, failure to involve their children in the ‘family business’ would connote irresponsibility. There is the expectation that the parents’ farms will pass on to their children. Thus, involving children in farming activities is a matter of keeping with tradition and ensuring that the next generation of farmers are trained. Also, for poor farming communities where the prospects of children pursuing further education beyond the basic level is quite slim, farming offers the prospect of a viable profession. Compared to dropping out of school and going to the big cities where most children end up being porters and street vendors with very few economic prospects, training children to continue in their parents’ occupation seems a more viable option.

The responses by the interviewees and FGD participants also show a fundamental misunderstanding regarding engaging children in work. As discussed above, under section 90 of the Children’s Act (1998), 13-year-old children can be engaged in light work while per section 89, the minimum age for engaging a child in employment is 15 years. Also, per the Children’s Act (1998), children cannot be engaged in work that harms their health, development and educational prospects nor can they engage in work defined as hazardous. Thus, the fact that a parent engages their child in work on a cocoa farm does not, in and of itself, constitute child labor as long as the stated caveats in the Children’s Act are observed. Education regarding what is permissible under the law will enable parents to know the kinds of work they can use their children for. This will help dispel the notion that any kind of work a child engages in constitutes child labor.

Ansong, A., Agomor, K.S., (2024)

*Exploring Legal and Non-legal Approaches to Eliminating Child Labor in the Cocoa Industry in Ghana*

However, based on the responses from the interviews and the FGD, combining farm work with schooling evidently takes a huge toll on children and can impede their education. One interviewee who is also a cocoa farmer narrated how the headmaster of a local junior secondary called him on a number of occasions to witness how some students sleep in class when teachers were teaching. According to him, when the students were questioned about why they were sleeping in class, they discovered that during the harvest seasons, some of the students woke up as early as 5 am to go to the farm and carry cocoa beans home before attending school. Most of the farms are quite a distance from their homes. These students thus came back home tired and ended up sleeping in class. Other students came to school late and thus missed one or two lessons. The interviewee was aware that some of these students who carry cocoa beans did not go to school after returning from the farm. He stated that the issue had been discussed at the local Parent-Teacher Association meetings.

The issue of carrying cocoa beans during weekdays and weekends was confirmed by another interviewee. He lamented that: "you can meet a child coming back from a farm and when you see the load, he or she is carrying on their head, it bears witness that the load is beyond their strength."

A participant of the FGD remarked, "why do I have children and ignore them to pay or get other people to convey my cocoa beans from the farm for me?"

Another participant of the FGD who is a member of the local government assembly in the Anyinam area had this to say:

They take the children to the farms to assist them during harvest time. It would not have been a problem if they were to be doing this on the weekend. But it is on school days and during school periods. That is my worry. This is an issue that we have even met with the District Assembly at Atiwa to discuss. Because of that, I was nominated to be part of the monitoring team. I have realized upon careful review that it is still going on. This is not helping the children as it affects their health considering the loads of work they are given.

The narrated incidences of school children engaged in carrying cocoa beans on weekdays is an obvious breach of the Children's Act (1998) as the practice evidently hampers the education of the affected children. Even if it had occurred on weekends, children carrying heavy loads of cocoa beans would be deemed hazardous within the meaning of section 91 of the Children's Act. As discussed above, only persons aged 18 years and over can be engaged in hazardous work.

#### 4.1.2 Unplanned Parenthood

Unplanned parenthood refers to situations where individuals or couples become parents without actively intending or planning to have children (Barrett and Wellings, 2002). The responses from the field study indicated that one of the

Ansong, A., Agomor, K.S., (2024)

*Exploring Legal and Non-legal Approaches to Eliminating Child Labor in the Cocoa Industry in Ghana*

prevailing factors that contributed to child labor is unplanned parenthood. Unplanned parenthood could potentially exacerbate the vulnerability of families and increase the likelihood of engaging children in labor-intensive activities.

A farmer expressed the following sentiments:

I think the other thing worrying me personally is unprepared parenthood. Most couples just bring forth children without any form of family planning. This leads to child labor in many forms including on cocoa farms.

He further observed that:

There was an instant when I met a lady with a child who was crying persistently. Upon enquiring, I realized the child was hungry and the mother had no food even to give to the child.

Another farmer explained:

Some parents too have given their children to others to be cared for since they are not able to cater for them. The foster parent then forces the child to engage in work that restricts their school attendance. It's like the parent giving the children out into servitude as they earn some money off them.

An interviewee stated that:

Some parents have too many children and are thus unable to cater for all of them. The children are given out to stay with relatives or people who need help with domestic chores or work on their farms.

A child labor liaison officer added:

What he said even touches on child trafficking. Because the household has a lot of children and cannot cater to all, the parents give out some of the children to other people to receive cash or earn a commission off them. This foster parent will surely engage the child in farm work.

From the responses of the interviewees, it is evident that unplanned parenthood plays a substantial role as a social factor in the occurrence of child labor. Furthermore, in a related context, some farmers highlighted the inability of parents to adequately provide for their children. This compels them to involve their children in child labor. In instances where households have numerous children and face financial constraints, parents may resort to sending their children to work and earn some income for the family which further aggravates the prevalence of child labor generally, and specifically in the cocoa industry.

#### 4.2 Economic Factors

Economic factors refer to the elements and conditions within an economic system that influence and shape the behavior of individuals, businesses, and societies. Economic factors play a crucial role in understanding the prevalence of child labor in the cocoa industry. Analysis of the data from the field showed that poverty was

Ansong, A., Agomor, K.S., (2024)

*Exploring Legal and Non-legal Approaches to Eliminating Child Labor in the Cocoa Industry in Ghana*

the main economic factor driving the incidence of child labor in the cocoa industry at Anyinam. All the interviewees identified poverty as the major economic factor playing a crucial role in contributing to child labor in the cocoa industry at Anyinam. They were of the view that poverty was the basic reason why most parents at Anyinam engage in child labor in the cocoa industry.

Specifically, one of the farmers said:

It all stems from poverty and hardship. If the parent doesn't have, they certainly cannot give to their children and cater for their needs. So that leads to the child finding jobs to fend for themselves.

Another added that:

Some of the parents instead of employing laborers to work on their farms, would rather use their children to do the work. The fact is that some parents do not have the financial resources to engage adults in town to do the work.

A farmer explained:

There was an incident where a schoolboy left school to go and weed on a cocoa farm. The father was informed. However, he said there are people who have been to school and have nothing to show for their education. This simply shows that the father was aware that his son had been skipping school to work as a laborer on cocoa farms.

The responses from the interviewees regarding poverty as the primary driving factor in the incidence of child labor at Anyinam confirms the findings of the 2022 Cocoa Barometer report. The stated study concluded that:

Farmer poverty is a driver of just about every problem in the cocoa sector; deforestation, child labor, and gender inequality are all made so much harder to tackle if cocoa household incomes are not raised significantly. When farmers must choose between feeding their family, and not cutting down old growth trees, it is not a choice. When they must choose between feeding their family or sending them to school, it is not a choice either. Without a living income for cocoa farmers, cocoa will never be sustainable (Fountain and Huetz-Adams, 2022 p.6).

### 4.3 Legal and Institutional Factors

Legal and institutional factors are crucial considerations when analyzing the prevalence of child labor in the cocoa industry. These factors encompass the laws, regulations, and institutional frameworks that influence and shape the existence and enforcement of child labor policies. The above discussion on the legal provisions on child labor in the Ghanaian Constitution and, specifically, the Children's Act 1998, show that 'on paper', Ghana's laws are in conformity with international obligations assumed under treaties like the Minimum Age Convention.

However, field data indicated the lack of enforcement of laws and regulations pertaining to child labor. Additionally, the responses suggested that although child

Ansong, A., Agomor, K.S., (2024)

*Exploring Legal and Non-legal Approaches to Eliminating Child Labor in the Cocoa Industry in Ghana*

labor laws were in place, minimal efforts had been made to raise awareness about these laws and the potential penalties for non-compliance. This lack of awareness and inadequate enforcement thus contribute to the persistence of child labor in the cocoa industry.

During the FGD, a farmer asked:

Are there laws that punish people who engage in child labor? Because if there are no laws to punish people for such practices, then all we are suggesting and saying here will prove futile. If there are no laws, and you see me or another person engaging in child labor, you can only talk but there is nothing you can do to me. Do you understand?

Another farmer at the FGD suggested:

I think the Government should intensify education in rural areas and create the awareness that if one engages in child labor, he or she would face the consequences of the laws. Because if the government fails to educate the citizens on child labor, many parents will not understand that the life of the child is at risk.

Also, the interviewees were of the view that teachers in schools and rural communities had a role to play in creating awareness and educating children about the menace of child labor. They were of the view that such education should be extended to parents as well.

One of the farmers at the FGD explained:

Some of the teachers also have farms and sometimes, they send the children to work on their cocoa farms. Thus, parents also then think that it is right for them to engage their children on cocoa farms. Teachers are role models in rural communities in Ghana.

Another farmer added:

I once raised a similar issue at a PTA meeting: you have been asking school children to carry logs of wood and stones to the school. You take them to your farms to weed during school hours and when parents do the same, you warn them that it is child labor. If you as an educator, do the wrong thing we all want to stop, why then must parents see the need to put an end to this menace?

Based on the responses, it is evident that the enforcement of existing laws and regulations regarding child labor is weak. Also, the lack of awareness of the legal provisions on how to engage children in work exacerbates the occurrence of child labor. If, for example, parents do not know that per Section 88(2) of the Children's Act (1998), children are not to be engaged in work after 8 pm or before 6 am, there cannot be an expectation of compliance. While ignorance of the law does not justify a breach, awareness of it can encourage compliance. Enforcement of the law must,

Ansong, A., Agomor, K.S., (2024)

*Exploring Legal and Non-legal Approaches to Eliminating Child Labor in the Cocoa Industry in Ghana*

therefore, be equally complemented with public education as a soft-law approach to compliance.

### 5. FEDCO's Sustainability Programme

The study sought to find out whether non-legal approaches like private sector responsible business initiatives can help mitigate or eliminate the incidence of child labor in the cocoa industry. This underpinned the inclusion of the FEDCO sustainability programme in the study. Thus, the field research at Anyinam also resulted in interviews of FEDCO officers and farmers who have signed up to the FEDCO sustainability programme. The farm visits during the field research at Anyinam focused on two observations of farmers on the FEDCO sustainability programme and two observations of farmers who are not on the FEDCO programme. FEDCO's sustainability programme uses seven thematic activities to build farmers' capacity, improve productivity and sustainability, and generate higher income. The seven thematic activities focus on farmer trainings, farmer business schools, farm demonstration plots, input credit schemes including cash credit, child labor monitoring and remediation, traceability of cocoa and adult education (FEDCO, n.d.). Importantly, farmers who sign up to the FEDCO programme make an undertaking not to use child labor on their farms. The farmers do not only receive education and training on child labor prevention, but also farm management, protection of the environment and how to increase the yields of the cocoa farms. Consequently, the FEDCO programme, in addressing the problem of child labor issues, also tackle some of the fundamental root causes like poverty and lack of awareness of the legal regime on child labor. Farmers receive a financial incentive (i.e. sustainability premium) for their commitment not to use child labor on their cocoa farms. Commenting on 'Income and Shared Responsibility' as one of the core principles of the sustainability programme, one of the FEDCO officers interviewed stated that:

With "Income and Shared responsibilities; once the farmer is producing for us in a sustainable way, we need to pay the sustainability premium to him. In as much as the farmer manages his income, becoming responsible for managing his farm and ensuring every training given to him is implemented, we must also ensure he gets whatever is due him and that is the "Income and Shared Responsibility".

During the visits to the selected cocoa farms, the farmers of the two groups ('FEDCO and non-FEDCO'), were asked to share what they knew about cocoa farming. The two farmers from the FEDCO group showed a holistic understanding of sustainable farming practices. This indicated a positive impact of the FEDCO sustainability programme. The 'FEDCO farmers' expressed the following understanding of sustainable farming as compared to the non-FEDCO farmers:



Ansong, A., Agomor, K.S., (2024)

*Exploring Legal and Non-legal Approaches to Eliminating Child Labor in the Cocoa Industry in Ghana*

- They indicated the importance of not leaving plastic waste on their farms as the roots of the cocoa trees could get entangled in them and eventually result in the destruction of the trees.
- They stated that they must not sleep with agrochemicals in their bedrooms nor keep them in their kitchens for their own safety and that of their family including their children.
- Again, they expressed the importance of not farming in the forest, since the forest helps their cocoa farms to do well and therefore the need to engage in agroforestry practices by planting approved shade trees on their farms.
- The two FEDCO farmers also shared the need to protect water bodies by having buffer zones around the water bodies on their farms.
- They stated that they must be in full personal protection equipment anytime they sprayed their farms or came into contact with chemicals.
- They showed understanding of the importance of ensuring farm sanitation by engaging in regular weeding and adequate pruning.
- They indicated how to reduce the cost of fertilizer by using available organic materials first before supplementing them with the inorganic fertilizer if soil nutrients were still lacking.
- They showed the visiting team some living organisms that they use to control some pests and how they protect such organisms on the farm. (e.g. the red ant for the controlling of capsid).
- Importantly, the two 'FEDCO farmers acknowledged the importance of not using child labor on their cocoa farms and showed knowledge and understanding of the differences between child work and child labor.

The insights demonstrated by the 'FEDCO farmers' showed the positive impact of the FEDCO sustainability programme as a non-legal or soft law private sector responsible business initiative that addresses the problem of child labor from a holistic approach. During the farm visits, the researchers observed that the farmers who work with FEDCO did not have children working on their farms. On the other hand, the farmers who did not work with FEDCO had children working on their farms. Two of these children were interviewed on the farm.

## 6. Conclusions

In the preceding discussions, this paper has presented an analysis of the legal regime on child labor from both the international and domestic (i.e. Ghanaian) angles and highlighted the consistency of Ghana's domestic law with the Minimum Age Convention. The above discussions show that, despite the robust legal provisions prohibiting child labor, the problem persists. The cocoa industry is affected by the persistence of child labor as evidenced by the field study at Anyinam. The field study

Ansong, A., Agomor, K.S., (2024)

*Exploring Legal and Non-legal Approaches to Eliminating Child Labor in the Cocoa Industry in Ghana*

showed that there are fundamental socio-cultural issues that act as push factors for the prevalence of child in general and specifically in the cocoa industry. These findings confirm previous studies that identified socio-cultural factors as playing important roles in the persistence of child labor in Ghana (Asuming-Brempong, et al. 2007; Adonteng-Kissi 2018). These socio-cultural issues cannot be addressed solely by legislative fiat. Thus, while the study recommends the channeling of more resources into the enforcement of existing legislation, even if this is done, it must be complemented with measures to address the socio-cultural issues that act as push factors for the persistence of child labor. Targeted public education on popular media platforms that are readily accessible to cocoa farming communities can contribute to sensitizing farmers regarding the socio-cultural practices that result in the persistence of child labor.

One of the main findings of the study was the lack of awareness of the provisions on child work and child labor in the Children's Act (1998). Farmers had the wrong perception that any work by a child on a cocoa farm constituted child labor and would be forbidden by law. This is made even more pertinent by the fact that, most children engaged in work on cocoa farms in Ghana are family members (Asuming-Brempong, et al 2007). Thus, the ethos of training the next generation of cocoa farmers through involving children in 'child work' instead of 'child labor' can still be achieved in farming communities in Ghana without resulting in an economic detriment to the cocoa industry. The study thus recommends an active and ambitious education campaign on the relevant provisions in the Children's Act (1998) to be undertaken by state bodies like the Ghana Cocoa Board, the National Commission on Civic Education and the Commission on Human Rights and Administrative Justice. Educating farmers on the kinds of work children can be engaged in will help dispel the wrong notion that involving a child in any form of work constitutes child labor. Public education can thus serve as a soft law approach to ensuring compliance with existing legislation and empower parents to know the kinds of work children aged 13 years and above can engage in.

The findings of this study confirmed Fountain and Huetz-Adams' (2022) conclusions regarding the importance of farmer poverty as a push factor in the prevalence of child labor in the cocoa industry. The study found that private sector sustainability programmes like the one undertaken by FEDCO can help address the economic challenges of farmers and aid in reducing the incidence of child labor in the cocoa industry. That said, paying premium prices for cocoa beans from farms that have undertaken not to use child labor has its limitations. Cocoa buying companies are generally guided by the producer price of cocoa determined on the international commodities markets. As business entities that must make profit in order to thrive, whatever premium prices that their sustainability programmes offer farmers will invariably be informed by prices on the international commodities

Ansong, A., Agomor, K.S., (2024)

*Exploring Legal and Non-legal Approaches to Eliminating Child Labor in the Cocoa Industry in Ghana*

markets. Consequently, the economic push factors that fuel the persistence of child labor in cocoa producing countries like Ghana cannot be seen solely as a producer country problem. Consumer countries share a responsibility regarding the price at which they are prepared to buy cocoa products from producer countries. The Ivory Coast and Ghana have established the Cote D'Ivoire-Ghana Cocoa Initiative (CIGHCI) to negotiate better prices with buyers in consumer countries (CIGHCI, n.d.). Ivory Coast and Ghana account for 60% of the world exports of cocoa (CIGHCI, n.d.). Nigeria and Cameroon have expressed interest in joining CIGHCI. If they do, the combined exports of the four African countries will amount to 75% of world exports (CIGHCI, n.d.). This enormous percentage of the market share of cocoa exports can serve as a very important leverage in negotiating for better producer prices. A lot of the concerns that have been raised about child labor in the cocoa industry come from developed Western countries that also form the main consumer nations. These concerns must be matched with concrete actions to address low producer prices for cocoa that have detrimental economic effects on cocoa farmers and contribute to the persistence of child labor.

The authors take due cognisance of the fact that the study focused on only one cocoa producing community in Ghana. Also, there were only 21 research participants from the community. This sample size is evidently not representative of the entire cocoa producing communities in Ghana. The findings of the research cannot thus be generalised. However, as discussed above, the research findings confirmed other previous studies. Thus, while this study afforded the opportunity to conduct a more focused and in-depth research about one cocoa producing community in Ghana, future research will need to be broader in its scope to make the findings more representative.

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Ansong, A., Agomor, K.S., (2024)

*Exploring Legal and Non-legal Approaches to Eliminating Child Labor in the Cocoa Industry in Ghana*

### Author Contributions

Alex Ansong conceived the study and was responsible for the conceptual design and development and the review of the international and domestic legal framework. Kingsley S. Agomor was responsible for data collection and analysis and also for data interpretation.

### Disclosure Statement

The authors declare no conflict of interest. The funders had no role in the design of the study; in the collection, analyses, or interpretation of data; in the writing of the manuscript, or in the decision to publish the results. The authors have no other competing financial, professional, or personal interests from other parties.

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