

Children participating in the political process

... the experience of working children in Bolivia

Facilitating Child Participation in International Child Protection
Political Barriers / Tensions
Ryerson October 5 – 6, 2015

Headlines ... Feb 2014

"Bolivia's Child Workers Challenge New Rights Code

A proposed children's rights law being considered by the Bolivian Congress is facing opposition from an unlikely source: a union representing the child workers themselves."

The proposed law, approved by the Chamber of Deputies but now stalled in the Senate, protects the rights of juveniles in the labour market and penal system and commits the government to provide resources for youth and children's services. It also affirms the current minimum working age of 14, as required by International Labor Organization (ILO) Convention 138, to which Bolivia subscribes.

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In Bolivia as in many countries large numbers of children work ... the Ministry of Labour reports that 848,000 children between the age of 5 and 14 work (one in four)

To protect their rights and to help ensure that working children are not exploited or harmed ... working children have formed their own working children's movement – UNATSBO

UNATSBO

- defends the rights of working children
- established in 7 of 9 departments
- one of 8 national movements in Latin America
- membership - 15000 working children
- all members must be attending school

In 2010 UNATSBO carried out a broad consultation with working children, adolescents, workers, teachers, support organizations, professionals and local and national authorities and presented their views to government

Among other things working children through UNATSBO have been negotiating with the government to:

- to abolish the minimum age for independent, non salaried work
- set a minimum age of 12 for all other forms of work

In 2013 under the Morales government there had been some optimism that the views of working children would be incorporated into new legislation ...

... but when the new laws came out and did not reflect the children's views the children began to protest .

Dec 2013, Police respond to threats from working children ...



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When the police used pepper spray and tear gas on a group of protesting children there was an international outcry.

Three days later the president met with 30 of the working children.

The proposed law was delayed and then revised.

One of the boys who suffered from the police actions said
“For all I can say now ... it was worth it”.

In the subsequent process the views of working children
were taken seriously.

The new law came into force in August, 2014

Chapter VI of the law provides for “The Right to Protection of Girls, Boys and Adolescents in relation to Work.

The law maintains the minimum age for work as 14 years but provides for some exceptions that will allow children as young as 10 to perform certain types of work under specified conditions

The specified conditions for children between 10 and 14 years include among others:

- the child must freely agree to perform work
- written parental consent must be obtained for contract work (above 12 years)
- continued enrollment in school,
- work hours must allow for rest, pursuit of culture and recreation,
- no work after 10 pm
- no work that is considered to be dangerous to the life, health, dignity of the self employed child

The law also makes use of existing or creates new institutional structures at all levels of government to support working children

Implementation of the law is to be monitored, reviewed and revised over the coming years

UNASTBO and its members recognize that they have a
achieved a compromise with the Bolivian government,
while they didn't get everything they wanted ... by
engaging in the political process ... they helped create a
new law that is better than the previous one.

Rather than supporting the participation of working children in the development of Bolivian child labour laws, many in the international community condemn the new law and the Bolivian government

Despite the inclusion of protective measures for children within the law it is assumed that the new law will increase the exploitation of and harm to vulnerable children.



CRC – Article 12

States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Some questions

Does the Bolivian law violate the protective rights of working children while respecting their rights of participation ?

Who gets to decide ?

What would be a fair process ?

How could the tensions between protective and participative rights be reduced in this case ?

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