

Child labour, forced labour and “work experience” in China – the blurred lines of illegality

ITUC/GUF/HKCTU/HKTUC Hong Kong Liaison Office (IHLO)
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This short research brief looks primarily at the issue of school children working in Chinese factories during holidays and sometimes in term time. It focuses on the widespread practice of school children being hired out to local factories with the complicit agreement – and often encouragement – of the school authorities and sometimes the local labour authorities.¹

It does not tackle the other areas where child labour is found inside China; namely in full-time under-age employment in factories, slavery (as evidenced in the recent uncovering of some 1,000 children working in brick kilns²), forced labour as part of the juvenile justice system and the use (including the sale and trafficking of) of children in begging and prostitution.

This report is a response to the recent decision by the Beijing Organizing Committee of the Olympic Games (BOCOG) to revoke the Olympic license of the LEKIT factory in Dongguan in the light of investigations by the Ministry of Labour and Social Security and the local labour authorities into the research undertaken by PlayFair in the Factory and contained in its report: “No Medal for the Olympics on Labour Rights”.

Background

Child labour continues to be a serious problem in China and according to recent reports the problem is increasing rather than decreasing. While the Chinese authorities have recognized the need for the elimination of child labour and have implemented several measures designed to meliorate the problem but the practice continues to be found throughout Chinese industry and in particular in the private sector.³

Examples of industries employing children are the firework industry, piece work at home (anything from car seats to plastic flowers), entertainment (informal), begging – organized groups of beggars and street sellers such as flower sellers, singers, etc, brick kilns, and prostitution (trafficked and other). A People's Daily Report cites an investigation into labour conditions in Shandong province's Jinan City. According to the report, the use of juvenile labour is most prevalent in the following industries: toy production, textiles, construction, food production, and light mechanical work.⁴

¹ This document draws heavily on the ITUC (then ICFTU) observations to the ILO Committee of Experts on the Application of Conventions and Recommendations regarding compliance by China on Convention No. 182 on Worst Forms of Child Labour, 1999 (ratified in 2002) and Convention No. 138 on Minimum Age, 1973 (ratified 1999). These documents are available from the IHLO website at www.ihlo.org. It also adds new material and cases on child labour based on recent research.

² See <http://www.ihlo.org/LRC/WC/150607b.html> for more details of the initial investigation.

³ In 1999 China ratified Convention No. 138 and in 2002 it ratified Convention No. 182. In terms of domestic legislation, new laws were implemented in December 2002 explicitly banning the employment of children under the age of 16 years. These new regulations impose fines for employers and put the onus on the employing companies to check the workers identification cards. Other legislation includes the relevant provisions in the Chinese Labour Law, the Law on the Protection of Women's Rights and Interests, the Law on the Protection of Minors, Regulations on the Prohibition of Child Labour, and the Notice on the Prohibition of Child Labour.

⁴ As reported in China Labour Bulletin, As China's Economy Grows, So does China's Child Labour Problem 6 October 2005

Despite some initiatives however the existence of child labour, including the worst forms of child labour, remains high due to the lack of proper enforcement of legislation, a lack of resources targeted at the problem (both in terms of financial resources and manpower) and the failure of the government to address underlying causes of child labour, such as access to free education and equal employment opportunities for the rural poor and migrant communities.

Forced Labour through school related or contracted work programmes

Playfair's report found that the more than 20 children Lekit had hired under the age of 16 were primary and junior secondary school students from rural migrant families already working at the factory and were interested in working during the short winter break. Some of them were brought to the factory by their mothers to earn money to pay their school fees. This is a typical scenario played out all around China in the light of ever increasing school fees, the lack of educational opportunities and affordable child care and the ease of employment for minors.

Because of rising costs and the lack of central investment, many schools force children to work in order to make up school budgets. The 2001 case of a fireworks workshop attached to the Fanglin village school in Wanzai County, Jiangxi Province is well known. The workshop exploded killing some 60 primary school children and three teachers and was then covered up – albeit unsuccessfully – by the local government. This is just one example of the ways schools are being forced to earn money usually by their students work or the sale of buildings, to pay for basic equipment and teaching. In many other regions, children perform tasks ranging from producing crafts and handiwork to farming. Reports since 2001 documenting the use of contracted labour in schools and “summer” work programs suggest that despite the publicity surrounding the Jiangxi explosion, little has changed on the ground.⁵

Large numbers of rural schools have contracted out classes of students to work in factories or in the fields to help pay for some of the costs of their education. Under the guise of officially sanctioned “work study” programs, pupils are obliged to work to “learn a skill” but often they are put to perform regular work in labour intensive unskilled positions for longer periods of time, where they do not learn any skill and earn only pocket money. In other parts of the country children are found to be working from home after school or sometimes during school hours - assembling fireworks, beadwork or other cottage industry type production. While there are strict labour laws banning the use of child labour – even if these laws are routinely ignored – there are no provisions specifying the hours and ages for children working in “work-Study”

Many children who are found working illegally are those who are considered as academically hopeless and believed not to be able to pass the exams to move onto High school. These students are often advised by the teachers themselves to leave school by the second year of the secondary school before the high school entrance examination which takes place in the third year of the secondary school. This means that they will not affect the schools pass rate for the exam and hence will increase the schools overall ranking. While the official figure for secondary school drop-out is 2.49% according to one research done by the Northeast Normal University, the figure is above 40%. These students are usually aged 14 or 15 and employment is the only option.

⁵ China Labour Bulletin (CLB), Education in China: A short introduction, <http://www.china-labour.org.hk/public/contents/article?revisionpercent5fid=3299&itempercent5fid=3298>

In the past, summer/winter break work programs were often organized or encouraged by the education department, as a way for poor students to be able to pay for the coming year's tuition fee. In the recent years, schools, especially those from the poorer inland provinces, would make initial contacts with factories and send students to work during the school breaks, in order to create funding for schools. The majority of children involved are between 11 and 15. Schools blame the government on one hand for failing to provide poor schools with sufficient funding, and on the other hand, forbidding them to charge additional tuition fees. Many schools in the urban areas charge parents with a myriad of school fees for books, equipment, extra courses, uniforms etc etc.

Children in the workplace are especially vulnerable to occupational hazards and abuse. Not least because of their lack of awareness but also because of the illegal nature of their employment which leaves them unable to find avenues of redress should an accident occur. Many put up with extreme conditions that others would not tolerate simply because of their youth and the pressing need to earn money to send home. Many parents are unaware of the working conditions faced by their children in the factories in the south. In one typical example, in late 2003, a reporter from Guangzhou's Southern Metropolis Newspaper investigating child labour visited a local textile factory and found 12 year old workers working as much as sixteen hours per day, more during peak season. The children slept on or under their worktables in the 200-square meter workshop - similar conditions were found in other nearby factories.⁶ In late 2005 it was reported that child labour was used in factories supplying Wal-Mart and numerous – and repeated – reports of child labour in the toy industry in south China continue to emerge every few months.

Increasingly there is a serious shortage of labour for the unskilled jobs in the south of China. In part this is due to the ageing population but it is also due to increasing demands for better wages and conditions. Some employers are shifting to inland provinces in China to find cheaper labour while others are resorting to the use of child labour. Child labour has been increasingly reported in the footwear industry and in the smaller workshops producing textiles, shoes and related products. In 2000, media reports said that 84 children had been kidnapped from southern China's Guizhou province to work in coastal cities assembling Christmas lights. The youngest was 10. Many of the under age workers in the south are young girls ranging from 12 – 16 who are employed for their youth and agility in the textile, garment and shoe making factories. According to a Chinese Women News's report in 1996, 73.5 percent of the child labour it had interviewed in six provinces were girls.⁷

For many labour intensive factories child labour is worth while. A recent investigation into child labour, which interviewed 45 workers (mostly children), 8 parents and teenage school dropouts, 12 teachers and headmasters from primary and junior high schools and 12 government officials, showed that the average wage of children is around 400-600 Yuan while the official monthly wages of many migrant workers is around 500 -800.⁸ Children, being illegally employed do not need medical or social security payments and neither do they complain of long hours or underpayment. Most are too scared to complain and most feel the need to remain at work to help support their families.

⁶ China Labour Bulletin, As China's Economy Grows, So does China's Child Labour Problem, June 2005

⁷ China Labour Bulletin, Survey Report on Child Labour in China, Chinese version, 关于中国童工现象的实地考察报告, May 2006, http://big5.china-labour.org.hk/fs/view/Childlabour_simplified_chinese.pdf

⁸ "Migrant workers' Research report" issued by the state council in April 2006.

Field studies show that the majority of child workers also very long hours. Most work overtime till midnight and usually only get paid at the end of the (half) year or half year. Female children interviewed in May 2006 revealed that they usually worked from 8am to 9pm (with two hours meal breaks) during the low season and worked from 8am to 2am the following day during high season.

The following are all examples of children working under official or semi-official school organised "programs"

Cotton Harvesting in Xinjiang Uighur Autonomous Region

A report by Radio Free Asia in September 2005 reported on school children in the Xinjiang Uyghur Autonomous Region of China (XUAR) who are forced to work harvesting the yearly cotton harvest. According to officials the work is an official "work study program, but sources interviewed reported that students must meet specified targets or face fines. One teacher at the Shihenzi Higher Middle School in Shihenzi City told Radio Free Asia that school children were forced every year into "work-study" programs on behalf of the army's Xinjiang Production and Construction Corps, known in Chinese as the *bingtuan*. The teacher reported that; "If it is the city, then third-graders and up must take part. If it is the countryside, from first-graders upwards, all of them have to go to the cotton harvest. The schools stop teaching and take the kids to the cotton harvest."⁹

While a local official from the Xinjiang Education Committee in Urumqi voiced concerns about the nature of the work assigned to children but said the requirement came from Beijing and had to be enforced. The teachers and children have reported that they were pressured to meet daily quotas and face possible fines if they fail to meet them. The children live in dormitories for up to six weeks every year and generally worked from 7am until dark with half an hour for lunch. The report stated that nearly 100,000 students from junior colleges, technical, secondary, and primary schools in Xinjiang will participate in the work-study program and join the cotton-picking work in various cotton districts before mid September.

A report in the Urumqi official media also covered the program but reported that children below third grade do not participate; *"The Work-Study Office of the Education Department also requested the schools to refrain from collecting fees recklessly in name of the work-study program. Extremely heavy labour was also strictly forbidden."* Parents and students were reportedly concerned that the extremely heavy nature of the work and the fees charged for "participation" in the scheme but the Metropolitan *Consumer News* quoted staff at the Work-Study Program Office of the Xinjiang Autonomous Region Education Department as saying work-study programs were an essential labour practicum course, *"Some schools in inner China spread the course out into weeks and months and carry it out at training facilities. However, the situation in Xinjiang is unique. Apart from the lack of training facilities, the picking-period of various cotton districts in Xinjiang is concentrated in September and October, thus the work-study program has to be carried out mainly during this time," the paper quoted officials as saying.*

A teacher interviewed said that the children were vulnerable to accidents and the young girls to sexual assault. "Every year, there are incidents like this and someone dies in an accident. Sometimes the tractors let kids get on and then crash with cars and the kids get badly hurt or die...Also when it is harvest season there are many migrants Han Chinese workers or farmers from other Chinese

⁹ Radio free Asia, 21 September 2005

cities and those people rape the female students. These kinds of cases take place often every year.” One student who had previously worked in such a program told Radio Free Asia; “According to what they said, if we could not finish our duty, we would have to pay money. If we picked more than the required amount, we could earn money. But actually, no one ever earned any money, even if he or she picked more than the required amount. The eight of us students fell behind and had to pay money. We had no money to pay”.

“Internships” at a shoe factory

In November 2006, reports came out that a shoe factory in Foshan, Guangdong Province was actively recruiting a large number of children worked from the No.1 Vocational High School in Hepu, Guangxi Zhuang Autonomous Region. Local media reported that 148 students had already been sent to this shoe factory. The children work more than 12 hours a day. Some of the children had reportedly escaped, but more than 40 were still working there.

According to statements from children who left, the Hepu No.1 Vocational High School offered free education and graduation certificates from junior high school without the need to take the high school entrance exam. When they entered the school after paying a fee of 400Yuan, they were asked to take up an “internship” in the shoe factory. Most children were under 16 but were sent to the factor with false papers.

In response to the reports a representative from the shoe factory reportedly denied any responsibility and said that it is none of their business whether the identification data provided by the school is true or false as they will only trust whatever proof they are given. This runs contrary to relatively recent Chinese regulations (Article 4 of the “Provisions on the Prohibition of Using Child Labour”) which stress that it is the responsibility of the employer to ensure that the identity papers of employees are correct and they are legally employable.¹⁰

Children working in Headmasters private factory

China Labour Bulletin reported the case of a primary school headmaster in Huizhou city, Guangdong Province who was employing his students in a toy factory which he owned in 2004.¹¹ An investigation by the local authorities found some thirty-five children between the ages of eight and sixteen working in the “headmaster’s” factory. When informed of the illegality of his actions, the headmaster seemed surprised, and claimed to merely be offering the students an opportunity to earn money.

Sichuan children found in Dongguan Factory

Shortly after the launch of the PlayFair report on 11 June it was reported that the Daying middle school in Yilong County, Sichuan Province had been sending children to a Dongguan factory for an eight month long “internship”.

Some 300 students—mostly fewer than 16 were found at the Longzhen Connector Component Factory in Dongguan Shjie Township. They were working an average of 14 hours a day (8 am to 11 pm with a lunch break) for 500 yuan a month.

¹⁰ Research was reportedly undertaken by the Li Ka SHing Foundation and reported in the China CSR; <http://www.chinacsr.com/2006/11/06/833-vocational-school-suspected-of-supplying-child-labor/>

¹¹ Southern Metropolis Newspaper 11 August 2004 and http://www.china-labour.org.hk/public/contents/article?revision_id=18577&item_id=15889

They were also reportedly denied phone calls home. Acting on claims of child labour county level inspectors visited the factory and found that the factory had bussed out the students after a tip-off from the local township labour bureau.

According to reports the students had been working in the factory under an eight-month internship scheme organised by the school and arranged in order to allow poor students to earn enough money to cover school fees.

Excerpts from an interview with an underage jewellery worker

(interview conducted in May 2005 by China Labour Bulletin with a 16 year old gem worker who started work at 15)

CLB: You say a lot of children come to Guangdong to work. Do most children choose to come, or are they driven by poverty? Do your teachers object?

Xiaobing: Our teachers don't seem to care whether children chose to study or work. Less than half of the pupils in my primary school even went on to secondary school. The other half just went to work. I don't think this is just because of poverty. To work in a factory at the age of fifteen is quite common

CLB: How did you find your job? Were you aware that it was illegal for a factory worker to hire you before you'd turned sixteen?

Xiaobing: My cousin introduced me to the factory manager. He asked me how old I was, and I told him I was fifteen. He didn't say anything. Myself, I knew it was illegal for him to hire me, but he didn't care so why should I? I wasn't even the youngest there. Another boy I knew was only fourteen.
.... Occasionally an inspector from the health department comes by, but they seem interested only in whether or not workers are wearing cloth face masks (*to protect stonecutters from inhaling dust -ed.*). They never check anything else, certainly not our ages. So I've never had a reason to hide from them.

CLB: How many underage workers are in your factory?

Xiaobing: There are two or three (out of fifty) other workers my age here. We're pretty good friends.

A Yilong County Education Bureau official said the team of education and labour department officials went to the factory and found no abuses of the students still working there, but ordered the students back to school because the issue had become public. However he also stated that, "We will let the students study in school [for] at least one year first. If they need to, we may send them to do internships at the factory again next year." Details of the long working hours and low wages were not alluded to and the official stated that the working conditions are decided by the Education Department.

Media reports quoted Yuan Guangyao, a Longzheng deputy manager, defending his company. "This internship is a form of cooperation between our company and the school... "I've been to that county myself and I found the local people were very poor, so this initiative of having students work here is a win-win strategy for both of us."

Labour officials from Yilong County in Sichuan Province, where the students came from, said they had no say over working conditions agreed to between their school and the Dongguan factory. In a typical example of the problems of implementation, protectionism and bureaucracy officials at the Guangdong provincial labor bureau gave a similar excuse stating only that labor

arrangements made by a school should be regulated by the Education Ministry. The Education Ministry, meanwhile, did not answer queries from the international media.¹²

Children working as “apprentices” at Yonghong Electronics in Shenzhen

In November 2006, a report was released into investigations of child workers at an electronics factory in Shenzhen - Yonghong Electronics.¹³ The group interviewed 25 workers from Yonghong, including 7 underage workers. All the interviewed workers testified that Yonghong employs children under 16 years old. According to one worker with three years experience at the site, Yonghong have hired children throughout the previous three years.

Workers attribute the employment of children at Yonghong to the ongoing labour shortage in the region but it is evident that the child labour at Yonghong is a part of a conscious system and not an intermittent oversight. For example, the management consciously divides child workers amongst the different workshops to ensure they do not all work together

Yonghong actively recruits children through arrangements with schools in poorer provinces. For example the recruitment of workers in July 2006 included a substantial number of ‘student apprentices’ between 14 and 15 years old. These students were mainly from Kai Fung city of Henan province and Shanxi province. Though some of the students thought they were only there for the summer, approximately half of the 200 underage workers in the number two manufacturing workshop were transferred to other workshops in mid October 2006.

The student workers interviewed all said they were exhausted and wanted to return home to continue their studies. Once expenses for food and accommodation are deducted the savings are minimal. For the first three months of employment at Yonghong, they received only RMB27.5 a day in income.¹⁴ At the end of 3 months, their income was raised to RMB32 a day.

The interviewers reported that

“Even though these student workers wanted to quit, they continue to toil away at Yonghong. From interviews, we believe many of these students were sent to the factories by schools. The students’ families owe money to the schools for tuition and school fees, and so the schools send students to factories. One arrangement is, for example, that Yonghong sends half of the students’ income to the school to pay off debts. The students receive the other half to pay their living expenses in Shenzhen.

Debt is widely recognized as a serious restriction on the freedom of employment and a form of bonded labour, and at Yonghong, children work to pay off debts. They have neither the freedom to choose their employer nor to choose what portion of their wages goes to their debtor. In a situation like this, the risk is high that employers and schools will manipulate debts to their advantage to prevent child/student workers from exercising their rights”.

¹² International Herald Tribune, 18 June 2007

¹³ Report released by Hong Kong based SACOM as part of the “Clean up your computer” campaign. See www.sacom.hk

¹⁴ RMB27.5 a day for routinely 13 hours, not 8 hours! In terms of *hourly wages*, Yonghong pays student workers only RMB2, which is 50% less than the legal minimum wage required in the Baoan District in Shenzhen.

Examples like this are widespread at Yonghong. In one case uncovered the instructor of a village school in Kaifung, Henan withheld the employment agreement and identity papers of one of the students sent to Yonghong to prevent them from leaving after the summer's work. It appeared that the child would only be able to leave and have their identity papers returned if payments sent to their school until the school is satisfied. Though these arrangements are entirely against Chinese law, the student worker will have difficulties defending their rights without either identity papers or documents validating the terms of their employment agreement.

In another case, the interviewers spoke to three underage student workers who were high school grade II students from Yongzhou city, also in Hunan province. The 14 and 15 year olds were brought by a school teacher with falsified identity papers to work at Yonghong. They thought they were going to a summer job scheduled to end in mid September. It was only when their teacher failed to return at the end of the summer that they realized that they were stuck at Yonghong.

One student said in tears, 'We are just students. We want to go home. The factory does not let us go. They do not approve our requests to resign. I want to go home to study. I don't want to work in the factory. We work overtime every night till very late. They just raised the daily production quota...' Another student continued, 'Now we have to finish 300 pieces every day. There is no way for us to meet the quota. So we have to work overtime. But we are not paid for overtime work. The next morning, we have to get up and work again...' The three underage workers said their school and families were aware of their situation but felt helpless to do anything.

In a further complication – one which fits in with the continued denial of the right to freedom of association in China - Yonghong management appeared to actively use its young workers to weaken the bargaining position of adult workers. In September 2006, adult workers at Yonghong went on strike – management then transferred the unfinished work to the young workers to maintain production.

Following the report (which looked at seven DELL Suppliers), DELL computers, a buyer at Yonghong ¹⁵ announced that it has "suspended a supplier for a period of time until an issue is resolved or an agreed plan exists to resolve an issue". It is believed that this supplier is in fact Yonghong. The existence of child labour – was in clear violation of the Chinese Labour Law as well as the Dell Code of Conduct, and the Electronic Industry Code of Conduct (EICC). Despite requests for more information about how DELL is working on a "plan" to resolve the issue of child labour no further information has been forthcoming and it is possible that DELL has simply shifted its responsibility onto the supplier itself and cut ties. As in the results of the BOCOG investigation no details of compensation for the workers involved have ever been mentioned at all.

Lack of Enforcement

Although China does possess national legislation banning child labour and the worst forms of it, as well as related regulations, there remains a serious gap between legislation and implementation and monitoring.

¹⁵ For more information see <http://www.sacom.hk/html/modules/magazine/article.php?articleid=64> ; A Statement to Michael S. Dell, the founder, chairman & CEO of DELL

The fines for child labour employing factories remain low in practice. The 2002 Regulations state that employers who use child labour shall be fined at the rate of 5000 Yuan per month for each child labourer used; if child labour is used at work sites using toxic material, the fine shall be based on the provisions of Regulations for Labour Protection at Work Sites Using Toxic Material, or severe punishment shall be considered with fines at the rate of 5000 Yuan per month for each child labourer used. However in reality many firms found using child labour are fined around 10,000 Yuan in total. At the beginning of June 2006, a report by the Yangtze Evening Post reported that a local court in Zhenjiang, Jiangsu Province, fined four companies 10,000 Yuan (US\$1,250) to 40,000 Yuan (US\$5,000) for hiring juvenile workers.

In addition, the chances of discovery are slim given the shortage of labour inspectors and the extensive collusion between private business and local officials. In many case tip offs of upcoming inspections – either from Chinese officials or sometimes from compliance officers for brand names buying the goods – mean that children are kept well hidden during an inspection or given the day off. The numerous anecdotal evidence of such practices and the disappearance of children out of the factory doors in the face of an inspector reveal how most cases are simply not discovered and therefore the employer cannot be punished. The practice is bolstered by double and triple book keeping (on wages, hours, overtime and employees) by many private firms.

As with much of China's legislation there is an underlying need for proper enforcement of existing legislation banning child labour under 16 and the use of young adults in heavy or dangerous industries. This also includes the need to increase the punishment for employers who break national legislation, the improvement of inspection procedure and the development of proper (and coordinated) remediation measures and rehabilitation for the workers involved. It must be ensured that children who are rescued or otherwise discovered working have proper follow up care and education to ensure that they do not simply get sent back to their impoverished families with no further action by the authorities.

In an example of the dangers of cutting and running and the undesirability of shifting responsibility a case monitored by the Hong Kong Christian Industrial Committee found that a sub contractor actively sought child labour from poor rural areas to work in a toy factory in Guangdong province. However once the practice was discovered the multinational company involved in subcontracting the Chinese factory allegedly first denied the allegations but later accepted that there were 'irregularities'. Following this they then cancelled their contract which in turn led to the company laying off many of its workers "as well as leaving the children stranded in Guangdong with no means of support or transport home."¹⁶

Lack of Transparency: Reporting and State Secrets

State secrets in China cover a wide range of issues and areas of control. The scope of what is defined as a state secret covers not only issues concerning national security (such as military or political secrets) but also issues which have not been approved of by the authorities as public. Statistics are one of the areas most tightly controlled under the legislation and those regarding labour-related topics are very much included in the regulations. Child Labour including the Worst Forms of Child Labour (along with other labour related areas such as protests,

¹⁶ China Labour Bulletin, Child Labour in China: Causes and solutions, http://www.china-labour.org.hk/public/contents/article?item_id=3304&revision_id=3305&print=1

strikes and structural reform¹⁷⁾ is the subject of two main regulations issued jointly by the State Secrets Protection Bureau.¹⁸

“Undisclosed information and statistical data on the handling of child labour cases nationwide” is considered highly secret. There are no officially published national data on the extent of child labour or on the numbers of children working in the worst forms of child labour. The number of cases prosecuted is also not published. Data must be collected from unofficial newspaper reports which are often sketchy and many cases are covered up by the local authorities.

Reliable and open data are essential for governments and other agencies to tackle the worst forms of child labour effectively. China does have legislation but unless legislation is backed up by implementation on the ground it will be ineffective. China has the additional problem of a lack of civil society overseeing the problem and this, coupled with the lack of freedom of association and independent trade unions means that there is little monitoring of the problem except by the few government resources put into effect. There are increasing press reports on child labour but the data collected is not systematic and there is little serious effort to survey the extent and nature of the problem and follow up on specific cases.

Independent trade unions are seen as one of the more effective ways of combating abuses of labour rights within the workplace and the role of trade unions in combating worst forms of child labour is no exception. The role of ACFTU as a protector and promoter of labour rights remains limited. The ACFTU, as co-drafter of one of the relevant state secrets labour related laws - as noted earlier - works with the government to ensure that details of child labour cases, including cases of forced and hazardous child labour, and other related matters are treated as state secrets and remain hidden.

Lekit Stationary – a scapegoat perched at the tip of the iceberg?

PlayFair's original report looked into working conditions at just four of the officially licensed Olympic producing companies in China. The report revealed appalling disregard in all four factories for workers' health and for local labour laws and regulations in the following areas: working hours, pay scale; the hiring of minors and children; and health and safety conditions. While researchers were told of underage workers at Mainland Headwear Holdings Ltd, Lekit Stationary was however the only factory where we found clear evidence of underage workers.



¹⁷ In addition information on Industrial accidents and occupational illnesses, Unemployment rates and related social security matters, Wage policies, Embezzlement of social insurance funds, Labour unrest and worker protests are also covered.

¹⁸ General Office of the Ministry of Labour and Social Security and the State Secrets Bureau, Regulations on the Specific Scope of State Secrets and other Secret Matters in Labour and Social Security Work, January 27, 2000 and All-China Federation of Trade Unions (ACFTU) and the State Secrets Bureau, Regulations on the Specific Scope of State Secrets and other Secret Matters in Trade Union Work, May 27, 1996. Translation taken from “Human Rights in China” (HRIC), China Rights Forum, No.3, 2004

At the time of the research in January 2007, Lekit had hired more than 20 children under the age of 16, contravening Article 15 of the Labour Law. The children were primary and junior secondary school students from rural migrant families and were interested in working during the short winter break. Some of them were brought to the factory by their mothers to earn money to pay their school fees. While these children represented just 5% of the 400-strong workforce, some were quite young and all were required to work the same lengthy overtime as the adults.

One PlayFair researcher worked alongside these children in January 2007. The youngest worker was found to be only 12 years old. The usual work schedule of these children would be to work on the packing line from the morning start at 7:30 or 8:00 am until late in the evening, around 10:30pm. On one occasion, the schedule was changed. A pre-announced audit by outside inspectors was to be conducted; hence all the children were assigned to jobs out of sight in the warehouse.

The children were usually required to work at a large table putting the notebooks in order that is, stacking them so that the front cover was facing up. Five notebooks were then grouped together, tied up as a unit and placed into one of the big packing cartons. One of the reasons that the management hires children is because they can pay them lower wages. As for overtime pay, the children are paid only 3 yuan/hour, while their older co-workers receive 3.12 yuan/hour

Other abuses at Lekit were similar to the other three factories – and common throughout China – wages lower than the legal minimum, excessive and sometimes forced overtime, lack of written contracts, no provision of social security and insurance and hazardous working conditions.

After initially issuing strong denials of any wrongdoing subsequent investigations into Lekit's production showed the validity of PlayFair's original research. An investigation undertaken after our report by the local Dongguan Labour Bureau revealed that Lekit Stationery Co. hired eight students under the age of 16 from January 19 to February 10 during their school holidays, paying them 32 yuan for a 12-hour day and employing them for six days a week.

Six of the students were middle-school students and two were primary school students. The city government has pledged to 'rectify' the situation, without specifying whether the children would receive compensation, whether they would receive adequate funding for school expenses or whether the company would be fined. The students told investigators they were not involved in producing Olympic souvenirs but in packing notebooks ahead of sales sale. Lekit manager Michael Lee reportedly told the international media that a sub-contractor called Leter Stationery had hired a number of children in the school holidays last winter. They were each paid a daily rate of 20 yuan and worked on non Olympic related products. He stated that he was unaware they had hired children and would not use the sub contractor again.¹⁹

A Dongguan official interviewed by the BBC said the children had gone to work at Leter Stationery because their parents had no time to look after them during the holidays. He said they were only involved in "light work" such as wrapping up products.²⁰

¹⁹ BBC: <http://news.bbc.co.uk/2/hi/asia-pacific/6747449.stm>

²⁰ <http://news.bbc.co.uk/2/hi/asia-pacific/6747449.stm>

Conclusions

The findings in the PlayFair report and subsequent investigation are extremely worrying – child labour, excessive working hours, routine underpayment of wages and blatant disregard for Chinese labour laws are not minor imperfections that can be easily explained away. These conditions are common in the sportswear, toy, electronics goods supply chains - in one sense, the working conditions we have highlighted in these factories producing Olympic logo goods are no different from those which prevail in the many thousands of workplaces scattered throughout China.

The four factories we monitored not only produce for the Olympics but also for a range of well-known international companies, many of whom have codes of conduct which clearly are not being implemented. They are also responsible for ensuring working conditions are fair.

What is specially damning about these particular factories is that these factories have been officially awarded licenses to produce goods worthy of the spirit of "Olympism" - producing goods aimed at "promoting the Olympic Ideals and the Olympic Brand"

In the case of Ledit Stationary, the underage workers are the children of migrant workers. Obviously they came to the city with their parents, where they are not given the right to attend normal state schools and are therefore subjected to higher tuition fees. To solve the problem of school children workers there is a pressing need to look at the underlying problems of providing universal affordable education for all children and enforcing labour laws regarding employment of minors – including the tightening up of provisions allowing for the dubious practice of "work-study" scheme. While work placements for school children are common throughout the world the aim is to teach children a skill and give them an experience of the workplace – it is not to squeeze out unpaid or low paid labour from them nor should it be an opportunity for the school to gain funding or for the children to be exposed to excessive working hours and unsafe workplaces. It is most certainly not to allow children to remain working in factories against their will as in the case at Yonghong factory in Shenzhen.

In one sense Ledit and the three other factories highlighted in the Playfair report were unfortunate – to be highlighted when others around are so obviously using similar work practices with official support and the complicity of the school bodies. Terminating Ledit Stationary's license to produce Olympic goods does not help to solve the problem, but will instead drive other factories which have the same problem to be more deceitful and may put the underage workers in a worse situation. As shown at Ledit and in the other cases here mentioned management are already well aware of the need to hide child workers from visiting auditors and inspectors.

PlayFair has continued to stress the need for the IOC and BOCOG not to cut and run but instead to take proper measures to ensure its suppliers adhere to local and international labour standards. The severing of ties with Ledit and the failure of BOCOG to take proper action to monitor working conditions in all its licensed factories and to support and push for reforms by the Chinese government to address the root causes of child labour will not help the many thousands of child workers in China.