Understanding the Legalization of Child Labor: a Case Study of the Bolivian Child and Adolescent Code Reform

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UNDERSTANDING THE LEGALIZATION OF CHILD LABOR:
A CASE STUDY OF THE BOLIVIAN CHILD AND ADOLESCENT CODE REFORM

By

Jiaqi Yu

A THESIS

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On August 4 2014, the Law N. 548 Boy, Girl and Adolescent Code (Ley No. 548 Código de Niña, Niño y Adolescente) went into force in the Plurinartional State of Bolivia (Liebel, 2014: 1). According to the legislative provisions, Bolivia officially legalizes the socioeconomic existence of child labor and reduces the minimum age of entry into labor market to 10 years old, rendering it the lowest in the entire globe (Greenwood, 2014). Bucking the international trend of restrictive child labor regulation, the law leaves the country at odds with the International Labor Organization (ILO) and the United Nations (UN), who advocate combating and ultimately eliminating child employment. The new code also marks a stark departure from the nation’s preceding legislative course, where the Bolivian government had demonstrated compliance with the abolitionist principle at all levels of its normative framework. Against the backdrop of unprecedented policymaking, my thesis seeks to uncover the political formulation of the Law N. 548 and rationalize the causal forces that have made it imaginable. Through outcome-explaining process tracing, this research reveals three contributing factors for a highly controversial public matter to be legalized: 1) the prevailing, problematic and persistent presence of the issue; 2) a resourceful and proactive civil society movement
rooting for the institutional recognition; 3). a nationalistic state who finds the proteccionista cause culturally relatable and politically accountable.
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Chapter 1

Introduction

1.1 Antecedents

On July 3, 2014, a new law governing children and adolescents’ rights was enacted unanimously by the Legislative Assembly of the Plurinational State of Bolivia. After its promulgation 14 days later, the law entered into force on August 4. The new code has incorporated provisions that are deemed very controversial in recent global history of child legislation. As it stipulates, Bolivia officially legalizes the socioeconomic existence of child labor and permits children as young as 10-years-old to engage in labor performance, rendering the age limit the lowest in the entire world.

Ever since its materialization, the law has received polarized responses from domestic and international actors. The United Nations (UN), the International Labor Organization (ILO), Human Rights Watch (HRW) as well as some western countries such as Germany and the United States publicly expressed their condemnation of what they perceived to be a retrogression on human rights and called for immediate repeal of the child labor clause. Nevertheless, at the same time, Bolivian working children enthusiastically celebrated the unprecedented victory together with their sympathetic allies at non-governmental organizations and development agencies from both within and beyond the national territory. They consider the regulation of child labor as a courageous recognition of their rights and contribution by the state, and a promise to provide them with institutional protection in terms of income, health and education (Gaudin, 2014).

1 Law N.548 Boy Girl and Adolescent Code (known as Ley 548 Niño, Niña y Adolescente in Spanish)
2 For instance, Save the Children, Terres des Hommes, Fudación La Paz.
1.2 Research Motivation

According to the most recent national report on the magnitude and characteristics of child labor in the Plurinational State of Bolivia, about 28% of Bolivian minors between the ages of 5 and 17 years old—approximately 850,000—are actively engaged in some kind of economic activities. The figure is much higher in rural areas (65%). Of these working children, as many as 746,000 (25%) undertake jobs that are categorized as hazardous and, unfortunately in a lot of cases even lethal to their health\(^3\). Within this context, the Andean country passed the Law N.548 Boy Girl and Adolescent Code, turning Bolivia into the first country in the world where 10-year-olds working on the streets is legally institutionalized (Legal Monitor Worldwide, 2014).

This legislation marks a stark departure from Bolivia’s preceding policies. In 1990, 1997 and 2003, the national government took a proactive role in ratifying the United Nations Convention on the Rights of the Child (UNCRC), ILO Convention 138\(^4\) and Convention 182\(^5\) respectively, positioning its stance perfectly in line with the global trend to prohibit child labor. In terms of the domestic normative framework, under the stipulations of the previous Children and Adolescents Code\(^6\) (Law N. 2026), the Bolivian administration established the Commission on Children and Adolescents at both departmental and municipal levels. The Office of the Ombudsman for Children and Adolescents was also founded in most of the municipalities as an auxiliary agency aiding the local Commission. Any report of incident of violation of children’s rights, including child employment, could be channeled through these institutional delegates for

\(^3\) I’ll further elaborate on the specifics of child labor in Bolivia in Chapter 2.
\(^4\) ILO Convention No. 138 on the minimum age for admission to employment and work
\(^5\) ILO Convention No. 182 on the worst forms of child labor
\(^6\) The translation “Children and Adolescents Code” is used interchangeably with “Boy, Girl and Adolescent Code” in this thesis.
intervention. In addition, the National Commission for the Eradication of Child Labor was also created in 2002 under the coordination of the Ministry of Labor (Van den Berge 2009: 335). Soon after its foundation, the commission mapped out Bolivia’s governmental policy framework of child labor, the National Plan for the Progressive Eradication of Child Labor 2001-2010 (US Department of Labor, 2010). This series of policies carried out at the earlier stage demonstrates the state’s abolitionist approach to combating child labor prior to the current law. Given this, the Bolivian legislature’s stark departure from its previous course in July 2014 is in much need of scholarly analysis. My thesis thus seeks to explain why and how this legislation came to be passed.

1.3 Research Design

In this thesis, I opt for a qualitative study of a single case as a way of creating intimate and detailed knowledge that is useful in its own right as well as for comparison and theory building (Fontana and Grugel, 2015: 64). To be more specific, I adopt causal process tracing (CPT) as my inferential tool throughout the study, for its merit in capturing mechanistic causality from within-case accounts of policy decision-making. By applying process tracing, I am not only able to identify and describe the political formulation of Law N.548 but also elaborate on the path by which it came about (Collier 2011: 823). In light of the two operational approaches of process tracing, it is fundamental to clarify upfront that my methodological foundation is case-centric rather than theory-centric. Here my ambition is not to construct or test a generalizable theorized mechanism as intended in theory-centric process tracing (Beach and Pedersen, 2013: 11). Instead, I aim at crafting a sufficient explanation of a particularly puzzling historical
outcome—the legalization of child labor from the age of 10. The case-centric approach perceives the social world as highly complex, multifactored and context-specific matrix where generalizable knowledge is elusive and far-fetched. Hence, the explanation in pursuit—the legislative formation of the Law N.548—can not be detached from the situational particularities of Bolivia.

After the preliminary sifting and categorization of background knowledge, I generated to three hypotheses regarding why the unprecedented act of legalizing 10–year-old child labor happened—and only happened thus far—in Bolivia. It should be noted that, in the outcome-explaining process tracing, hypotheses are deployed as heuristic instruments that have analytical utility in providing the best possible causal explanation of the subject in question (Beach and Pedersen, 2013: 13). In this sense, in the iterative construction of forces that have brought the law into existence, I seek a minimally sufficient aggregate of explanations that accounts for all of the fundamental aspects of the legislative formation. As the thesis unfolds, I will be presenting and elaborating on these hypotheses in separate chapters.

The analysis of the first causal explanation—the ethnopopulist attributes of the Morales administration—is divided into two separate sections in Chapter 2 and 5 for structural reasons. Born of an indigenous rural movement, Bolivia’s governing party Movimiento al Socialismo (MAS) and its leader Evo Morales relied on a dual strategy combing ethnic and populist appeals in its ascent to power. In consequence, the MAS administration has given priority to indigenous issues, and is politically responsive to social movements, which provided a favorable context for the UNATBO’s causes in the legislative debate.
In an attempt to capture the policy trajectory of the child labor reform, I give a chronological account of the formulation of the law in Chapter 3. I first look at the international human rights conventions on child labor ratified by Bolivia and the corresponding legal framework in the country prior to the change of course in the wake of Evo Morales’s presidency. I then identify and describe the critical junctures in the 6-year legislative reform that led to the enactment of the new code. Accordingly, I also include an interpretive synthesis of the legislative text as well as responses to the law’s passage.

In Chapter 4, I look at the background cause that contributes to the formation of the new code. Only when a public matter yields great relevance and urgency in the national context, is the state likely to accord public resources to address it and incorporate it into institutional regulation. The prevalence and heightened precariousness of Bolivian children’s labor engagement, I contend, constitute the very first causal explanation for the policy outcome, for they had brought the topic of child labor onto the national political agenda. In this chapter, aside from presenting absolute numbers, I trace the distribution of working children in distinct sectors within the labor market, with an emphasis on jobs that are deemed hazardous or even detrimental to working children. Then I move on to data comparison based on gender, age, rural-urban locality and ethnicity as an attempt to uncover the pattern of concentration, if any, of a particular demographic. In light of the large ethnic population in the Andean country, I address the issue of children’s engagement in unpaid familial and communal work, for it is deeply embedded in indigenous norms. Lastly, I introduce Bono Juancito Pinto, the Bolivian conditional cash transfer program designed to keep minors at school instead of working on the streets.
Nevertheless, the project has not yielded satisfactory policy results, leaving a large segment of children still assuming economic activities from an early age. Objectively, the magnitude and entrenchment of child labor, and the worrisome conditions working children in, demand a legislative solution that is not simply a blanket prohibition.

Chapter 5 addresses the last causal explanation for the legalization of child employment at the age of 10, which is the Bolivian working children’s influential movement. Bolivia has a dynamic and highly progressive civil society, particularly on the matter of child labor. Apart from domestic children’s rights organizations, there is a tremendous presence and influence from international development agencies and NGOs who are dedicated to the promotion and safeguarding of Bolivian children’s well-being. Arguably, the most salient and resourceful organization of all, nevertheless, is formed and led by the working children themselves. The Union of Working Children and Adolescents of Bolivia (UNATSBO), founded in 2003, mobilized at the forefront of the legislative reform and successfully gained traction with the executive. The legalization of child labor would not have come into existence without the persistent pressure and tactical maneuver of the UNATSBO.

In a nutshell, this thesis seeks to make sense of the particularity of the legalization of child labor from 10-years-old on in the Plurinational State of Bolivia. I use process tracing to uncover three key forces, which, together brought about the policy path and outcome of the Law N. 548: 1) a favorable political context provided by the MAS administration; 2) the prevalence, urgency and persistence of child labor in Bolivia; 3) the strength of Bolivian working children’s movement.
1.4 Research Contribution

There is to date little scholarly analysis on this child labor reform. Researchers have analyzed and summarized the legislative text (“what”) without deepening the pursuit to “how” and “why” (Liebel, 2014; Coon, 2016). This thesis is intended to systematically document the policy path and identify the causal mechanisms behind the decision-making process, thereby filling the gap in current knowledge of the legislative reform.

In terms of policy implications, this study yields insights into public policy formation, in particular in contentious cases where the humanitarian concerns of international communities do not reconcile with the domestic reality. The legitimacy and effectiveness of external standards, albeit well-intentioned, are called into question when local actors deem it dictatorial and counterproductive. On the other hand, however, domestic grassroots stakeholders may carry considerable weight on executive decision-making if their mobilization causes and tactics speak to the government. Even though the methodological scheme in the thesis is case-centric, the Bolivian case illustrates effective strategies for bottom-up social articulation and mobilization with generalizable implications.
Chapter 2

The Past as Prologue to the Present: the Ethnopopulist Rise of the MAS and a Favorable Political Context for Bolivian Working Children

2.1 Bolivia before the MAS

In December 2005, 8.5 million Bolivian people were assured of a new chapter in their nation’s trajectory as the Aymara coca grower Juan Evo Morales Ayma and his leftist indigenous movement party—the Movimiento al Socialismo (MAS)—ascended to the national office. For the first time in Bolivian history, a presidential candidate won an outright electoral majority, obtaining 54% of the vote as well as control of the House of Deputies of the Congress\(^7\) (Farah, 2009: 1). The victory is even more astounding when we look at MAS’s predecessors.

Bolivia has struggled through a long history of political turmoil ever since its declaration of independence from Spain in 1825. In 1952, a revolution led by the Movimiento Nacionalista Revolucionario (MNR) party ushered in an era of political stability and economic prosperity. Nevertheless, the modern regime was ruptured by a military coup d’état in 1964. Bolivia was taken over by a series of dictators in the ensuing 18 years. Finally, in 1982, democratic governance was reinstated in the country after a joint effort of unions, human rights groups, traditional political parties and the Catholic Church (Farah, 2009: 3).

The two decades between Bolivia’s democratic transition in the 1980s and Morales’s ascension to the presidency were marked by power centralization, failed economic policies and the aggravated marginalization of the indigenous population (Anria, 2016: 101).

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\(^7\) 72 out of 130 seats.
Bolivia’s party system was fragmented after more than a decade long of authoritarian ruling, which led to the electoral impasse that no presidential candidate could win a majority at the polls. As a consequence of negotiations and compromises, the country was governed under a system known as “pacted democracy” (Madrid, 2008: 492) or “promiscuous powersharing” (Slater and Simmons, 2013: 1370) from the 1980s up until 2003. The three traditional parties, the Movimiento Nacionalista Revolucionario (MNR), the Acción Democrática Nacionalista (ADN) and the Movimiento de Izquierda Revolucionaria (MIR), traded offices among themselves tacitly (Madrid, 2008: 492), ensuring the exclusion of other political forces from the presidency. The static circulation of power consolidated horizontal accountability among traditional political elites but jeopardized vertical accountability for the larger populace (Anria, 2016: 101).

Power concentration was weakened when the administration of Gonzalo Sánchez de Losada promoted the Law of Popular Participation (LPP) in 1994. Under pressure from the international community advocating participatory democracy, the policy was introduced as a defensive measure to avoid the decentralization of power beyond municipalities (O’Neill, 2004). The implementation of the LPP created hundreds of municipalities and opened new institutional pathways for popular articulation and mobilization locally. Indigenous and popular movement candidates began to gain a foothold in municipal offices. Along with this, people started to view the traditional political parties as unrepresentative and unnecessary. In terms of popular incorporation at the departmental and national level, nevertheless, the introduction of the LPP, as the MNR intended, did not yield much success (Robinson, 2008). The frustration faced by

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8 The mass social uprisings led by Evo Morales and the consequent resignation of Gonzalo Sánchez de Losada in 2003 set off a succession of interim governments, whose governing attributes are different from the traditional political parties.
emerging indigenous political forces beyond the municipal level exacerbated their
growing sense of dissatisfaction with the old order.

The failure of market-oriented economic policies constitutes another major
impetus to popular disenchantment with the traditional political parties. Beginning in the early 1980s, against the backdrop of severe hyperinflation, the Bolivian coalition governments began to embark on a free-market model in accordance with the overarching prescriptions of the Washington Consensus. At the beginning, the neoliberal policies did bring down inflation, restore foreign financial flows and generate some initial growth. By the late 1990s, however, the national economy started to show signs of stagnation and retrogression. In 2005, the gross domestic per capita in Bolivia was actually lower than it had been in 1998. Moreover, the pressing problems of inequality, crime and unemployment were not addressed; they were, quite the contrary, significantly aggravated due to the unequal distribution of wealth and deepened class stratification (Madrid, 2008: 494-502).

During the neoliberal era, the privatization of many industries historically owned by the state as well as the cutting off of governmental subsidies to public enterprises that had long been the backbone of Bolivia’s economy but were no longer profitable—in particular, the closing of mines—led to massive unemployment and social malaise (Farah, 2009: 14). Adding to the popular sense of betrayal was the “bait-and-switch” trick pulled by the coalition governments. The traditional political parties had made false promises by campaigning against the neoliberal doctrine, yet after assuming office, they nevertheless adopted free-market reforms. The electoral deceit further discredited the political system, weakened partisanship and eroded institutional channels for dissent (Roberts, 2015).
Last but not least, the largest segments of the Bolivian population were further marginalized in the elite-dominated power structure. The overlapping classes of indigenous and peasant Bolivians—approximately three fifths of the nation—were practically invisible when it comes to political and economic decision-making (Anria, 2016: 101). Historically speaking, in relation to their nonindigenous counterparts, the indigenous communities in Bolivia had always lived in an inferior state. Nevertheless, the indigenous population found themselves even more disenfranchised particularly in the late 1990s and early 2000s as the traditional political parties deemed them subordinate and unworthy of institutional welfare. One example is the percentage of rural indigenous people living in extreme poverty, which increased from 65% in 1997 to 72% in 2002 (Hall and Patrinos, 2006).

The years between Bolivia’s return to democracy and Morales’s ascension to the presidency suffered from major democratic defects. The ineffective yet centralized political order, the failed economic policies and the underrepresentation of the demographic majority fed the feeling of disillusionment with the ruling of traditional parties. In December 2005, Morales and the MAS rode to power on the wave of disenchantment and on a promise of a new national beginning (Farah, 2009: 14).

2.2 The Ethnopopulist Rise of the MAS

Born of a rural social movement led by coca growers in the Chapare region of Cochabamba, the MAS managed to expand to Bolivia’s urban centers and assume national office ten years after its emergence in 1995. The unique ethnopopulist nature of

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9 Even though political incorporation was extended to indigenous people in the 1990s. Yet as aforementioned, their empowerment was local and limited.
10 The term “ethnopopulism” is drawn from Madrid’s article (2008).
MAS’s political strategy does not only deliver its electoral success but also makes the Bolivian case stand out, amid the prevailing resurgence of the political Left in Latin America at the late stage of the Washington Consensus era\(^{11}\) (Levitsky and Roberts, 2011).

A large branch of the existing literature on the Latin American Lefts promotes an overly broad criterion for categorization. These scholars tend to generalize the MAS as a populist regime thereby lumping together Evo Morales, Hugo Chávez in Venezuela and Rafael Correa in Ecuador in the radical and antiestablishment strand of the left bloc (Anria, 2013: 19) as opposed to Ricardo Lagos and Michelle Bachelet in Chile and Luiz Inácio Lula da Silva in Brazil in the modest and reformist one (Madrid, 2008: 503).

Nevertheless, Morales’s MAS differs from members in either matrix of the Latin American Lefts in nature, for it is an ethnopolitist party (Madrid, 2008: 503).

Enthnopopulism, by definition, refers to a hybrid and contingent electoral approach that addresses both populist and ethnic appeals (Anria, 2013: 20). Whereas exclusionary ethnic parties have wielded little political impact and the legitimacy of traditional populist governments is constantly challenged, inclusive ethnically based parties that adopt a classic populist electoral strategy have thrived in the Andean nations\(^{12}\).

The MAS’s inclusive electoral appeal helped it expand its constituency.

Traditionally, an ethnic party would only draw support from a single ethnic group.

\(^{11}\) The term “Washington Consensus” was coined by economist John Williamson in 1989. It refers to a set of market-oriented reforms widely held in Washington to be widely desirable in Latin America. This economic model aims at liberalizing trade, deregulating sectors and privatizing state-owned companies. Since the mid-1980s, governments in the region embraced these policies, ushering in the “Washington Consensus era” (Arnaut, 2015: 123).

\(^{12}\) The other comparable enthropolitical party in the region is the Movimiento Unidad Plurinacional Pachakutik (MUPP) in Ecuador. In the beginning, the party had been able to generate electoral success thanks largely to the combined approach. It began to go downhill as the executive took on an ethnonationalistic role at a later stage, leaving the MAS as the sole paradigm of enthropoliticalism (Madrid, 2008: 507).
(Gunther and Diamond, 2003: 183). The leaders of these parties concentrated on mobilizing members of their own community on the assumption that reaching out to other ethnic groups would be futile (Rabushka and Shepsle, 1972). In extreme cases, the ethnic leaders would even exaggerate the threats posed by other groups and adopt exclusionary discourse in order to gain better traction within the party (Madrid, 2008: 479). The fluid and ambiguous ethnicity of the Bolivian indigenous communities (Madrid, 2008: 485), nevertheless, renders the exclusionary rhetoric counterproductive in the local context. In this way, it is not just viable for the MAS to propose an inclusive agenda; it is, more significantly, the most rational electoral strategy to pursue in light of the low level of ethnic polarization and blurred boundaries of indigenous identity. On one hand, the MAS operated like a traditional ethnic party by presenting itself as the legitimate delegate of the historically disenfranchised indigenous population. The party frequently prioritized the interests and demands of the indigenous people, and they typically employed cultural and political symbols associated with it (Madrid, 2008: 481). On the other hand, in order to capture sympathy from members of a diverse array of different ethnic groups, the inclusive indigenous-based party developed a common appeal that transcends ethnicity. The party denounced privatization, trade liberalization, and other Washington-backed economic policies and called for income redistribution, agrarian reform and the nationalization of natural resources. In addition, it harshly discredited the traditional officialdom as corrupt, incompetent and submissive to foreign manipulation and domestic hierarchy (Madrid, 2011: 239). By incorporating pressing popular concerns in the electoral campaign, the MAS successfully recruited advocates from the outside and transformed a single ethnic constituency to an unusually diverse and strong rural-urban
alliance which included indigenous groups, peasant and urban labor unions and neighborhood associations (Anria, 2016: 102). In particular, organizations of teachers, truckers, street vendors and factory workers were mobilized to join the party and helped it secure advocacy in urban, mestizo-dominated areas where it originally had not achieved much empathy (Madrid, 2011: 241).

Aside from the ethnic component, equally crucial to the electoral victory of the MAS was its embrace of standard populist approaches. Similar to what Chávez’s Venezuela and Correa’s Ecuador witnessed, the MAS adopted three fundamental populist strategies. Firstly, capitalizing on the massive disillusionment with the traditional elite order, the MAS expressed its antiestablishment standpoint. The movement-based party (Anria, 2013: 20) organized and participated in numerous social protests against the coalition governments, ranging from marches and demonstrations to roadblocks. The most powerful uprising took place in 2003 when a popular unrest led by Morales himself cut the capital off from supplies of food and basic goods and consequently resulted in the collapse of the Losada administration (Farah, 2009: 4). The social movement background of the MAS also helped to further validate the stance. As rural indigenous mobilization leaders, the candidates of the MAS had no previous authoritative experience to speak of, an advantageous quality that differentiated them from other electoral competitors in nature. In the eyes of the Bolivian people, this grassroots party was genuine, accessible and linked to numerous social organizations rooted in their own communities, who could actually bring some changes to the plight of the underprivileged majorities. Secondly, the MAS promoted nationalist, state-interventionist and redistributive policies, taking advantage of the widespread discontent with the market-oriented model. The party
vigorously denounced the traditional ruling clique as traitors to the nation and docile servants of foreign forces in its 2002 governing program (MAS, 2002: 9). The recuperation and nationalization of the natural resource industry had always been a focal point of the party manifesto, as was the opposition to coca eradication programs (Madrid, 2008: 494). These moves successfully echoed the nationalist sentiments of the people, who were eager to cast off Washington interference and reclaim their national sovereignty. Lastly, like any populist regime, the party offered the Bolivian people a down-to-earth charismatic icon, Evo Morales (Anria, 2016: 100). As an indigenous coca grower with a humble background, the personalistic leader was able to create an authentic appeal and present himself as a genuine, trustworthy spokesman who empathized with the general populace. Nevertheless, the ethnopopulist MAS differed from other traditional populist and leftist parties in its identity-based linkages to the electorate. The ethnic bond provided the MAS with the intrinsic upper hand in winning support from the rural indigenous peasantry—a vast demographic in the case of Bolivia that classical populism experienced difficulty penetrating (Madrid, 2008: 503). In addition, the ethnic-based linkages assured the MAS of a much more stable and enduring alliance with the constituency, whereas the mass advocacy of populist regimes was purely performance-based, which proved opportunistic and fragile (Madrid, 2008: 504).

Within this in mind, why other Latin American countries have not gone the ethnopopulist route? Or, if some tried, why did it not pan out? Indeed, as the only stance of ethnopopulist governance in the region (Madrid, 2008: 507), the success of the MAS is both contingent and strategic. According to data released by UN Economic Commission for Latin America and the Caribbean (ECLAC), Bolivia has the largest indigenous
demographic in the Americas, at 66.2% of the total population. As the absolute majority, this demographic helps, to a great extent, the success of the MAS because it has been empirically shown that indigenous communities have a higher propensity to support ethnopolitical parties (Rice and Van Cott, 2006). In contrast, it would not make much sense for countries like Colombia and Venezuela to mobilize on the basis of ethnopoliticalism, given the much smaller indigenous population. Additionally, the strength of a country’s indigenous/social movement is pivotal in influencing the chances of achieving ethnopolitical rule. In Bolivia and Ecuador, robust indigenous/peasant movements armed the ethnopolitical parties with candidates, activists and organizational legitimacy (Madrid, 2008: 505). However, in Guatemala, the country with the second largest indigenous population in Latin America following Bolivia, a similar ethnopolitical initiative failed to get its candidate Rigoberta Menchú elected, for it was not sustained by any mass organizations or social movements (Falla, 2007). Lastly, ethnic inclusiveness is indispensable for an established ethnopolitical regime to maintain its appeal and authority. As shown by the Ecuadorian Pachakutik case, the gradual departure from inclusive ethnic rhetoric was fatal for the movement’s momentum, even though it had fared quite well at the beginning. Despite the considerable indigenous population and dynamic mass mobilization in Ecuador, Pachakutik failed to retain its popularity as it became ethnically exclusionary (El Comercio, 2005).

As we can see, the electoral victory of the MAS is attributable to its adoption of ethnopolitical approaches. Such tactical disposition is both contingent and strategic. On one hand, in a country where ethnic identity is fluid and multiple like Bolivia, the MAS had greater incentives to employ ethnically inclusive appeals to recruit advocates from
other popular sectors of the society. On the other hand, the party eschewed the traditional populist ideologies in light of the substantial demographics of rural indigenous peasantry. The incorporation of ethnic discourse provided the MAS with much more personal and enduring bonds to its constituency, thereby enabling the party to attain a higher level of electoral loyalty than classic populism likely could have (Madrid, 2008: 508).

In conclusion, the MAS embarked on the novel combination of ethnic and populist appeals and consequently ascended to the presidency. The hallmarks of MAS’s ethnopolitical strategies did not only ensure the party’s electoral success, but also most importantly, laid the foundation for a favorable political context for indigenous/social movements. It was against this backdrop that a prominent and even decisive role was given to the UNATSBO in legislative decision-making under the Morales administration.
Chapter 3

Law N.548 Boy, Girl and Adolescent Code (Ley No.548 Código Niña, Niño y Adolescente)

3.1 Legislative Framework of Children’s Rights and Child Labor in the Past

International Human Rights Agreements

In June 1990, among the first 10 countries in the globe that took the initiative, Bolivia ratified the UN Convention on the Rights of the Children (UNCRC). In an attempt to rectify the omission of children’s rights in international human rights treaties, this convention sets out a full range of entitlements for minors, covering issues such as education, migration, family law, poverty and asylum seeking. Nevertheless, as the forerunner in promoting children’s rights, the UNCRC does not set forth clear policy orientations nor specific strategies in hope of gaining better traction among prospective member states. Likewise, contentious issues pertaining to child labor—such as its regulation and legitimacy—are deliberately disregarded, because they contradict the reality of many countries from the Global South thereby jeopardizing the ratification process (Fontana and Grugel, 2015: 66-67). Interestingly enough, almost two decades after its establishment, working children in Bolivia took advantage of the very looseness of the UNCRC—recognizing and advocating for children’s rights while dodging the issue of child labor—proclaiming their place in policymaking and right to legal employment.

In 1997, Bolivia ratified the International Labor Organization (ILO) Convention 138 on minimum age for entry into employment. The international agreement states that a child’s involvement in the labor market can only happen after the age of 14 years old. Also, it stipulates that the minimum age for admission to any type of employment or

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13 Further elaboration is presented in Chapter 3.
work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons shall not be less than 18 years. However, the new Law N.548 clearly goes against this convention, as it allows children below the age of 14 to be employed and even to engage in acknowledged hazardous work in exceptional cases.

The ILO Convention 182 was ratified by Bolivia in 2003. The provisions in the convention deal with the prohibition and immediate action for the elimination of the worst forms of child labor. It identifies four categories of labor engagement as intolerable: 1) modern slavery, debt bondage and similar practices including forced or compulsory recruitment of children in armed conflicts; 2) sex work, including pornography and prostitution; 3) illicit activities, in particular drug trafficking; 4) any other work that by its nature is likely to harm the health, safety and morals of children. As reflected in the convention, the elimination of children from all forms of hazardous work is merely ILO’s first measure whereas its long-term commitment lies in the comprehensive eradication of child labor (Fontana and Grugel, 2015: 69).

**Institutional Mechanism for Coordination and Enforcement in Bolivia**

The predecessor of Law N. 548 is Law N. 2026 of October 1999. The old code set the minimum age for employment at age 14, with no exceptions allowed. In addition, children over the age of 14 must have the permission of their parents or government authorities to work and are not allowed to participate in hazardous activities such as working underground, working with pesticides and other chemicals, carrying excessive weights, working at night and working in the harvesting of cotton, sugarcane or Brazil
nuts. The law also demanded of employers that they grant time off to adolescent workers who had not completed primary or secondary education so that they would be able to attend school at the same time (US Department of Labor, 2010: 82). However, Law N.2026 failed to offer differentiation between labor and exploitation, which the working children took issue with as they appealed for legislative reform later on.

The old law helped create the Inter-institutional Commission of Child Labor Eradication (Comisión Interinstitucional para La Erradicación del Trabajo Infantil, CIEPTI) in 2002. According to Articles 172 and 174, the Commission, which was comprised of state ministries and various NGOs involved in child labor issues, had the mandate to propose, consult, monitor and evaluate public policy. Under the coordination of the Ministry of Labor, the commission served as the platform for consultation and collaboration between the state and civil society. Its functioning, as regulated by the code, was autonomous and independent of the executive (Morlachetti, 2013: 19). The commission set forth Bolivia’s governmental policy framework of child labor, the National Plan for the Progressive Eradication of Child Labor 2001-2010. The Ministry of Labor was given the overarching authority to enforce child labor laws, primarily through its Fundamental Rights Unit (Unidad de Derechos Fundamentales). The unit was also entrusted with the specific responsibility to protect indigenous people from any form of forced labor (US Department of Labor, 2010: 83).

In accordance with the provisions in Articles 176 and 192, the institutional mechanism for child protection operated in a decentralized manner. In the Departmental Council of each province, a Commission for Children and Adolescents was created, which had a proactive, consultative and oversight function on policy and care services for
children. The commission consisted of departmental councilors and representatives of formal civil society organizations with legal status directly related to activities of prevention, care, protection and defense of the children within the departmental parameters. Accordingly, a corresponding Commission on Children and Adolescents was established at the municipal level, whose functioning was dependent on services of the Office of the Ombudsman for Children and Adolescents as promoting agencies for free social consultation, legal defense and advocate for the safeguard and fulfillment of minors’ rights (Meschwitz and Sanabria, 2004).

3.2 The 2009 Constitution of the Plurinational State of Bolivia

The legislative shift regarding children’s rights and child labor first emerged in the rewriting of the 2009 Constitution of Bolivia, the formulation of which led to a subsequent process of reform where the working children steered their cause through the executive.

Upon taking office in 2006, the MAS leader Evo Morales promised to oversee the reformation of Bolivia based on socialist and indigenous precepts to be enshrined in a new constitution, which would bring justice and prosperity to the disenfranchised Andean people for the first time in centuries. Indeed, he carried through on his promise as a highly participatory Constituent Assembly was convened in June 2006. The writing of the constitution became protracted due to constant conflicts between the incumbent MAS and the right-wing opposition. In 2009, the new constitution was finally ratified by a popular referendum.
The constitution includes many stipulations that defend children’s interests. Article 58 states “all children and adolescents hold rights, and an ethnic, socio-cultural, gender and generational identity, as well as the right to meet its needs and aspirations.” Furthermore, Article 59 provides for the right to comprehensive development and Article 60, the priority to the best interest of the child in the public and private sector, as well as in the administration of justice. Article 81 guarantees the provision of public schooling by setting the free compulsory education up to the secondary level (Asamblea Legislativa Plurinacional de Bolivia, 2009).

In the eyes of the 850,000 Bolivian working children, the 2009 Constitution marks a milestone for their mobilization, as it conveys a new “legalizationista” stance on the part of the state. For the first time, the national constitution acknowledges and contextualizes the existence of child labor in the country under dignified conditions (Morsolin, 2011). Article 61 states:

“Se prohíbe el trabajo forzado y la explotación infantil. Las actividades que realicen las niñas, niños y adolescentes en el marco familiar y social están orientadas a su formación integral como ciudadanos y tendrán una función formativa. Sus derechos, garantías y mecanismos institucionales de protección serán objeto de regulación especial.” (Asamblea Legislativa Plurinacional de Bolivia, 2009: Artículo 61).

This provision prohibits forced labor and any form of violence and exploitation of children. More significantly, it deems children’s labor engagement within family and society acceptable, as long as it assumes a formative function for the children’s development. The delivery and safeguard of children’s rights is at the core of special institutional protection.

14 The Bolivian working children’s social movements, led by la Unión de Niñas, Niños y Adolescentes Trabajadores de Bolivia UNATSBO, will be thoroughly discussed in Chapter 5.
As a side note, it is also worth mentioning the clause stated in Article 124, which indicates that children are not excluded from participating in designing public policies. This stipulation provides constitutional ground for the working children’s movements later in the run-up to the new code for children and adolescents.

3.3 Law N. 548 Boy, Girl and Adolescent Code (Ley No.548 Código Niña, Niño y Adolescente)

The new Constitution of the Plurinational State of Bolivia entered into force in January 2009, which led to a subsequent transitional period in the national legislature. As amendments to existing laws were required for conformity with the new constitution, the revision of the Law N. 2026 of October 1999 was put on the legislative agenda.

By the end of 2013, the national lawmakers in Bolivia had already completed a draft of an updated law, which was composed in accordance with the ILO and the UNICEF standards, maintaining the minimum age for entry into labor market at 14 years old. However, this draft did not end up becoming formalized as the Bolivian working children found it unacceptable and mass-protested against it15 (Schweimler, 2014).

In the aftermath of the social movement, charged with the mission to reformulate the law, a special committee comprised of working children and legislators was assembled under the executive’s instructions. In July 2014, the rewritten law was enacted unanimously by the Legislative Assembly of the Plurinational State of Bolivia and took effect soon after in August.

15 The overarching influence of the UNATSBO on Bolivia’s legislative reshaping concerning child labor—both in the Constitution and the Boy, Girl and Adolescent Code—will be discussed in detail in Chapter 5. I am only obliged to mention their mobilization in this part as it constitutes the critical turning point in the legislative formulation.
The Law N.548, Boy, Girl and Adolescent Code, applies to all Bolivian children and adolescents up to the age of 18. It requires all levels of the state to guarantee the minors the full and effective exertion of their rights. Another vital role is assigned to the family and society, for the protection, education and development of children under equitable conditions. The section regarding children’s rights consists of the following chapters:

- children’s right to life, health and healthy environment
- children’s rights to family life
- children’s right to nationality, self-identity and affiliation
- children’s right to education, information, culture and recreation
- children’s right to have opinion, participation and petition
- children’s right to employment protection
- children’s right to freedom, dignity and image privacy
- children’s right to personal integrity and protection against violence

A brief list of children’s duties is included in the code as well. Nevertheless, the fulfillment is more of a moral nature, for it does not constitute the prerequisite for children to exercise their rights (Asamblea Legislativa Plurinacional de Bolivia, 2014).

The new code has made some undoubted breakthroughs that its critics often tend to overlook (El Diario, 2014). In addition to provisions on the protection of children’s rights as a whole, the legislation contains an entire section on the juvenile justice system, which its predecessor failed to address. Appropriate penalties are imposed to cases of bullying, harassment, sexual violence and infanticide. For adolescents in conflict with the law, they are now offered an alternative mechanism of dual educational and correctional purposes instead of a simple deprivation of liberty (Asamblea Legislativa Plurinacional de Bolivia, 2014).
What is truly groundbreaking in the law are the rules governing children’s rights to employment. For the first time in the history of child legislation, a law does not pose a blanket ban on children’s work under the age of 14. Instead, it differentiates between labor types and children of different ages (Liebel, 2014: 4). The Article 129 (2) allows children as young as 10 years old to work in self-employment and those as young as 12 years old to work for third parties, upon authorization from the municipal Office of the Ombudsman for Children and Adolescents, provided that the labor does not cause any adverse impact on the children’s health, education, dignity and overall development. The approval is also contingent on the issue of consent from a parent or guardian of the child as well as eligible medical and psychological evaluation results. In addition, an express consent from the applicant child is requested from the very start.

The new code assures all working children in Bolivia of a right of protection a work, whose provision must be the prioritized obligation of the state, the society and their families (Asamblea Legislativa Plurinacional de Bolivia, 2014). The legislative incorporation and safeguard provided by the Law N.548 for the working children is so remarkable in the sense that the only conception and form of protection existed before is to exclude children from labor participation up to a certain age, as campaigned by the ILO and UNICEF (Liebel, 2009: 4). Nevertheless, blanket prohibitions have actually proven to render working children defenseless (Bourdillon, Levison, Myers and White, 2010), because instead of resolving problems, they make a large part of the working population effectively invisible. In cases of maltreatment at work, the minors wouldn’t be able to invoke any rights, as their engagement is deemed illicit in the first place.
Another distinguishing feature of Law N.548 lies in its contextual interpretation of household labor in the spirit of the local culture. As indicated by the stipulation in Article 128, a supreme role is accorded to the indigenous familial/communal work, as it is considered legitimate regardless of the minor’s age. This type of labor, deeply rooted in Aymara and Quechua traditions, encompasses domestic and agricultural work pertaining to the collective subsistence of the indigenous families and communities. In both the code and the 2009 Constitution, these activities are explicitly characterized as having a positive effect on the development of the children as capable and humble citizens as well as on the Buen Vivir (Good Life) of the indigenous households and communities as a whole (Asamblea Legislativa Plurinacional de Bolivia, 2009 & 2014).

3.4 Domestic and International Responses to the New Code

The promulgation of Law N. 548 has generated polarized responses from both Bolivian and international actors, whose ideological divergence is focused on the provisions in relation to children’s employment.

The ILO disapproves of Bolivia’s legalization of child labor from 10 years old. In an official statement issued right after the enactment of the new code, the ILO expressed its four concerns regarding the legislation, which are directed to the self-employment at 10, the employment under a third party at 12, the labor involvement in hazardous work in the family or community sphere and the underlying viewpoint as to the inevitability of child labor (2014). Similarly, Guillermo Dema, a subregional coordinator with the ILO’s International Program on the Elimination of Child Labor (IPEC) denounced the code as “a return to the times of slavery” (Gaudín, 2014).
The UNICEF shares the opinion of the ILO on the matter, as it upholds the same point of view, arguing that premature labor participation removes children from education and therefore jeopardizes their intellectual development and violates their innocence and right to protection (Fontana and Grugel, 2015: 65). Marcoluigi Corsi, a UNICEF representative, criticized the law for that it “could encourage more young children to seek jobs, stunt their education and perpetuate a cycle of poverty” (Otis, 2014).

As for the Human Rights Watch (HRW), a New York-based humanitarian NGO that had even presented a petition to the Bolivian president Evo Morales back in January 2014 urging him not to lower the minimum age of children’s employment, condemned the code as setting a bad example and being out of step with the rest of the world. Jo Becker, the advocacy director of the children’s rights division at HWR, further expressed her disappointment at the Bolivian state’s adoption of such “counterproductive measures” in a column article published on the organization’s website. In her opinion, the government has the responsibility to carry out laws that protect children from child labor rather than facilitating their involvement (Becker, 2014).

In Germany, Sabine Weiss, the deputy chairperson of the German Parliament’s Committee on Economic Cooperation and Development, questioned the progressive approach of the Bolivian legislature, for she believes that no politician can resort to child labor as a systematic solution for poverty, not even temporarily (Legal Monitor Worldwide, 2014).

Other outside groups, such as Save the Children (SC) and Terres des Hommes (TDH), expressed a favorable point of view of the government initiative. "One has to have the necessary humility and wisdom to look at the situation as it really is and accept
that, in this region, children are an active part of the family economy and, starting at a young age, play a vital role in the community," commented a spokesperson for Save the Children (Gaudín, 2014).

As for the working children themselves, the group that pushed for the formulation of the code from their perspective, they enthusiastically celebrated its promulgation. They expressed their appreciation and gratitude to the Bolivian government for respecting the national reality rather than surrendering to international opinion. Moreover, the working children vigorously defended their state in the face of vociferous censure from the international community. Calling the opposition insensitive and condescending, the working minors expressed their ardent faith in the institutions for the delivery of their rights and safeguard at work in the future (Agencia EFE, 2014).

3.5 Conclusion

Upon the enactment of the Law N. 548 Boy, Girl and Adolescent Code, the vice president Álvaro García Linera noted the complexity in the making of the legislation. On one hand, there was a set of international human rights conventions that needed to be respected due to Bolivia’s previous ratification. On the other hand, the state couldn’t turn a blind eye to children’s need for work, which is driven by the nation’s reality of poverty as well as indigenous heritage in relation to collective labor (Gaudín, 2014). While drawing up the law, the legislature tried to take both sides into consideration, which was not an easy task at all. Nevertheless, the reconciliation is still achieved to some extent as reflected in the provisions. In an attempt to fulfill the demands of the Bolivian working children, the law allows children under the age of 14 to legally participate in labor work.
In addition, cultural justification and ethnic privilege are accorded to children’s work carried out in indigenous households and communities, removing it from the scope of child labor as set out in the ILO conventions. At the same time, however, the employment of children under 14 years old is specified as exceptional and is subject to a series of regulations. In this way, the code still stands in line with the ILO standards, at least for the most part.

No matter how people perceive the essence of the Law N. 548— an articulate political compromise or a just equilibrium—it does not undermine the progress it has made in providing 850,000 Bolivian working children with an institutionalized mechanism of protection and support. More fundamentally, for the first time, working children are not treated as social cases, as problematic phenomena that need to be dealt with. They are, instead, active social actors whose rights and demands should and must be valued by the national government. This would not have been possible in the case of a blanket prohibition (Liebel, 2014: 10).
Chapter 4

Child Labor in Bolivia

Driven by the necessity for survival and/or ethnic traditions, a particularly large segment of Bolivian children are found in employment. Their widespread and intensive assumption of economic activity—from the Amazon basin to the Andean hills, from dawn till dusk—renders the phenomenon of child labor an omnipresent public issue whose sociopolitical relevance is unparalleled. Additionally, the majority of the Bolivian working children are involved in precarious jobs that pose severe and irreversible threats to their welfare. For instance, the globally notorious Cerro Rico, Potosí, known as the man-eating mountain, led to the death of 60 child miners in 2008 alone (Enzinna, 2013). The pressing adversity and deeply entrenched prevalence of child labor in Bolivia propel the debate of its normative regulation onto the executive agenda, opening up pivotal political spaces for the articulation and mobilization for legalization of child employment from 10 years old.

4.1 The Scale of Child Labor in Bolivia

As children and adolescents under the age of 18 make up 47% of the national population (UNICEF, 2001), child-related issues wield great significance for the Bolivian state in terms of public policymaking. According to a national report issued by the National Institute of Statistics (broadly known as Instituto Nacional de Estadísticas in Spanish, INE) and the ILO in 2010, almost 28% of Bolivian minors between the ages of 5 and 17 years old—approximately 850,000—are actively engaged in some kind of economic activity. In rural areas, where 65% of minors participate in labor performance,
the employment of children is perceived as commonplace. Moreover, as many as 746,000 minors—87% of all working children—undertake jobs that are categorized by the ILO as hazardous and, unfortunately in a lot of cases even lethal to their health. In addition, the UNICEF also carried out a study of Bolivia’s child labor situation. Addressing the issue of child labor as “one of the country’s most acute problems”, the UN institution notes that Bolivian minors make up 34% of the economically active population (EAP) in rural areas and 24% in cities. It is also revealed that the incidence of child employment among the children aged 5-13 years old is 22.7% and rises up to 35.4% in the older age group of 14-17 (UNICEF, 2013).

Four characteristics of child labor participation are exhibited below in Table 4.1. First and foremost, Bolivian child employment is primarily a rural phenomenon. As noted before, 65% of rural children are economically productive as opposed to 17% of those in the urban metropolises. Secondly, boys and girls are equally active in the labor market as there is little evidence of gender-based discrepancy. Even though more male minors are found in employment than their female counterparts, the difference is nominal. Thirdly, Bolivian children’s labor participation intensifies with age, posing a worrisome threat to the nation’s educational performance at the secondary level. Lastly, indigenous children are much more engaged in employment than non-indigenous ones. It is estimated that 93% of rural indigenous boys and 90% of rural indigenous girls between 14 and 17 years old are involved in labor work.
Table 4.1 Population of Economically Active Children in Bolivia, 5-17 age group
(in percentage terms)

<table>
<thead>
<tr>
<th>Locality and Age</th>
<th>Male</th>
<th></th>
<th>Female</th>
<th></th>
<th>National</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Non-Indigenous</td>
<td>Indigenous</td>
<td>Total</td>
<td>Non-Indigenous</td>
<td>Indigenous</td>
</tr>
<tr>
<td>Urban</td>
<td>16</td>
<td>29</td>
<td>18</td>
<td>14</td>
<td>24</td>
</tr>
<tr>
<td>5-13</td>
<td>10</td>
<td>20</td>
<td>12</td>
<td>19</td>
<td>17</td>
</tr>
<tr>
<td>14-17</td>
<td>32</td>
<td>41</td>
<td>34</td>
<td>25</td>
<td>35</td>
</tr>
<tr>
<td>Rural</td>
<td>54</td>
<td>82</td>
<td>67</td>
<td>46</td>
<td>79</td>
</tr>
<tr>
<td>5-13</td>
<td>46</td>
<td>78</td>
<td>61</td>
<td>42</td>
<td>75</td>
</tr>
<tr>
<td>14-17</td>
<td>74</td>
<td>93</td>
<td>83</td>
<td>59</td>
<td>90</td>
</tr>
<tr>
<td>Total (in thousands)</td>
<td>256.88</td>
<td>200.52</td>
<td>457.40</td>
<td>205.67</td>
<td>184.96</td>
</tr>
</tbody>
</table>

Source: elaborated by author using data from ILO and INE joint publication

Aside from the population percentage, an alternative measurement of children’s labor involvement is the length of working time. The same patterns revealed above repeat themselves in Table 4.2. Working children in rural areas tend to work four times longer than the urban ones, with an average time of 12.7 hours per week. Similarly, children in older age groups and of indigenous descent work more. The time differential between working boys and girls again, does exist to a modest extent with the former engaging more intensively. It is worth noting that a rural ethnic child between the age of 14 and 17 works for 25.8 hours per week on average, namely for almost 4 hours every single day.
Table 4.2 Average Weekly Working Hours of Children in Employment in Bolivia, 5-17 age group

<table>
<thead>
<tr>
<th>Locality and Age</th>
<th>Male</th>
<th>Female</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Non-Indigenous</td>
<td>Indigenous</td>
<td>Total</td>
</tr>
<tr>
<td>Urban</td>
<td>3.2</td>
<td>0.61</td>
<td>3.7</td>
</tr>
<tr>
<td>5-13</td>
<td>1.5</td>
<td>0.34</td>
<td>1.8</td>
</tr>
<tr>
<td>14-17</td>
<td>7.7</td>
<td>1.03</td>
<td>8.2</td>
</tr>
<tr>
<td>Rural</td>
<td>10.1</td>
<td>1.76</td>
<td>13.1</td>
</tr>
<tr>
<td>5-13</td>
<td>6.7</td>
<td>1.44</td>
<td>10.4</td>
</tr>
<tr>
<td>14-17</td>
<td>19.6</td>
<td>2.64</td>
<td>22.9</td>
</tr>
</tbody>
</table>

Source: elaborated by author using data from ILO and INE joint publication

4.2 The Worst Forms of Child Labor in Bolivia

Mining: In the UNICEF report (2013), three types of work are given special attention, for they are considered to be the worst kinds of child labor. Topping the list is mining. It is estimated that 10% of all Bolivians who work in the mining industry are children and adolescents, amounting to 3,800 people in absolute value.

The extremely precarious working conditions in the mines pose imminent threats to the wellbeing of children. Ever since the state mining company went bankrupt in 1985, thousands of private Bolivian cooperatives have been running the silver, tin and zinc mines in the country (Salman, Carrillo and Soruco, 2015: 362). Most of these small-scale cooperatives are just squads of miners exploiting excavations by themselves, without any
precautionary measures or equipment maintenance on a regular basis. A charcoal lamp, helmet, boots and a pickaxe are the miners' only tools. A child miner could very likely be blown up while shoveling into a wheelbarrow, as unplanned dynamiting constantly happens below the ground (Davidson and Ladkani, 2005).

Working in mines also harms the children in the long run. The average life expectancy of Bolivian miners is less than 40 years (Schipani, 2008), as they are frequently exposed to toxic chemicals and dust all. Similarly, an incurable lung disease by the name of silicosis is quite common among experienced miners (Johnson, 2007: 8). Since many children start working in the mining industry at a tender age—often as young as 10 years old or less—they are more vulnerable to asbestos particles and noxious gases due to physical underdevelopment. Many adolescents need respiratory auxiliaries for the uptake of oxygen after a decade down the mines. In addition, it is worth noting the heavy psychological toll such desperate conditions takes on child miners. When the children go into mines, they are well aware that they may not be able to come home that day, given the aforementioned hazards prevailing underground. If they do manage to survive the day, it doesn’t change the fact they probably do not have a very long life. The inescapable misfortune, in time, creates familiarity with tragedy and acceptance of death, both for the children and their families (Coster, 2010).

What makes the plight of Bolivian child miners even worse is the exploitative treatment they receive. In the UNICEF report, it is disclosed that there are occasions when children under the age of 12 are paid in kind. That is to say, they are given a minimal percentage of the minerals they extract rather than actual remuneration. The adolescents, who mostly work night shifts in order to go to school during the day, make
merely $3 USD for 12 hours at a depth of more than a thousand meters (Gaudín, 2014).
The female child miners are faced with sexual exploitation too. Since they work deep
down the ground with only the company of fellow miners (mostly men), there have been
incidents of them being raped or even beaten to death (Global Journalist, 2014).

**Harvesting of Sugarcane and Brazil Nuts:** The second and third-ranking worst
types of work for Bolivian children are sugarcane and Brazil nuts harvesting. Given that
they are both agricultural activities in nature, the two forms of labor are discussed here
together.

The work of sugarcane harvesting concentrates in the wealthy eastern province of
Santa Cruz from May to November every year. It is calculated that some 40,000 peasants
make up the manpower, approximately one-fifth of whom are children aged 9 to 13
(Gaudín, 2014). The annual harvest time for Brazil nuts spans eight months from April to
November. The operation primarily takes place in the department of Beni, near the city of
Riberalta. As of 2007, when the most recent data was last published, an estimated 2,600
boys and girls and slightly more than 2,000 adolescents took part in the harvesting. The
working conditions are considered arduous in both cases. On the plantations, the child
harvesters are constantly exposed to potential dangers from snakebites, falling nuts and
the misuse of machetes. In addition, these working children tend to suffer from malaria
and diarrhea frequently, due to the lack of running water, sanitary services and basic
medical care. As the harvester population is mostly migrant, a large portion of the
children are seasonal commuters from other rural parts of the country. By being away
from home for a long period of time every year, their educational attainment is in jeopardy (Van den Berge 2009: 336).

4.3 Unpaid Familial/Communal Work

With 66% of the national population being indigenous (Zeppel, 2006: 67), Bolivia has the most entrenched and widespread customs of collective labor work. The younger generations have also inherited the ethnic practice from an early age. As exhibited below in Figure 4.1, more than two thirds of the working children in Bolivia are found right at home, undertaking non-remunerated labor for their family and/or community.

Figure 4.1 Distribution of Bolivian Child Workers by Employment Type, 5-17 age group (in percentage terms)

Source: elaborated by author using data from ILO and INE joint publication
Figure 4.2 disaggregates the population of unpaid child workers according to locality and gender. As demonstrated, child participation in unpaid household labor\(^{16}\) remains pervasive even in urban cities and among boys—the two subsets where the occurrence of this type of work is least expected—indicating its overall prevalence. Still, the highest proportion of children undertaking unpaid familial/communal work is found in rural areas. This pattern of proliferation is also seen in the girls’ group.

**Figure 4.2** Participation in Unpaid Household Labor by Region and Gender, 5-17 age group

(in percentage terms)

Source: elaborated by author using data from ILO and INE joint publication

\(^{16}\) The phrase “unpaid household labor” is used in lieu of “unpaid familial/communal work” to avoid repetitive wording. Both shall be distinguished from domestic labor, for the latter refers to remunerated labor participation that occurs in someone else’s home, such as being a maid or nanny.
The high level of child involvement—for the most part indigenous—in unpaid household work in rural areas of Bolivia is attributable to local customs. In the Andean traditions, a child is considered part of his/her own family and more significantly, of a broader community that is responsible for protecting and nurturing the child. Therefore, in return, the child is expected to engage in certain activities for the common good of the family and community at a tender age. Certain forms of labor initiatives, such as working in the fields or doing domestic chores, are hence considered as a natural and honorable step of the child’s integration into the collective entity. Working is part of the socialization process, which instills traditional knowledge of manual production and values of hard work and solidarity into the younger generation (Van den Berge 2009: 338).

Additionally, Bolivian female children in the rural indigenous areas are engaged in unpaid household labor most intensively. Apart from the cultural reasons, it is also because women in these places are mainly expected to assume nothing more than familial/communal responsibilities. As a result, girls embark on this role early in life and their school achievements are not as valued as those of indigenous boys (Zapata, Contreras and Kruger, 2011: 592). Adding to the norm of gender-based labor division is the perception that investments in girls’ schooling is not cost-effective and therefore pointless, as 75% of employed rural women do not receive any income for their work (Contreras, Kruger and Zapata, 2007). Hence, instead of betting on some improbable educational return a decade later, most rural indigenous families encourage the girls to work at home, which yields tangible contributions to the collective betterment immediately.
4.4 Conditional Cash Transfer (CCT) Program in Education: the Bono Juancito Pinto

Since the leftist surge in the late 1990s, conditional cash transfer programs have been introduced in a total of 18 countries in Latin America. Aiming at alleviating poverty and inequality, these initiatives offer cash transfers to impoverished households that meet certain conditions such as eligible school attendance or regular health checkup. As of 2011, these CCTs had covered approximately 129 million beneficiaries in the region (Stampini and Tornarolli, 2012).

In the case of Bolivia, as the first nationwide CCT, the Bono Juancito Pinto is targeted at public schoolchildren. The program, introduced by executive decree in November 2006, provides an annual stipend of 200 Bolivianos ($28 USD) to every child registered in the public education system—regardless of the income level of the child’s family—on the condition that the child has a verified class attendance rate of no less than 80% in the year (McGuire, 2013: 1). As well-intentioned as the policy might be, the implementation of the Bono Juancito Pinto does not yield encouraging results in relation to improvement in educational attainment and child labor reduction.

Table 4.3 outlines Bolivian children’s school enrollment (net) rate at the primary and secondary level after the introduction of the annual cash transfer. As exhibited, the net primary school enrollment rate has been steadily declining over the past decade, while the rate of secondary school enrollment remains at the same level with a slight increase of 2 percent. Figure 4.3 shows this trend in absolute value. As we can see, except for 2009, an increasingly large number of children have opted to not go to primary school every year, resulting in the decline in educational coverage.
Table 4.3 Net enrollment rate, primary/secondary, both sexes, 2006-2013

<table>
<thead>
<tr>
<th></th>
<th>Primary</th>
<th>Secondary</th>
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<tbody>
<tr>
<td>2006</td>
<td>96%</td>
<td>74%</td>
</tr>
<tr>
<td>2007</td>
<td>95%</td>
<td>74%</td>
</tr>
<tr>
<td>2008</td>
<td>94%</td>
<td>73%</td>
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<td>2009</td>
<td>94%</td>
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<tr>
<td>2010</td>
<td>92%</td>
<td>73%</td>
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<td>2011</td>
<td>90%</td>
<td>73%</td>
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<tr>
<td>2012</td>
<td>88%</td>
<td>74%</td>
</tr>
<tr>
<td>2013</td>
<td>88%</td>
<td>76%</td>
</tr>
</tbody>
</table>

Source: elaborated by author using data from World Development Indicators Table 2.11 from World Bank Open Data
http://wdi.worldbank.org/table/2.11

There are five reasons contributing to the ineffectiveness of the Bono Juancito Pinto in keep children at school\(^{17}\). Firstly, the incentive for behavioral change is nominal, as the size of the stipend is very small. Even in an impoverished nation like Bolivia, a supplement of $28 USD over the course of a year is unlikely to make significant impact on school enrollment, attendance or completion (McGuire, 2013: 28). The nominal amount of stipend equals only 4% of the average annual consumption of a Bolivian household, whereas the statistics are 27% in the Nicaraguan case of Red de Protección Social, 20% in the Mexican case of Oportunidades, 17% in the Colombian case of Familias en Acción and 10% in the Ecuadorian case of Bono de Desarrollo Humano. It is worth mentioning the fact that, unlike the Bono Juancito Pinto, all four of these CCT

\(^{17}\) In fact, as exhibited in graphics, the implementation of the program actually corresponds to a decline in educational attainment.
programs have borne considerable fruits in terms of enrollment and attendance rates (Cossío, 2011: 8). When it comes to reduction of child employment, the Bolivian CCT fails to exert much leverage in a family’s decision as to pulling the child out of labor market, given that a working minor brought home $1,452 USD on average per year in 2006-2008 (McGuire, 2013: 28). By comparison, the $28 USD cash transfer seems too little of an impetus for destitute households to keep their children at school.

Figure 4.3 Out-of-school children of primary school age, male and female (number), 2006-2013

Secondly, the Bono Juancito Pinto program does not help mitigate child labor because it was initially targeted on the wrong demographic. In Bolivia, as elsewhere in Latin America, it is secondary school children who have a higher propensity to drop out
of the educational system and embark on economic activities (Navarro, 2012: 38).

Nevertheless, the CCT started off with coverage of primary school children exclusively, whose 95% enrollment rate was not low in the first place. It was only until 2014 that all secondary school children have been granted eligibility for the program.

The third explanation for the Bono Juancito Pinto’s ineffectiveness in promoting educational attainment and concomitantly reducing child employment is in-built. A monetary injection, regardless of the magnitude, is at best an external intervention from the demand side. As long as the systematic deficiencies on the supply side—the quality and impact of schooling—are not resolved, it is only so much impetus an annual boost of $28 USD could generate. In Bolivia, higher level of education is not associated with structural, income and occupational mobility (Filgueira, Reyadas, Luna and Alegre, 2011: 254), meaning greater academic performance does not lead to upward opportunities in life. The low return from Bolivian public schooling, hence, may discourage the parents from investing in children’s education.

The fourth reason for the CCT’s limited effectiveness lies in the procedural requirements for proof of identity upon stipend collection. According to the stipulation, the recipient child must be registered in the Unified Student Registry (RUDE) system and present his or her own birth certificate or identity card in order to receive the transfer in local offices (Navarro, 2012: 26). Nevertheless, a reality check shows that approximately 18% of the Bolivian children are not registered in the RUDE system, and the proportion is even higher in rural areas (Harbitz and Tamargo, 2009: 10). In terms of the documentation, it is found that poor indigenous and Afro-descendant Bolivian children are much more likely to lack identity cards, as they are exclusively distributed by the
police in departmental capital cities (McGuire, 2013: 30). These inconsiderate requirements, therefore, preclude many school children with the highest need from benefiting from the project.

Lastly, the limited effectiveness of the Bono Juancito Pinto program is attributable to the long-entrenched administrative ineffectiveness of the Bolivian state (McGuire, 2013: 30). Under the MAS regime, executive horizontal accountability has been whittled down as La Paz consolidates its authority. In consequence, cooperation among governmental institutions has gradually become sluggish and incoherent, which undermines the efficacy of any given public policy.

In conclusion, as the first nationwide CCT program in Bolivia, the Bono Juancito Pinto has not been able to yield effective policy impact since its introduction in 2006. In aggregate, the negligible size of the transfer, the wrong target demographic, the systemic deficiencies of public schooling, the eligibility constrains pertaining to proof of identity and the low state capacity have negatively influenced the policy outcome. Despite sporadic increase in school enrollment due to free riding behavior18 (Grigoli and Sbrana, 2011: 17), the CCT project fails to generate fundamental improvement in public educational attainment and child labor reduction. The prevalence and urgency of child employment is just as problematic as ever.

4.5 Conclusion

As a demographically indigenous-dominant and poorest country in South America, Bolivia has the largest proportion of working children on the continent, who

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18 Children just get enrolled in school at the beginning of the academic term and receive the first half of the annual stipend ($14 USD), without attending classes afterwards.
undertake all kinds of employment out of necessity for survival and/or ethnic customs. With 28% of Bolivian children in employment, the magnitude of child labor is unparalleled, and so is the precariousness. Thousands of boys and girls are found working in mines at a depth of thousands of meters, where their health is severely jeopardized due to toxic fumes and unstable conditions. Similarly, employment in other industries such as crop harvesting, shoe shining or announcing stops in a minivan, also exposes the children to a great deal of risk. In the Bolivia context, indigenous customs also contributes to the deep entrenchment of children’s involvement in labor, particularly in unpaid household work. In an attempt to promote public schooling and combat child employment, the national government has carried out a CCT program named Bono Juancito Pinto. The policy outcome, however, is not satisfactory, leaving just as many Bolivian children, if not more, out on the streets working. The prevalence, urgency and persistence of child labor in Bolivia, hence, serve as the prerequisite for the legalization cause to be brought onto the national political agenda.
Chapter 5

Policy Process on Child Labor Reform: Interaction between UNATSBO and the MAS Administration

*Only children know what children want.*

(Hannah, 12 years old, “Child Mayor” in Moers, Germany)

When it comes to child labor activism, the size of the Bolivian working children as a group and their hostile working conditions provide a propitious environment for bottom-up social movement. Indeed, this Andean country has an exceptionally dense and active civil society in relation to working children’s rights (Fontana and Grugel, 2015: 62). In addition to development agencies and NGOs that mobilize for the welfare of the working minors, there is a well-established autonomous network among children themselves, known as the UNATSBO (La Unión de Niños, Niñas y Adolescentes de Bolivia, the Union of Bolivian Working Children and Adolescents). As revealed in the formulation process of the new code in Chapter 3, the new law would not have come into existence without the persistent pressure and persuasive work of the members from UNATSBO.

On the other hand, as illustrated in Chapter 2, the MAS captured the state power through a dual approach combining ethnic elements and populist strategies. Since taking over the national helm in 2005, the Morales government has upheld the party manifesto, putting the interests and demands of rural indigenous communities high on the political agenda. At the same time, social movements wield tremendous leverage in decision-making under the MAS regime, for the party was inherently born of them.
In this chapter, I will give a twofold account of the dynamic interaction between UNATSBO and the Morales administration in relation to this legislative reform. The MAS office’s ethnopopulist governing mentality—favoritism for indigenous concerns as well as great responsiveness and accountability for the demands of social movements—provides an advantageous political climate for the UNATSBO’s legalization cause, as it is a demand of the working children’s movement as well as part of ethnic heritage. On the other hand, the mobilization capacity of the UNATSBO helped it gain traction with the executive and consequently obtain a decisive role in the legislative negotiation.

5.1 The Ethnopopulist Governance of the Morales Administration

Since gaining power in December 2005, the Morales government has incorporated ethnopopulism as the centerpiece of its governing principles. The reconstruction of the national constitution of Bolivia, for instance, demonstrates such political ideology.

Four months after the ascension to presidency, the Morales administration took initiative to fulfill the central request of its constituents—the rewriting of the national constitution (Postero, 2010: 59). In the wake of the state’s announcement regarding the convention of Constitutional Assembly, a strong backlash in the ring-wing region of Media Luna\textsuperscript{19} took place. The well-connected dissidents were able to disturb and postpone the convention for almost five months (Siotos, 2013: 55). In the face of antagonism and threats, the newly established MAS regime called upon social movements for support and defeated the opposition. The composition of the 2008

\textsuperscript{19} The “Media Luna” area refers to a group of four departments in Bolivia: Santa Cruz, Beni, Pando and Tarija (Assies, 2016).
Constitutional Assembly reflects the MAS’s governing preference for ethnopopulism.

Silva Lazarte, a Quechua woman and former leader of the coca grower movement, was appointed as the President of the Assembly (Mendoza-Botelho, 2016: 20). Additionally, one third of the Constituent Assembly, as many as 73 members, belonged to either indigenous peasantry or grassroots unions (Mendoza-Botelho, 2016: 34). In terms of the stipulations, the new constitution directs preferential treatment to the rural indigenous population. The name of the country, formerly known as the Republic of Bolivia, has been changed to the Plurinational State of Bolivia. Thirty-six idioms are equally acknowledged as the nation’s official languages, the majority of which are ethnic (Siotos, 2013: 57). Seven special seats in the House of Deputies are permanently reserved for indigenous and Afro-Bolivian representatives (Anria, 2016: 104). Moreover, the traditional indigenous concept of “Buen Vivir” is accorded with a prominent role. The notion, deeply rooted in the Andean culture, refers to a quality of life that does not only satisfy material needs and modern code of conduct but most importantly, provides tools for personal development and empowerment in tune with familial and communal betterment (Chaplin, 2010: 74).

The Morales administration’s dedication to the rural indigenous population is present throughout the party’s fundamental policies. A land reform was carried out in September 2006, aiming to reverse the long-entrenched marginalization and discrimination against the indigenous peasantry. Within three years of implementation,

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the reform redistributed approximately 23 million hectares of land to the people (Shoaei, 2012: 48). Similarly in 2006, the nationalization of natural resources such as oil, minerals and hydrocarbon was initiated by the state. From 2006 to 2008, public revenues generated from these industries increased from $250 million to over $2 billion and were used to finance social welfare programs and the development of rural areas where most indigenous people reside (Rochlin 2007: 1327). As we can see, the Morales government has demonstrated a clear governing pattern of favoring indigenous concerns. The party’s active incorporation of indigenous peasantry in political decision-making renders the legalization of child labor only possible, as the working children are primarily from rural indigenous backgrounds.

The symbiotic interdependence between the MAS and social movements constitutes another advantage for UNATSBO’s cause. Born of autonomous popular movements, the party identifies itself as a political vehicle that exists to channel the constituents’ demands onto a formal level (Siotos, 2013: 53). In the MAS model, traditional institutional boundaries between the government and social movements are tactically blurred, given the background of the administration. The national President, who also remains in the roles of the party chief and secretary general of the Chapare coca grower syndicate, exemplifies this fusion (Mayorga, 2008: 6). As the government was brought on the throne by means of social movements, it retains a high level of mobilizing accountability for them. Under the MAS regime, social mobilization is not only an active component in national policymaking; it is a decisive one. The state might be the political space where all interests come together (Poulantzas, 1978), but it is the social movements, and to a large degree the rural indigenous part of the these movements, that direct the
orientation of the country’s national agenda (Siotos, 2013: 57). For example, in 2010, an executive decree aiming at cutting off government subsidies on gasoline was reversed after eruptions of mass protests. Likewise, under pressure from social movements, the state was forced to revoke its plan to build an expressway through an autonomous region in 2011 (Anria, 2016: 106). As we can see, despite the fact that the Morales administration has the final say in public policymaking as the national executive, it is often obliged to respect and grant the wishes of social movement organizations. It has even been noted that the confrontational logic of the MAS is so entrenched that the state is believed to respond better to actual or threatened mobilization rather than appeals channeled through institutions (Anria, 2016: 104). Given this context, the MAS’s approval of child labor legalization seems more comprehensible, as it was demanded by the working children’s social movement.

As a side note, President Morales’s personal experiences as a working child also helped contribute to the outcome. Starting at age 4, the incumbent President of Bolivia had to herd llamas, sell ice cream on streets and collect coca leaves to support his indigenous peasant family. After UNATSBO’s street protests in December 2013, Morales invited child representatives of the organization to breakfast at the Presidential Palace. There, he expressed his sympathy for the cause as well as his willingness to listen to what the working children had to say (Otis, 2014). The meeting marks the turning point in the legislative process, as the President incorporated the working children in the writing of the code soon after.
5.2 The History of UNATSBO

Latin America has the longest history of working children’s movements in the entire world. In 1976, the first working children and youth organization—the Peruvian Movement of Working Children and Adolescent Children from Christian Working Class Families (Movimiento de Adolescentes y Niños Trabajadores Hijos de Obreros Cristianos, MANTHOC)—was founded, serving as a pioneer for the popular mobilization of working children in other countries on the continent. Soon after, the MANTHOC joined forces with the MNNATSOP (Movimiento Nacional de Nats Organizados de Peru) from Peru and NATRAS (Niños, Niñas y Adolescentes Trabajadores) from Nicaragua, forming the Latin American and Caribbean Movement of Working Children and Adolescents (MOLACNATS), the leading working children’s movement organization nowadays in Latin America (Van den Berge, 2009: 325-326).

Working minors in Bolivia had started to mobilize in the 1990’s, functioning as an autonomous state member of the MOLACNATS. In the Andean region, they had collaborated with their comrades from the INFEJANT (Instituto de Formación para Educadores de Jóvenes, Adolescentes y Niños Trabajadores de América Latina y el Caribe) Peru by means of workshops and seminars on a regular basis. At a global level, the Bolivian working children had participated in the World Summit of Movements of Working Children in Kundapur, India in 1996 and in Berlin, Germany in 2003 (Prestel, 2008: 21).

On May 3, 2003, at the second National Assembly in Sucre, the Bolivian working children formalized their movement as the UNATSBO upon the formulation of the organizational statutes (Prestel, 2008: 21). As in the case of all working children’s social
movements, the two ideological characteristics of the UNATSBO are “regulacionismo” (regulationism) and “protagonismo” (leadership) (Van den Berge, 2009: 325). The former, rooted in the perceptions that children in poverty work out of necessity for survival and they could pick up valuable skills and virtues through labor engagement, strongly opposes the elimination of child labor as advocated by the ILO. Instead, the working children believe that the only effective protection mechanism from the authority is to acknowledge and institutionalize their employment rights, thereby removing exploitative factors at work. With regard to the “protagonismo”, the Bolivian working children consider themselves as social subjects of their own rights, who could actively take part in economic production and make equal contribution as their adult counterparts to society. Likewise, they are capable of and should be included in the political decision-making in relation to children’s legislation.

Thus far, the UNATSBO has recruited 150,000 child members in seven out of nine departments in Bolivia, with 600 associates in the mining-dependent Potosí alone (Nacla, 2014). Most Bolivian children join the cause of the UNATSBO upon turning 11 or 12 years old at the encouragement of older friends at work, for that is when they begin to form the awareness of rights violation and defense (The Child Labor Coalition, 2010).

As a working children’s social movement, the UNATSBO is founded by children, comprised of children and most importantly, led by the Bolivian working children themselves. Nevertheless, it also maintains a certain degree of partnership with adults, who do not directly take part in the operation but are brought in for purposes of consultation and solidarity. The grown-ups, addressed as “collaborators”, are responsible for accompanying the UNATSBO’s child representatives on occasions when adult
presence would be deemed propitious. Clear boundaries concerning their mandates are set in the union’s statutes. As stipulated, the adult partners are not the tutors, leaders, representatives nor owners of the UNATSBO. Their role is to co-promote, co-assume, co-accompany, co-decide and co-participate under the absolute dominance of the working children (Prestle, 2008: 23).

The organizational structure of the UNATSBO offers benefits to Bolivian working children in four ways. Firstly, the union provides the children with a formal and channel through which they can articulate their collective interests and demands to the authorities. Secondly, the UNATSBO grants the minors precious social space, where they do not only strategize political appeals but also meet, play and make new friends. This affective function is of great emotional value to the children. Thirdly, by organizing and participating in social mobilization, the child members in the UNATSBO develop team spirit and leadership qualities. They become less afraid of speaking in public. They learn how to pose their views, defend their stances and persuade strangers or even opponents for advocacy. These skills can benefit the working children for the rest of their lives. Lastly, the working children’s involvement in a social movement reinforces their resilience, as they develop awareness and confidence to stand up to exploitation at work (Van den Berge, 2009: 327).

5.3 Making Our Voice Heard, Making Our Rights Inscribed—UNATSBO and the Child Labor Reform

The UNATSBO has become more politically visible since Morales and the MAS came to power. In 2008, the UNATSBO took advantage of the opportunity presented by
the Constitutional Assembly, expressing their views and appeals in the legislative debate. They promoted their “regulacionista” cause among the national legislators and lobbied in favor of the recognition of children’s equal rights of employment. Their direct influence on the wording of the Article 61 in the Constitution is the most evident proof of their salient movement in the process (Fontana and Grugel, 2015: 72).

After the promulgation of the 2009 Constitution, the UNATSBO strengthened its mobilizational force during the constitutional transition period, in an attempt to sway the writing of the new Children and Adolescents Code. On several public occasions in 2010, they declared five changes they wanted to see in the new law. First and foremost, they urged the government to view the phenomenon of child labor from their perspective, thereby guaranteeing their rights of employment. Second, they insisted that the state should instead focus on the eradication of abusive labor where children got exploited rather than that of all work. Third, they asked for fair remuneration and access to bank accounts. Fourth, they requested immediate measures to be taken against precarious working conditions, especially in the mining industry. Lastly, they appealed for comprehensive provision of medical care for children at work (Coster, 2010). In 2010, in order to consolidate its influence in the legislative reform, the UNATSBO decided to take matters into its own hands. The union presented to the government a draft law in which all their demands were addressed. The working children expressed their expectation for the draft to be fully incorporated into the new code for children and adolescents (UNASTBO, 2010).

The fact that UNATSBO was able to formulate its own draft bill is testament to its capacity. For the first time in global history, based on their particular experiences and
viewpoints, an entire set of legislation for the protection of children’s rights of employment was formulated by the working minors themselves (ProNATs e.V., 2011). Drawing up a whole new law is no easy task, let alone for children, who tend to find the legislative sphere rather alien and elusive. Nonetheless, the UNATSBO still managed to devise a normative proposal that does not only meet the formal legal criteria but also fully conveys the appeals of the working children from their personal perspectives. In addition, the UNATSBO’s capacity to form alliances was pivotal in the legislative formulation. After being mobilized by the persuasive rhetoric of the working children, international NGOs such as Save the Children (SC), Terres de Hommes (TDG) Germany and Switzerland together with many Bolivian local educators and officials all joined the cause by holding workshops where the child “lawmakers” were trained to write the proposal in a more proper manner (Liebel, 2014).

In December 2013, UNATSBO members from all charters across the country gathered in the capital city of La Paz, carrying out street protests in response to the national legislature’s decision to maintain the minimum age for entry into the labor market at 14 years old. As the child protesters marched towards one of the main squares near the Presidential Palace and the Senate, the local riot police blocked their way. Claiming the children were trying to break into the Presidential Palace, the police violently repressed the demonstration with force, pepper spray, and tear gas. With the suppressed being children, some even as young as 10 years old, the mass protests made national headlines. Suddenly, the mobilization momentum was so high that people were all talking about child labor (Ertl, 2015). As being broadcast in television news report, the red-eyed, gasping images of the working children struggling to be heard caught President
Morales’s full attention. The president invited child representatives of the UNATSBO to breakfast at the government palace stating that he would listen to what the working children had to say. Right after the meeting, during which the president promised the working children his support, Morales announced in a press conference: “The state shouldn’t outlaw child labor. It should protect them.” Soon after, the Legislative Assembly complied with the president’s advice, convening a special committee comprised of working children and legislators to reformulate the code (Otis, 2014).

5.4 Conclusion

The child labor reform would not have come into existence in the absence of the MAS’s ethnopopulist governance. Born of rural indigenous social movements, the Morales administration retains a great level of political accountability for indigenous concerns and the demands of social movements. Under the ethnopopulist governance, Bolivian social movements as well as ethnic communities have been incorporated in political decision-making with a decisive role, which provides working children’s movement with a favorable context. The mobilizational strength of the UNATSBO is equally important for the legislative reform. Founded in 2003, this autonomous organization of working children has not only succeeded in promoting their interests and demands in popular campaigns, but also has exerted significant influence in public policy making. In 2009, after successfully lobbying the Constituent Assembly for the recognition of working children, the UNATSBO managed to directly take part in the rewriting of the national constitution. In 2011, with advocacy from Terres des Hommes, Save the Children and local professionals, the UNATSBO formulated their own draft law,
making it the first legislation in history that is drawn up by working children themselves on the basis of their specific experiences. In 2013, after gaining attention from President Morales, the UNATSBO was actively included in the reformulation of the code for children and adolescents, which led to the legalization of child labor from the age of 10 years old.
Chapter 6

Conclusion

Bucking global trends, the Plurinational State of Bolivia has become the first country in the world to legalize child labor from the age of 10, as its national legislature enacted Law N.548 Boy, Girl and Adolescent Code in July 2014. The passage of the legislation is a historically momentous act, for it drastically breaks from international human rights norms as well as the nation’s previous policy course. In addition, the Bolivian working children, more than others, were the chief proponents of this legislative reform. UNATSBO, the organizational union of Bolivian working children, actively engaged in political decision-making and steered the policy path toward legalization. Only a handful of scholarly publications have shed light on this recent reform, and tend to be limited to descriptive references of the legislative text (Coon, 2016; Liebel, 2014). In light of this knowledge gap, my study seeks to provide a full account as to how and why the legalization of 10-year-old child labor has come into existence in Bolivia.

The background for child labor reform lies in the characteristics of child labor in Bolivia. Born in the poorest country in South America, a tremendous amount of Bolivian people struggle everyday for basic subsistence. The survival of impoverished households is dependent on the extra income brought back home by working children. In addition, with 66% of its national population being indigenous (CEPAL), traditional Andean customs play a pivotal role in Bolivian people’s life. According to Aymara and Quechua culture, children’s participation in familial and communal work is organic to their healthy development. Therefore, undertaking collective labor from an early age is a normative expectation for indigenous minors. As a consequence of extreme poverty and/or ethnic
heritage, Bolivia has the largest proportion of working children in all of South America (Morsolin, 2011). In exchange for better remuneration, the majority of these children are involved in hazardous work—as defined by the ILO—such as mining, sugarcane and Brazil nuts harvesting. Their employment, in these cases, poses constant and even lethal threats to their lives. On the part of the national government, policy action such as the conditional cash transfer program, Bono Juancito Pinto, has been taken in an attempt to keep children at school. However, school enrollment has declined, and children’s participation in the labor market remains intact. The prevalence, urgency and persistence of child labor propelled the regulation debate onto the national political agenda.

Secondly, I identify the political attributes of the MAS as another contributing force for the making of Law N. 548. Born of a rural indigenous movement, the MAS rose to power on the wave of mass disenchantment with the ruling of traditional political parties. In order to capture a vast and loyal constituency, the MAS adopted an ethnopopulist campaign strategy, largely relying on the strength of indigenous social mobilization. Since gaining power, the MAS has incorporated ethnopolulism into its governing ideology. The Morales administration retains a great level of political accountability for indigenous issues as well as the demands of social movements. The MAS executive, hence, provides a favorable political context for the legalization of child labor, as it is both a demand of the working children’s movement as well as part of the indigenous heritage.

Last but not least, I attribute the legislative reform to the strength of the UNATSBO. Ever since Morales came to power, this working children’s union has been vigorously mobilizing for institutional recognition, paving the road for the legalization of
child labor from the age of 10. In 2009, the UNATSBO took an active part in the Constituent Assembly, lobbying in favor of children’s rights to employment. In 2011, with the support from several prominent European NGOs, the UNATSBO formulated a draft law from the perspectives of working children as an attempt to have their voice heard in the national legislation. In December 2013, by means of mass street protests and a subsequent private meeting with President Morales, the UNATSBO successfully established emotional bonds and political coalition with the executive, gaining policymaking access. Without the persistent pressure and articulate work on the part of the UNATSBO, the legislation would not have come into existence.

Through a systematic analysis of the policy path of the children and adolescents code, as well as identification of the causal mechanisms in the policy process, my thesis fills a gap in current knowledge of the legislative reform. Additionally, in terms of policy implications, this study sheds light on the role of international normative regulations, in particular in contentious cases where humanitarian concerns of the world community do not reconcile with a specific national reality. The legitimacy and effectiveness of external standards, even when well-intentioned, are called into question when local actors deem them to be dictatorial and counterproductive. On the other hand, nonetheless, domestic grassroots stakeholders may exert considerable leverage in executive decision-making if their mobilization causes and tactics speak to the government. Even though the methodological approach in the thesis—outcome-explaining process tracing—is case-centric, the Bolivian case highlights conditions under which bottom-up social articulation can be effective with generalizable ramifications.
As for future research on the Bolivian legislative reform, a comparative perspective could be adopted in analyzing the applicability of child labor legalization in other countries where identical contributing factors are present or, prone to be cultivated. Likewise, a cross-time approach comparing the Bolivian case and other institutional incorporation of controversial public issues in history may transcend the case-centric findings in this study to a much broader level. Additionally, due to the limited time of policy implementation and lack of pertinent evaluation data, I’m not able to give a sufficient assessment of the policy outcome of the Bolivian Children and Adolescent Code in this research. Hence, I urge that future study look into the ramifications of child labor legalization as well as the enforcement of the proposed protection mechanism in Bolivia.

Child labor is a highly complex socioeconomic issue, whose various intertwined prisms must be managed with prudent consideration in order for progress to be insured. The Bolivian state’s decision to legalize child employment from the age of 10-years-old stems from the recognition and respect for its national reality. Born in the poorest country in South America, children work out of necessity for survival. All they asked for is decriminalization, acknowledgement and protection from the government. The new Child and Adolescent Code certainly has merit in empowering the Bolivian working children in these aspects. However, the legalization of child labor can and should only be administered as a temporary relief as it simply touches on the symptoms of child employment without tackling the systemic and underlying causes. The Bolivian state must find ways to emerge from international economic dependency and establish its own sustainable economic models and labor relationships. As long as adult members in the
household are capable of making enough money, there would not be much reason for the children to participate in economic activities. Additionally, the government should focus on generating the nation’s educational mobility through means of increasing the quality of public schooling and creating labor market-oriented vocational training programs. If educational attainment could assure the younger generations in Bolivia of better opportunities in life, as is the case in more advanced societies, children would be more likely to study than work for short-term profits.
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